

The Rules Committee's review of these proposals presupposes that the delegates in convention reject Mr. Moellman's revisions concerning the Constitution, and accepts the Committee's recommendation, including its recommendation of a provision that violations of the statewide standing rules do not constitute a basis to disqualify candidates.

Obviously, certain of these provisions become far more problematic if those provisions are not adopted.

Presupposing that occurs, Mr. Moellman's proposed standing rules are inadequate in that they fail to adequately address the topics that should be addressed in standing rules (including certain of the topics that have been moved out of the constitution).

Given the level of control and detailed dictation of day to day affairs presented in these proposals, the rules committee conducted brief research into whether either the Democratic or Republican Parties of Kentucky mandated such items as is presented in this proposal, as requiring people elected to positions to utilize party email for all business.

Neither did. See, e.g. <http://www.rpk.org/wp-content/uploads/2017/07/Official-Republican-Party-of-Kentucky-Rules-Ratified-by-the-RSCC-on-2015-8-22.pdf> (last visited 2/23/2018)

We question whether, as Libertarians, it is appropriate to constrain and confine our volunteers in ways that may disincentivize participation. Some of these proposals involve a heavy handedness that is antithetical to Libertarian ideals and ideas.

The Libertarian Party of Kentucky Statewide Standing Rules

Codification template:

Heading: Name of overall topic, eg. Membership

Section: R xxx - Title (Authority; codified ____, amended __)

Sub-section: R xxx.yyy, eg. R 100.001

MEMBERSHIP

R 100 – Additional Membership Levels and Benefits (Constitution Article IV Section 3.D.iii; codified _____, amended _____)

R 100.001 – Lifetime Membership. Lifetime Members shall consist of those persons who have cumulatively donated at least seventy-five (75) times the amount of Annual Dues to the State Party in the past 12 months. Lifetime Members shall not be required to donate any further amounts to remain a Voting Member for the remainder of their lives.

R 100.002 – Haym Salomon Membership. Haym Salomon Membership shall consist of those persons who have cumulatively donated at least twenty-five (25) times the amount of Annual Dues to the State Party in the past 12 months.

R 100.003 – Thomas Jefferson Membership. Thomas Jefferson Membership shall consist of those members who have cumulatively donated at least ten (10) times the amount of Annual Dues to the State Party in the past 12 months.

R 100.004 – Patrick Henry Membership. Patrick Henry membership shall consist of those members who have cumulatively donated at least five (5) times the amount of Annual Dues to the State Party in the past 12 months.

R 101 – Dues Waivers (Constitution Article IV Section 3.D.ii; codified _____, amended _____)

R 101.001 Service Exemptions. Services which currently qualify for exemption are:

- Through March 1st, 2018: Phone banking, at the direction of the Membership Committee of the State Party, to registered Libertarians to encourage them to become Voting Members and to participate in Party conventions and our Primary process.
- All 2018 candidates nominated by the party who expend more than the amount required for Patrick Henry level membership on their campaign, not including funds donated to the candidate by a Party, and participate in at least one public non-party function as a candidate are to be considered Patrick Henry members from November 7th, 2018 through November 6th, 2019.

R 101.001 In-Kind Exemptions. Currently, no in-kind exemptions are blanketly approved.

Commented [CW1]: [These are one of the two areas – advanced memberships – that are delegated to the state executive committee to adopt. The reason, of course, is that the flexibility may be needed to define or redefine advanced membership levels and corresponding benefits]

Commented [CW2]: The executive committee has been currently tasked with granting exemptions – it is not clear how this would be handled, particularly the phone banking, which would have occurred long before the state convention.

The Committee is concerned with the precedent that this sort of proposal would set. Much like an ex post facto law, or a bill of attainder, granting benefits to someone for services already performed smacks of the very issues raised against the former Capano administration when it granted service exemptions to people.

It is not clear how many people would be benefited, what phone banking they did (and on behalf of whom?), what these members were told, or even who is involved with this phone banking?

These sorts of questions would typically be raised on an executive committee call, and, if it were beneficial to the party as a whole, the executive committee has been fairly liberal with granting exemptions.

