

Libertarian National Judicial Committee

Petitioner: Brittany Kosin

VS

Respondent: Libertarian National Committee

**Re: Adoption of Revisions to the Policy Manual
Provision 1.01.4 in Email Ballot ending January 2,
2024 [sic]**

Brief serving as exemplar of the LNC Argument

Jonathan M. Jacobs,

Representing the Libertarian National Committee,

and as a sustaining member

February 13, 2025

Potential Litigation

Ms. Kosin, in her initial filing, made several claims; the first was that disciplinary action would not be something that would constitute “potential litigation.” She wrote, “The LNC cannot by fiat declare something ‘potential litigation’ as it attempts to do in this Policy Manual amendment.” This rule is not a declaration by fiat, but recognition of that fact. When something like this becomes public, it creates a sufficiently high likelihood to become potential litigation under the meaning of Article 7.15.

Several examples have been given, but here is another one that may even be more telling, the case of Marie DiGangi. Ms. DiGangi, a retired legal secretary, lives in a second class township¹, Huntington Township, in Adams County, Pennsylvania; the rural, Central Pennsylvania township has a population of less than 2,500 residents. The minutes of its Board of Supervisors are public, but not publicly posted. The minutes of the April 14, 2022 minutes included some items referring to Ms. DiGangi that were inflammatory and derogatory.

Ms. DiGangi did not take this lying down. She appeared at a Board of Supervisors, with her attorney, her parliamentarian, and a court reporter.² It was likely that, had the Board not expunged the items from the minutes, she would have sued.

Unlike the LNC members affected by this policy, Ms. DiGangi is not holding, or running for, a position within a party. She is not seeking public office. She is retired, so she is seeking new employment, nor worried about current employment. The minutes will not appear on a website and, at the time, the meetings were not broadcasted on the Internet. Huntington Township is not the largest municipality, or even the largest township, in the county; coverage, at that time, did not extend beyond the immediate area. Yet, even this would be potential litigation.

In contrast, many of the members may be seeking election/re-election, have jobs and/or are looking for new employment opportunities. Various news outlets cover the LNC and, if a trial were broadcast, there would be permanent recordings of it. This should easily meet the standard of potential litigation.

Notice Length

Ms. Kosin has suggested that, somehow, the 2022 Convention set the length of notice via a point of order. Writing as the individual who drafted the point of order, and, in fact, suggested it, that point of order did no such thing. That point of order was that Caryn Harlos should have had a trial and notice under the rules that the LNC was operating under in 2021. That policy was changed in October 2022, October 2024, December 2024, and January 2025.

The parliamentarian for that convention, Richard Brown, wrote in the most removal of Ms. Harlos, “That might have been cause for removal from office then, BUT IT IS NOT CAUSE FOR REMOVAL NOW. The rules changed with the adoption of the Policy Manual amendment in 2022.”³ This indicates that the rules do change and the point of order in 2022 is not controlling. The rule that is controlling is one currently in force.

Ms. Kosin also asserted initially that RONR would not permit the shortening of the time frame for the notice. This question was answered by Josh Martin, PRP, who has served various members of the LP, including Honor “Mimi” Robson, who also filed an amicus brief here. He indicated that, along with a number of other options, a special rule could shorten the notice period.⁴

Manager

Though not a major point, the bylaws do refer to “officers of the Party.(Article 6.1)” and “The Secretary shall be the recording officer of the Party (Article 6.5).” Saying that the trial

manager is the manager for the Party is the same thing and is stylistically consistent.

Suspension

Suspension would not apply to the rights of someone as a member of the Libertarian Party. Absent a bylaw provision, the ability to remove someone from Party membership remains with the convention. This was mentioned in an article published in 2023⁵, with End Note 4 referring specifically to the national Libertarian Party. Note that one of the people raising the question at the time, and who is mentioned in the article, is a member of the Libertarian Party Judicial Committee.

Unclean Hands

The material released in the Harlos case was a report that was adopted by the Libertarian National Committee⁶. Further, Article 7.15 also applies to committees; the Investigatory Committee report was public. The published report may be quoted by anyone. As such, it was not “testimony or deliberation” as regulated by Rule 1.01.4. Anything adopted, by the LNC or one of its committees, would not fall under this rule. This is a major difference from RONR.

