

Questions by Dr. Chuck Moulton for the McVay group

I have already asked most of the questions I am concerned with, but would appreciate it if you could briefly re-answer them in writing.

1. Is it correct that your appeal was submitted on December 9, 2021 and the LNC alternate election took place on October 11, 2021, which is more than 30 days apart?

2. In appendix E you attached "The Articles of Association and Bylaws of the Libertarian Party of Delaware, as they stood prior to Mr. Hinds' removal as Chair". Is it true that there were some differences between this document and the bylaws in force at the end of the state convention, in that one or more amendments were passed by the state board between these two times? Can you provide a copy of the "The Articles of Association and Bylaws of the Libertarian Party of Delaware, as they stood immediately after the 2021 state convention" and highlight any differences between these two documents?

3. Is it true that the provision allowing a simple majority of the state committee to amend the bylaws had been in place for years (not recently amended)?

4. (NEW QUESTION) The Hinds group claims (contrary to the clear language of the bylaws) amendments to the bylaws by the state committee can only make scrivener's changes (spelling, grammar, make wording clearer) rather than substantive changes, whereas amendments to the bylaws by the state convention can make substantive changes. Is that correct? Was that the tradition? Can you provide counter-examples from the Libertarian Party of Delaware's history?

IPR comment by Bill Hall (JC member) on August 27, 2011 at 10:13 am: "For me, some of the most important indicia of who the LP's current affiliate is in Oregon, pending future negotiation or litigation among LPO members, are:

(a) Which group is recognized by the State as having ballot access. (Wagner's group)

(b) Which group has possession of the property of the LPO (funds, websites, state mailing list).

(Wagner's group)

(c) Which group in a more general sense (campaign finance filings, contracts, etc.) is the LPO under State law. (Wagner's group)"

5. (VERY IMPORTANT, PLEASE DETAIL) Please discuss each of the matters above in detail to clarify which group controls these things. Where two of these exist, which was in continuity with the Libertarian Party of Delaware before this controversy (e.g., same website URL)?

5.a) ballot access

5.b.1) bank accounts (checking, saving, etc.)

5.b.2) credit cards

5.b.3) paypal

5.b.4) website

5.b.5) facebook

5.b.6) twitter

5.b.7) instagram

5.b.8) slack

- 5.b.9) discord
- 5.b.10) other social media
- 5.b.11) google groups
- 5.b.12) other electronic mailing lists
- 5.b.13) other assets not covered
- 5.c.1) FEC filings
- 5.c.2) Delaware campaign finance filings
- 5.c.3) secretary of state recognition
- 5.c.4) voter registration database from the state
- 5.c.5) corporate charter
- 5.c.6) any other general recognition

6. (NEW QUESTION) Does your group believe the LNC has the authority to recognize both the McVay and Hinds groups and send both entities data dumps?

7. (NEW QUESTION) Does your group believe the LNC has the authority to demand that both the McVay and Hinds groups attempt to hold a mass meeting to elect new officers?

8. (NEW QUESTION) Does your group believe the LNC has the authority to cease recognizing whatever the legitimate group is by a majority vote rather than a 3/4 disaffiliation vote?

Questions by Dr. Chuck Moulton for the Hinds group

I have already asked most of the questions I am concerned with, but would appreciate it if you could briefly re-answer them in writing.

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- (a) Which group is recognized by the State as having ballot access. (Wagner's group)
- (b) Which group has possession of the property of the LPO (funds, websites, state mailing list). (Wagner's group)
- (c) Which group in a more general sense (campaign finance filings, contracts, etc.) is the LPO under State law. (Wagner's group)"

1. (VERY IMPORTANT, PLEASE DETAIL) Please discuss each of the matters above in detail to clarify which group controls these things. Where two of these exist, which was in continuity with the Libertarian Party of Delaware before this controversy (e.g., same website URL)?

- 1.a) ballot access
- 1.b.1) bank accounts (checking, saving, etc.)
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2. At the hearing you seemed to avoid directly answering the above question. However, you tried to provide some context of the reason many of these things were not controlled by your group. Specifically you claimed: a) Will McVay controlled internet assets prior to the split and continued to control them, b) Will McVay's mother was the party treasurer and controlled financial assets such as bank accounts and campaign finance filings prior to the split and continued to control them. Please confirm and elaborate on this and note above which assets specifically were controlled by Will McVay or his mother prior to and after the split.

3. You claimed (contrary to the clear language of the bylaws) amendments to the bylaws by the state committee can only make scrivner's changes (spelling, grammar, make wording clearer) rather than substantive changes, whereas amendments to the bylaws by the state convention can make substantive changes. Is that correct? Was that the tradition? Can you provide examples from the Libertarian Party of Delaware's history?

4. If the state committee were allowed to make substantive changes to the bylaws by a majority vote and if such bylaws changes were properly noticed, what would prevent the McVay group with 5/9 of the state committee from passing bylaws changes over the objection of 4/9 of the state committee (and subsequently using such bylaws changes to remove state committee members) in the future?