That this has not been raised previously to the state executive committee, but is handled as some sort of retroactive rule is concerning.

In terms of an exemption for spending, as opposed to self-funding, this seems to reward candidates who are given support by other party members. We do not see this is particularly wise.

R 102 – Term of Membership (Constitution Article IV Section 3.D, Constitution Article IV Section 4; codified _____, amended _____)

R 102.001 – Annual Dues expiration dates. Unless specifically outlined by the level of membership codified in Statewide Standing Rules, Dues Paying Membership expires one year from the date of becoming a Dues Paying Member.

- A. When a donor makes multiple donations annually in order to cumulatively meet the minimum requirement of Annual Dues to be a Dues Paying Member, the date of the last consecutive donation in that series of donations, made within a 3-month timeframe, which cumulatively cause a member to become a Dues Paying member. In no case shall a non-consecutive donation of less than Annual Dues count as an extension of existing Dues Paying Membership.
- B. If a monthly recurring donor, donating more than the minimum Annual Dues required to be a Dues Paying Member, stops that recurring donation:
 - i. The title associated with that monthly donation level removed from their membership status.
 - ii. Their status as a Dues Paying Member shall expire one year from the date of the last recurring donation, unless another donation, or set of donations, equalling the minimum amount required for Annual Dues, is made.

R 102.002 – Revocation Of Membership. Membership in the party may only be revoked under the following circumstances:

- A. Revocation of Dues-Paying Membership, after a member publicly declares, or privately declares to the Chair of the State Party Membership Committee, their desire to disaffiliate.
- B. Revocation of Signatory Membership upon violation of the oath to be a Signatory Member, after:
 - a. The State Party Membership Committee holds a private hearing on the matter;
 - b. The State Party Membership Committee decides by majority vote to refer the matter to the State Party Executive Committee;
 - c. The State Party Executive Committee decides by majority vote to hold a hearing, which shall be public or private based at the decision of the Voting Member under consideration, on the matter; and
 - d. The State Party Executive Committee votes, in accordance with the Constitution, to revoke Signatory Membership.
 - e. Such revocation may be overturned by majority vote of the State Party Executive Committee.

AFFILIATE PARTIES

R 200 – Affiliate Parties - Purpose (Constitution Article III, Section 2; codified _____, amended _____)

R 200.001 State Party Directives. The State Party may give directives to any Affiliate Party, codified in Statewide Standing Rules, for the purpose of fulfilling the goals and purpose of the State Party.

Commented [CW3]: This provision would seem to suggest that someone stops being a member, even though they were not notified that their membership had expired, one year from the last donation.

While we believe that this could lead to “gotcha” politics, we leave the wisdom of the proposal to the convention body.

Commented [CW4]: Any “private declaration” is likely to lead to disputes over whether such a declaration actually happened, empowering a party officer at the expense of individual officers.

This would seem to give rise to serious issues and open the door to serious gamesmanship. If someone wishes to resign or disaffiliate, that should be done in writing, and be done publicly.

We are not quite sure why delivery to this particular officer is necessary, as opposed to any member of the executive committee (who, ostensibly, would forward it to the rest of the committee, as is typical practice).

Commented [CW5]: Unnecessary; this is defined constitutionally. Statewide standing rules are binding on affiliates.

R 200.002 Purpose of District Parties. The purpose of a District Party is to engage in outreach activities to recruit new Voting Members, affiliate County or Metro Parties, assist with coordinating cross-boundary activities with multiple affiliate parties, and assist procedurally with nomination of candidates for political office as directed by the State Party Rules Committee within their guidelines.

R 200.003 Purpose of County Parties and Metro Parties. The purpose of County and Metro Parties is to engage in outreach activities to recruit new Voting Members, fill out that party with Precinct Captains, assist the District Party with events happening in neighboring counties, build and train a grassroots organization of Libertarian Party activists for duly-nominated candidates of the Libertarian Party of Kentucky to contact, and assist procedurally with nomination of candidates for political office as directed by the Bylaws.

ETHICS

R 300 – General Ethics Rules (Constitution Article VI Section 7.J, Constitution Article VI Section 9; codified _____, amended _____)

R 300.001 Disclosure of Conflict of Interest. In the event that any matter comes before a committee in which a financial interest is held by a voting member or an Immediate Family Member, the committee member shall fully disclose the conflict of interest using the form prescribed on the State Party Website.

