

Office of the Secretary of State
State Capitol
Charleston, West Virginia 25305

Mac Warner
Secretary of State
State of West Virginia

Telephone: (304) 558-6000
Toll Free: 1-866-SOS-VOTE
Fax: (304) 558-0900
www.wvsos.gov

June 24, 2019

Chairman Melody Potter
West Virginia Republican State Executive Committee
P. O. Box 2711
Charleston, WV 25330
Via U.S. Mail and email to mpotterwvgop@aol.com

RE: Wood County Republican Executive Committee

Dear Chairman Potter,

The West Virginia Secretary of State's Office is in receipt of your letter dated June 18, 2019, and subsequent letters regarding various appointments to the Wood County Executive Committee. I am seeking clarification with regard to those appointments and the relied-upon authority in making such determinations.

It is important to note that our Office has no authority to make determinations or rule on the propriety of intra-party disputes, especially those arising under the party's bylaws. Therefore, this request is solely to determine whether this Office shall publically publish online the updated roster you submitted.

Upon review of your letter to the Wood County Republican Executive Committee membership dated June 18, 2019, you indicate that you, as the State Party Chairperson of the West Virginia Republican State Executive Committee, rely upon the authority granted by your party's bylaws to remove the Chair and appoint several new members of the Wood County Executive Committee.

However, under the law, "Vacancies in any executive committee shall be filled by the appropriate executive committee as provided in subsection (f) of this section no later than sixty days after the vacancy occurs. The *chair* of each executive committee shall submit an updated committee list to the Secretary of State within ten days of a change occurring." W. Va. Code § 3-1-9(g) (other provisions omitted) (emphasis added).

Your letter references your party's bylaws with regard to your broad discretion and authority to remove executive committee members and fill vacancies by appointment in certain circumstances. As a matter of prudence, our Office recognizes that courts have generally held they will not interfere in intra-party disputes, but leave their settlement to methods used and

adopted by the party. See, e.g., *State ex rel. Goodwin v. County Court of Putnam County*, 125 S.E.2d 417, 147 W.Va. 62 (1962).

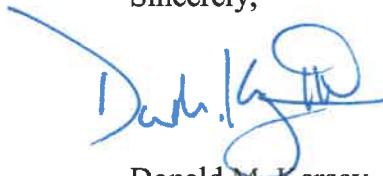
However, in this unique instance, it is unclear what authority this Office must rely upon to publically publish online the updated roster you submitted.

Therefore, I respectfully request that you provide additional information regarding the roster you submitted for appointments made to the Wood County Republican Executive Committee. Specifically, according to W. Va. Code § 3-1-9(g), only the *chair* of the county executive committee has the authority to fill vacancies and submit updated rosters to our Office for publication to the public.

If you, as the Chairperson of the Republican State Executive Committee, relied on the authority in your bylaws to assume the role of Chair of the Wood County Republican Executive Committee, please indicate as much in writing to the undersigned and the updated roster submitted by you will be published. Otherwise, please provide the statutory authority you relied upon that allows our Office to legally accept the updated roster you submitted.

For purposes of timing under W. Va. Code § 3-1-9, our Office will consider all rosters and vacancy appointment forms timely filed. However, we will wait for your written response as to our Office's legal duty to accept the updated roster and vacancy appointments.

Sincerely,



Donald M. Kersey, III
General Counsel
The Office of the WV Secretary of State
State Capitol, Bldg. 1, Ste. 157-K
Charleston, WV 25304
Dkersey@wvsos.gov
(304) 368-6344 (direct)
(304) 558-6000 (main)