5. (NEW QUESTION) Does your group believe the LNC has the authority to recognize both the Hinds and McVay groups and send both entities data dumps?

6. (NEW QUESTION) Does your group believe the LNC has the authority to demand that both the Hinds and McVay groups attempt to hold a mass meeting to elect new officers?

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Question from Dr. Mary Ruwart for the McVay group:

One of your first acts when you claimed chairmanship of the Delaware LP was to expel over 2,000 members. One of the goals of the LP is to grow, so eliminating roughly 99% of the membership makes your group's ascendency appear to fit the definition of a hostile takeover. Since re-entry into the Delaware LP under your leadership will require individuals to meet "new criteria," your process appears to be one of 'guilty until proven innocent,' contradicting our ethical norms. Please explain why the extensive expulsion of Delaware's LP membership shouldn't classify your group's ascendency to be a hostile takeover, especially given your potential conflict of interest in starting another political party.

Please be aware that claiming that neither the LNC or the JC has jurisdiction in state matters does not, in my opinion, apply when dealing with a hostile takeover. Indeed, in the case of a hostile takeover, it is my opinion that both bodies would have an obligation to help secure LP assets including ballot access, bank accounts, social media accounts, etc. Please focus your answer on why disenfranchising roughly 99% of the Delaware LP's membership without cause should not result in your group's actions to be classified as a hostile takeover.

Questions from Alicia Mattson:

1. (Primarily to the LNC) The LNC has not yet recognized either set of LPDE officer claimants, however in the December 5 motion it has established some conditions for who it "shall" recognize later. Only one of these groups can be the rightful officers, but either group could theoretically win the LNC's "contest." This motion inherently allows for the possibility of the LNC recognizing a group of officers which are not the rightful officers under the LPDE bylaws. Autonomy is about the right of self-rule, including its members having the benefit (or detriment) of their own chosen rules and leaders. Would it violate the affiliate's autonomy if the LNC ended up recognizing as LPDE officers those who according to LPDE rules were not actually the rightful officers, rather than the LNC analyzing who are the rightful officers under LPDE rules and recognizing them?
2. (Primarily to the LNC) The LNC has asserted a belief that the LNC is not allowed to "pick a side" in Delaware due to a 2011 Judicial Committee ruling regarding a leadership dispute within the Oregon affiliate. That ruling asserted that government officials get to decide who the LP affiliates are. That ruling stated, "We find that the Libertarian Party of a particular state, in this case the state of Oregon, is the entity that is recognized by the secretary of state, in this case the Secretary of State of Oregon." This broad statement was not even phrased as being limited to circumstances in which there is a leadership dispute. The LP has numerous affiliates which have no official status with the secretary of state.
 - a) Does the LNC believe that a bylaw prohibits them from "picking a side" in Delaware by recognizing the rightful officers? If so, which one(s)?
 - b) Does the LNC believe that a bylaw establishes the above-quoted role for a secretary of state to impose upon the LP an association with an affiliate, even theoretically one which has never established an affiliate relationship under the national LP bylaws? If so, which one(s)?
 - c) Which bylaw does the LNC believe gives past Judicial Committee rulings the status of binding precedents for future application beyond that instant case, effectively allowing them to create

party rules which have not been adopted by convention delegates? (Interestingly, I note that even one of the majority-side signers of the 2011 Judicial Committee ruling did not apparently believe the 2011 decision should apply to disputes in the state of Delaware. When Nicholas Sarwark later became LNC chair, in early 2018 he authorized the then-Executive Director to send the attached letter to the Delaware Secretary of State, asserting which of two groups the LNC recognized and asking the Secretary of State to respect the LNC's position. Just for clarity, the letter purports to speak for the LNC as though the LNC had considered the question, though they had not, and as an officer at the time I was unaware of the situation until well after this letter had been sent. That letter did pick a side and did not assert that the LNC was waiting for the Delaware Secretary of State to tell the LNC who the affiliate was.)

- d) The 2011 Judicial Committee ruling regarding the Oregon affiliate was in 2015 rescinded by the Judicial Committee in a different ruling. Since the LNC believes the Judicial Committee can create binding precedents, why does it believe the 2011 Judicial Committee ruling to still be in effect, rather than the 2015 one which supported the LNC recognizing officers in accordance with the affiliate's bylaws?
 - e) The LNC asserts a belief that it cannot pick a side (I prefer to say acknowledge rightful officers in accordance with LPDE rules), but on December 5 it passed a motion establishing a set of conditions they will use to later make the decision for them. Since the LNC set the conditions which will determine the outcome, is the LNC still effectively picking a side? Since the LNC believes the 2011 Judicial Committee ruling is binding here, are all the possible outcomes of the December 5 motion consistent with the 2011 Judicial Committee ruling that the Secretary of State determines who the affiliate is?
3. (for McVay group) Your filings provided us a link to video of your Q4 board meeting, but I don't believe we have the minutes of that meeting. Please provide a copy of the minutes and let us know what their status is (draft? approved?).