R 300.002 Proper decorum regarding other members. An Executive Committee shall never use meetings, Executive Sessions, or any Party Resource to attempt to shun, discredit, attack, or otherwise do harm to the reputation of a Voting Member; except that a Party may vote to bring specific charges to the State Party Membership Committee to request a removal of membership status from a Voting Member which includes specific violations of the governing documents of that Party.

R 301 – Compliance (Constitution Article VI Section 9; codified _____, amended _____)

R 301.001 Compliance enforced. When an Officer of a Party is made aware of a violation of any governing documents, that Officer shall be responsible for taking substantive action to resolve that violation. Substantive action may include informing the appropriate Officer or official of the violation. Failure to take substantive action shall result in recall of that Officer.

NOTICE OF AMENDMENT TO GOVERNING DOCUMENTS AND PLATFORM

R 400 – Notice period for amendment (Constitution Article VII Section 6.F; codified _____, amended _____)

R 400.001 Notice for Amendment to Platform and Governing Documents. A Party will require fourteen (14) days' prior notice requirement to amend governing documents or the platform, for the purpose of making these documents available to Voting Members no less than seven (7) days prior to convention. This requirement shall be waived if such restriction is not properly advertised.

Commented [CW6]: Unnecessary and potentially unconstitutional. Purpose is defined in the constitution.

Commented [CW7]: Why are we creating more forms and procedures? It should be enough that the person declares it in an open meeting, and then recuses from any discussion or vote. It should then be noted in the minutes that the disclosure and recusal occurred.

Commented [CW8]: This provision is going to create disputes – serious disputes. If someone proposes a resolution or item for consideration, and it is a conflict of interest, this provision would prevent another member from pointing that out. If someone proposes an item out of personal or pecuniary interest, this provision would prevent another member from pointing it out.

If a member, or officer, is caught embezzling party funds, this provision would prevent it from being discussed at an executive committee.

We want to encourage legitimate debate and decision making on issues, particularly serious issues.

This would also be unconstitutional, insofar as it prevents debate on removals for cause for officers under the Party's Constitution.

We understand that this is about a dispute between Mr. Moellman and District 4, but bad facts make bad law, and personal disputes make bad statewide standing rules.

Commented [CW9]: This is a trap for the unwary. Take the D5 and D6 Convention issues. We are aware of those issues, and the resolution is to seek a waiver from the members in convention – it being too late to otherwise fix it. Under this proposal, the entire state executive committee would be removed.

If we are going down the “rules” nazi path, so be it. If that is what the delegates want, again, so be it.

The result is likely to lead to the very type of arbitrary enforcement of rules that Libertarians decry the government making.

However, if the Voting Members want every I dotted, or T crossed, at the expense of common sense and discretion, and robots as party officers that are rules Nazis, they should adopt this provision.

As a Rules Committee, we believe that this provision will do untoward harm towards both the recruiting of good people, and their retention.

Commented [CW10]: The platform is likely okay. In terms of governing documents, it depends on which governing document. From the perspective of statewide standing rules, this is probably not a big deal, but leaves people little time to review. In terms of the State Constitution, there is insufficient time to conduct necessary research into potential pitfalls with changes, ensure compliance with federal and state law, and otherwise review under this framework.

R 401 – Members must be notified of notice requirements (Constitution Article VII Section 6.F; codified _____, amended _____)

R 401.001 Notice to membership must be given. By default, proposed amendments may be submitted at any time. For a Party to require that all proposed amendments to their governing documents and/or platform be submitted ahead of the opening of business, notice of such restriction must be clearly advertised to Voting Members by including notification of such restriction with the notice of the convention, and must be posted to the convention information on the website.