It may helpful to list some of the items specifically not covered under Rule 1.01.4, all of which would be required to be in executive session under RONR: 1. The appoint of an investigatory committee and the target of the investigation; 2. The report adopted by the investigatory committee, inclusive of proposed charges and specifications against the accused; 3. Any adopted charges and specifications, including any added during the trial; 4. Any suspension prior to a trial; 5. The vote on innocence or guilt of the accused on every specification and charge; 6. A vote on any penalty. Rule 1.01.4 could not prevent any of these matters from happening in open session; under Bylaw Article 7.15 all of these things are required to be adopted in open session. Further, anything that the LNC or a committee of the LNC has adopted

would become public. The report of the Investigatory Committee was adopted by both that Committee and by the LNC.

End Notes

¹In Pennsylvania, townships are divided into first and second class, the latter tending to be smaller and often rural, though there are many exceptions. Second class townships are governed by a board of three to five publicly elected “supervisors.” This board is analogous to a town or city council, i.e. is the local legislative body.

²Pitzer, Scott. “Uproar over temporary road closure; year-old minutes altered,” *Gettysburg Times*, (PA), April 26, 2023, pp. A1, A7



³ <https://lpedia.org/wiki/File:Richard-Brown-Memo-to-Judicial-Committee-re-Harlos-2024.pdf>
p. 3 [Mr. Brown indicated that he thought the respondent, Mr. Jacobs, had served as the parliamentary consultant for the creator of the 2022 rule. Mr. Jacobs did not serve in regard to this rule and would note that the 2022 rule violates 23:6 a and e, and 1:13 n3 of RONR.]

⁴ Note that Mr. Martin opined that the trial process could not be removed by a special rule.

The screenshot shows a forum post by Josh Martin, posted on January 24, 2025, at 03:36 PM. The post is a reply to a message from J. J. dated January 21, 2025, at 6:07 PM. Josh Martin's profile information includes a profile picture, the name "Josh Martin", "Members", "20.4k" posts, and "Location: Minneapolis, MN". The quoted message from J. J. lists six points regarding trial processes and notice requirements. Josh Martin's response expresses appreciation for the examples and discusses the acceptability of modifications to trial processes, noting that some modifications are acceptable as long as they do not eliminate the trial or its essential elements. He specifically mentions some hesitation regarding permitting notice via email, suggesting it should be permissible only if authorized by bylaws or agreed to by the accused.

Josh Martin

Posted January 24, 2025 at 03:36 PM

On 1/21/2025 at 6:07 PM, J. J. said:

There would be a couple of different ways.

1. Permitting notice via e-mail
2. The time needed for the notice to be given.
3. Not giving date of adoption.
4. Notice saying that the trial will be "at the next regular meeting," that is specifically scheduled for a known place and time.
5. Waiving the notice requirement if the accused is present.
6. Waiving notice if the charge was adopted at the previous regular meeting.

All of those assume that there will still be a trial.

Thank you. I appreciate the examples.

Generally, I think modifications of this nature are acceptable. None of these modifications eliminates the trial, nor do they eliminate the notice or any of its essential elements.

The one I have some hesitation on is permitting notice via email. I am inclined to think this may be permissible only to the extent that the bylaws authorize this form of notice, or if the accused has agreed to receive notices by email, in a similar manner to the rules concerning notice of meetings.

+ Quote

⁵ Jacobs, Jonathan M. "The Special 'Special Meeting,'" National Parliamentarian. Vol. 84, No. 3, Spring 2023, 9-11.
https://issuu.com/parliamentarians/docs/nap_np84-3-wwwfinal/11

⁶ [https://lpedia.org/w/index.php?title=File%3ALNC_Special_Meeting_Minutes_\(10_06_2024_-_11_09_24\).pdf&page=19](https://lpedia.org/w/index.php?title=File%3ALNC_Special_Meeting_Minutes_(10_06_2024_-_11_09_24).pdf&page=19) p. 17