R 401.002 Submitted amendments must be posted. Whenever an amendment has been provided to a Party by a Voting Member, and that Party is requiring a notice period for a proposal to be considered, all proposed amendments which have been submitted on-time must be made public on the State Party website prior to convention. This requirement shall be fulfilled no later than one-half of the notice period, rounded up to a full day, or no notice requirement may be enforced. If any committee has not had an opportunity to review the amendment, then such status may be noted but shall not invalidate the submitted amendment proposal, nor absolve any responsibility of the Party under the Constitution, Bylaws, Statewide Standing Rules, and Standing Rules, nor abridge or alter the rights of Voting Membership to propose amendments as outlined under the Constitution.

CONVENTION

R 500 – Convention Notice (Constitution Article VII Section 6.G.v; codified _____, amended _____)

R 500.001 Distribution of Annual, Special, or Organizational Convention Notice to Voting Members. Notice shall be delivered to all Voting Members of a party. Acceptable delivery of notice shall be by email and telephone, provided that this information is available and current for the Voting Member. If neither a valid phone number or email address are available, a postcard shall be sent to the last known or best-known address of the Voting Member.

Commented [CW11]: Requiring email AND telephone calls to each member is inappropriate.

R 500.002 Distribution of Annual, Special, or Organizational Convention Notice to Members other than Voting Members. An attempt to contact Signatory Members and Registered Members, encouraging them to become Voting Members and attend the convention, shall be made at a time which provides adequate opportunity to become a Voting Member and participate in the convention. Acceptable delivery of notice shall be by email and telephone, provided that this information is available for the Member.

Commented [CW12]: This seems to require outreach to each of the 10,000 registered Libertarians in the state and appears to do so by phone or email, or mail. We think this may deplete the entirety of our current bank account if adopted.

R 501 – Convention Agenda (Constitution Article VII Section 6.H; codified _____, amended _____)

R 501.001 Election of Chair and Secretary of convention. As the first item of business at any convention other than a Nominating Convention, the convention body will elect a Chair and Secretary of the convention by majority vote of the credentialed, seated, and checked-in delegates; after which, they may choose to replace the Chair or Secretary by a vote of three-fifths.

Commented [CW13]: Typically, the party officers chair and act as secretary of the convention until removed. That provision should remain.

R 501.002 Convention body to determine agenda. At any convention other than a Nominating Convention, after the election of the Chair and Secretary of the convention, a convention body may

modify an agenda in any way that it chooses by majority vote; provided that in a Special Convention the general business item has been noticed with the call to convention.

R 501.003 Default Agenda of an Annual Convention - Alternative A. Odd-year conventions for State, County and Metro Parties, Even-year conventions for District Parties)

Doors open - 75 minutes prior to business
On-Site Registration and Check-in - 1 hour
Credentials finalized - 15 minutes
Business opens 5 minutes after Noticed time
Credentials Report - 5 minutes
Election of Convention Chair and Secretary - 5 minutes
Adoption of Convention Rules - 5 minutes
Adoption of Convention Agenda - 5 minutes
Secretary's Report - 30 minutes
Treasurer's Report - 15 minutes
Membership Committee Report - 15 minutes
IT Committee Report - 15 minutes
Ad-Hoc Committee Reports - 15 minutes (when applicable)
Nomination for Executive Committee Chair - 2 minutes
Lunch - 1 hour
Nomination speeches (during lunch; random order) - 3 minutes each
Credentials Update - 5 minutes
Election of Executive Committee Chair - 10 minutes
Rules Committee Report (part 1) - 30 minutes
Announcement of Results of Election of Chair - 2 minutes
Nomination for Executive Committee Vice-Chair - 2 minutes
Nomination speeches (random order) - 3 minutes each
Election of Executive Committee Vice-Chair - 10 minutes
Rules Committee Report (continued) - 30 minutes
Announcement of Results of Election of Vice-Chair - 2 minutes
Nomination for Executive Committee Secretary - 2 minutes
Nomination speeches (random order) - 3 minutes each
Election of Executive Committee Secretary - 10 minutes
Platform Committee Report - 30 minutes
Announcement of Results of Election of Secretary - 2 minutes
Nomination for Executive Committee Treasurer - 2 minutes
Nomination speeches (random order) - 3 minutes each
Election of Executive Committee Treasurer - 10 minutes
Platform Committee Report (continued) - 30 minutes
Announcement of Results of Election of Treasurer - 5 minutes
Nomination for Executive Committee Vacant/Acting At-Large Representative(s) - 2 minutes (when applicable)
Nomination speeches (random order) - 3 minutes each (when applicable)
Election of Executive At-Large Representative(s) - 10 minutes (when applicable)
Additional business - 30 minutes
Announcement of Results of At-Large Representative(s) - 2 minutes (when applicable)
Additional business - 30 minutes
Convention Adjournment

Commented [CW14]: This would seem to suggest that a convention body could willy nilly alter the agenda once it is adopted. The agenda should be amendable or modifiable initially by majority vote (and debateable per Roberts), but then, per Roberts Rules, it would require a 2/3 vote to amend or suspend the rules once there is an adopted amendment. The reason for this, as set out in Roberts Rules, is that people can determine attendance and whether they want to participate further based on an agenda. Altering it typically requires a supermajority suspension of the rules, and for good reason.

First meeting of new Executive Committee

R 501.004 Default Agenda of an Annual Convention - Alternative B. Even-year conventions for State, County and Metro Parties, Odd-year conventions for District Parties)

Doors open - 75 minutes prior to business
On-Site Registration and Check-in - 1 hour
Credentials finalized - 15 minutes
Business opens at Noticed time - 5 minutes
Election of Convention Chair and Secretary - 5 minutes
Adoption of Convention Rules - 5 minutes
Adoption of Convention Agenda - 5 minutes
Secretary's Report - 30 minutes
Treasurer's Report - 15 minutes
Membership Committee Report - 15 minutes
IT Committee Report - 15 minutes
Ad-Hoc Committee Reports - 15 minutes (when applicable)
Nomination for Executive Committee At-Large Representative(s) - 2 minutes
Lunch - 1 hour
Nomination speeches (during lunch; random order) - 3 minutes each
Credentials Update - 5 minutes
Election of Executive Committee At-Large Representative(s) - 10 minutes
Rules Committee Report (part 1) - 30 minutes
Announcement of Results of Election of At-Large Representative(s) - 2 minutes
Nomination for Executive Committee Vacant/Acting Officer #1 - 2 minutes (when applicable)
Nomination speeches (random order) - 3 minutes each (when applicable)
Election of Executive Committee Vacant/Acting Officer #1 - 10 minutes (when applicable)
Rules Committee Report (continued) - 1 hour
Announcement of Results of Election of Vacant/Acting Officer #1 - 2 minutes (when applicable)
Nomination for Executive Committee Vacant/Acting Officer #2 - 2 minutes (when applicable)
Nomination speeches (random order) - 3 minutes each (when applicable)
Election of Executive Committee Vacant/Acting Officer #2 - 10 minutes (when applicable)
Platform Committee Report - 30 minutes
Announcement of Results of Election of Vacant/Acting Officer #2 - 2 minutes (when applicable)
Platform Committee Report (continued) - 1 hour
Nomination for Executive Committee Vacant/Acting Officer #3 - 2 minutes (when applicable)
Nomination speeches (random order) - 3 minutes each (when applicable)
Election of Executive Committee Vacant/Acting Officer #3 - 10 minutes (when applicable)
Nomination of Delegates to National Convention - 5 minutes (state party only)
Nomination Speeches (random order) - 2 minutes each (state party only)
Election of Delegates to National Convention - 10 minutes (state party only)
Announcement of Results of Election of Vacant/Acting Officer #3 - 2 minutes (when applicable)
Recess - 15 minutes (state party only)
Additional business - 1 hour
Nomination for Executive Committee Vacant/Acting Officer #4 - 2 minutes (when applicable)
Nomination speeches (random order) - 3 minutes each (when applicable)
Election of Executive Committee Vacant/Acting Officer #4 - 10 minutes (when applicable)
Announcement of Results of Election of National Convention Delegates - 2 minutes (state party only)
Announcement of Results of Election of Vacant/Acting Officer #4 - 2 minutes (when applicable)

Commented [CW15]: The more explicit we are, the less flexibility we have. We believe that hamstringing of parties is particularly problematic. It is appropriate to allow an executive committee chair to propose an agenda, and then that agenda is modifiable, per Roberts, by the delegates. Once adopted, however, it requires a suspension of the rules to change.

Convention Adjournment
First meeting of new Executive Committee

R 501.005 Default Agenda of an Organizational Convention or Default Convention.

Doors open - 75 minutes prior to business
On-Site Registration and Check-in - 1 hour
Credentials finalized - 15 minutes
Business opens 5 minutes after Noticed time
 Credentials Report - 5 minutes
Election of Convention Chair and Secretary - 10 minutes
Adoption of Convention Rules - 5 minutes
Adoption of Convention Agenda - 5 minutes
Nomination for Executive Committee Chair - 2 minutes
Nomination speeches (random order) - 3 minutes each
Election of Executive Committee Chair - 10 minutes
Recess - 15 minutes
Announcement of Results of Election of Chair - 2 minutes
Nomination for Executive Committee Vice-Chair - 2 minutes
Nomination speeches (random order) - 3 minutes each
Election of Executive Committee Vice-Chair - 10 minutes
Recess - 15 minutes
Announcement of Results of Election of Vice-Chair - 2 minutes
Nomination for Executive Committee Secretary - 2 minutes
Nomination speeches (random order) - 3 minutes each
Election of Executive Committee Secretary - 10 minutes
Recess - 15 minutes
Announcement of Results of Election of Secretary - 2 minutes
Nomination for Executive Committee Treasurer - 2 minutes
Nomination speeches (random order) - 3 minutes each
Election of Executive Committee Treasurer - 10 minutes
Recess - 15 minutes
Announcement of Results of Election of Treasurer - 2 minutes
Nomination for Executive Committee At-Large Representative(s) - 2 minutes
Nomination speeches (random order) - 3 minutes each
Election of Executive Committee At-Large Representative(s) - 10 minutes
Recess - 15 minutes
Announcement of Results of Election of At-Large Representative(s) - 2 minutes
Additional business - 30 minutes
Convention Adjournment
First meeting of new Executive Committee

Commented [CW16]: Same comment.

R 501.006 Default Agenda of a Special Convention.

Doors open - 75 minutes prior to business
On-Site Registration and Check-in - 1 hour
Credentials finalized - 15 minutes
Business opens 5 minutes after Noticed time
 Credentials Report - 5 minutes

Election of Convention Chair and Secretary - 10 minutes
 Adoption of Convention Rules - 5 minutes
 Adoption of Convention Agenda - 5 minutes (subject to limitation by the convention call)
 Nomination for Executive Committee Vacant/Acting Officer #1 - 2 minutes (when applicable)
 Nomination speeches (random order) - 3 minutes each (when applicable)
 Election of Executive Committee Vacant/Acting Officer #1 - 10 minutes (when applicable)
 General business within the scope of the convention call - 30 minutes (subjects limited)
 Announcement of Results of Election of Vacant/Acting Officer #1 - 2 minutes (when applicable)
 Nomination for Executive Committee Vacant/Acting Officer #2 - 2 minutes (when applicable)
 Nomination speeches (random order) - 3 minutes each (when applicable)
 Election of Executive Committee Vacant/Acting Officer #2 - 10 minutes (when applicable)
 Recess - 30 minutes
 Announcement of Results of Election of Vacant/Acting Officer #2 - 2 minutes (when applicable)
 Nomination for Executive Committee Vacant/Acting Officer #3 - 2 minutes (when applicable)
 Nomination speeches (random order) - 3 minutes each (when applicable)
 Election of Executive Committee Vacant/Acting Officer #3 - 10 minutes (when applicable)
 General business within the scope of the convention call - 30 minutes (subjects limited)
 Announcement of Results of Election of Vacant/Acting Officer #3 - 2 minutes (when applicable)
 Nomination for Executive Committee Vacant/Acting Officer #4 - 2 minutes (when applicable)
 Nomination speeches (random order) - 3 minutes each (when applicable)
 Election of Executive Committee Vacant/Acting Officer #4 - 10 minutes (when applicable)
 Recess - 30 minutes
 Announcement of Results of Election of Vacant/Acting Officer #4 - 2 minutes (when applicable)
 Nomination for Executive Committee Vacant/Acting At-Large Representative(s) - 2 minutes (when applicable)
 Nomination speeches (random order) - 3 minutes each (when applicable)
 Election of Executive At-Large Representative(s) - 10 minutes (when applicable)
 General business within the scope of the convention call - 30 minutes (subjects limited)
 Announcement of Results of At-Large Representative(s) - 2 minutes (when applicable)
 General business within the scope of the convention call - 30 minutes (subjects limited)
 Convention Adjournment
 Meeting of the Executive Committee

R 501.007 Default Agenda of a Nomination Convention. The Default Agenda of a Nomination Convention shall be codified in Bylaws.

R 502 – Standing And Temporary Convention Rules (Constitution Article VII Section H.iii; codified _____, amended _____)

R 502.001 Conventions of delegates may adopt. A convention body may adopt, amend, or delete temporary convention rules or standing convention rules for itself as a body, but may not violate the provisions of the State Party Constitution, Bylaws, or State Party Standing Rules. Standing convention rules of any Party shall be published in Standing Rules of that Party.

R 503 – Credentials Committee (Constitution Article VII Section 6.H.ii; codified _____, amended _____)

R 503.001 Credentials Committee rights. A credentials committee may be established by an Executive Committee to assist in determining the status of Voting Members and eligibility to participate in

Commented [CW17]: Same comments. Far too much detail likely to hamstring and not be responsive to individual conventions and circumstances.

Commented [CW18]: Unnecessary and handled in Roberts.

convention, and maintain a list of seated delegates, as outlined in the Constitution, Bylaws, and Statewide Standing Rules of the State Party.

R 503.002 Credentials Committee responsibilities. When a Credentials Committee is created by any Party, it shall use the State Party definition of membership to determine who is qualified to participate as a voting delegate, within the guidelines of the Constitution of the State Party. Upon opening of the convention, only the convention body may add or remove qualified voting delegates of a Party from the convention body. Members of this Committee shall be required to sign non-disclosure agreements to protect the privacy of party members.

PRIVACY

R 600 - Privacy Policy (Constitution Article V Section 2.A.i.b; codified _____, amended _____)

R 600.001 Personal information. Personal Information may include, but is not limited to the name, email address, phone number ("Personal Information"). Its use and distribution shall be limited as follows:

- A. While no method of transmission over the Internet, or method of electronic storage, is 100% secure, A Party shall make a concerted effort to protect Personal Information of membership and respect their privacy. This may include a requirement to sign Non-Disclosure Agreements if the information contains any Personal Information permitting direct contact.
- B. By default, a request for membership information shall include a name, address, county, and district number, when that information is available. Any personally identifiable information that can be used to otherwise contact or identify a member shall be kept in confidence by the party.
- C. A Party may use Personal Information, and may share Personal Information with a third party who is legally bound to protect that information, to contact members with newsletters, marketing, or promotional materials. Further, a Party may hire outside firms to append additional data to known information about a member, provided that all Personal Information gathered is protected from theft or abuse.

R 600.002 Non-Disclosure Agreement. To protect the privacy of members of the party, an enforceable Non-Disclosure Agreement shall be required to handle all membership data. Such agreements shall be filed with the Secretary and the Membership Committee. The Membership Committee shall keep such agreements on-file and maintain a list of who has signed such agreements.

This Nondisclosure Agreement (the "Agreement") is entered into by and between The Libertarian Party of Kentucky ("Disclosing Party") and _____ ("Receiving Party") for the purpose of preventing the unauthorized disclosure of Confidential Information as defined below. The parties agree to enter into a confidential relationship with respect to the disclosure of certain proprietary and confidential information ("Confidential Information").

1. Definition of Confidential Information. For purposes of this Agreement, "Confidential Information" shall include all information or material that has or could have commercial or political value, or utility

in the business in which Disclosing Party is engaged. If Confidential Information is in written form, the Disclosing Party shall label or stamp the materials with the word "Confidential" or some similar warning. If Confidential Information is transmitted orally, the Disclosing Party shall promptly provide a writing indicating that such oral communication constituted Confidential Information.

2. Exclusions from Confidential Information. Receiving Party's obligations under this Agreement do not extend to information that is: (a) publicly known at the time of disclosure or subsequently becomes publicly known through no fault of the Receiving Party; (b) discovered or created by the Receiving Party before disclosure by Disclosing Party; (c) learned by the Receiving Party through legitimate means other than from the Disclosing Party or Disclosing Party's representatives; or (d) is disclosed by Receiving Party with Disclosing Party's prior written approval.

3. Obligations of Receiving Party. Receiving Party shall hold and maintain the Confidential Information in strictest confidence for the sole and exclusive benefit of the Disclosing Party. Receiving Party shall carefully restrict access to Confidential Information to employees, contractors, and third parties as is reasonably required and shall require those persons to sign nondisclosure restrictions at least as protective as those in this Agreement. Receiving Party shall not, without prior written approval of Disclosing Party, use for Receiving Party's own benefit, publish, copy, or otherwise disclose to others, or permit the use by others for their benefit or to the detriment of Disclosing Party, any Confidential Information. Receiving Party shall return to Disclosing Party any and all records, notes, and other written, printed, or tangible materials in its possession pertaining to Confidential Information immediately if Disclosing Party requests it in writing.

4. Time Periods. The nondisclosure provisions of this Agreement shall survive the termination of this Agreement and Receiving Party's duty to hold Confidential Information in confidence shall remain in effect until the Confidential Information no longer qualifies as a trade secret or until Disclosing Party sends Receiving Party written notice releasing Receiving Party from this Agreement, whichever occurs first.

5. Relationships. Nothing contained in this Agreement shall be deemed to constitute either party a partner, joint venturer or employee of the other party for any purpose.

6. Severability. If a court finds any provision of this Agreement invalid or unenforceable, the remainder of this Agreement shall be interpreted so as best to effect the intent of the parties.

7. Integration. This Agreement expresses the complete understanding of the parties with respect to the subject matter and supersedes all prior proposals, agreements, representations, and understandings. This Agreement may not be amended except in a writing signed by both parties.

8. Waiver. The failure to exercise any right provided in this Agreement shall not be a waiver of prior or subsequent rights.

9. Counterparts and Electronic Signatures. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one and the same agreement or document. A signed copy of this Agreement transmitted by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement for all purposes.

Commented [CW19]: This typically is seen in "discovery" type materials for litigation. Requiring labeling of confidential materials is likely to create issues with compliance.

This Agreement and each party's obligations shall be binding on the representatives, assigns, and successors of such party. Each party has signed this Agreement through its authorized representative.

Commented [CW20]: We believe that hard coding a confi/NDA is inappropriate. This should be left to the State Party Executive Committee to develop and amend.

TRANSPARENCY

R 700 – Open Meetings (Constitution Article VI Section 6; codified _____, amended _____)

R 700.001 Open to Public. Except for Executive Sessions, all party meetings, including committee meetings, shall be conducted transparently. The public should be encouraged to attend any in-person meeting, and Executive Committees should hold in-person meetings on a quarterly basis. All Voting Members of a Party shall be permitted to attend and observe an Executive Committee meeting. All actions of any committee shall occur in open session.

Commented [CW21]: We disagree. It should be open to Voting Members, not the public.

As a general matter, the Rules Committee proposal largely tracks this language, which largely tracks state law for public meetings of government entities.

R 700.002 Executive sessions are permitted only for the following purposes:

- A. Deliberations on the future acquisition or sale of real property by the party, but only when publicity would be likely to affect the value of a specific piece of property to be acquired for public use or sold by the party;
- B. Discussions of proposed or pending litigation against or on behalf of the party, or to otherwise receive confidential legal advice;
- C. Discussions or hearings which might lead to the appointment, discipline, or dismissal of an particular individual employee or contractor. This exception shall not be interpreted to permit discussion of general personnel matters in secret;
- D. Deliberations of judicial or quasi-judicial bodies regarding individual adjudications or appointments, at which neither the person involved, his representatives, nor any other individual not a member of the respective governing body or staff is present;
- E. Meetings which federal or state law specifically require to be conducted in privacy; and/or
- F. Discussion of internal infrastructure which would compromise the security of party operations.

Commented [CW22]: What is not included here, but included in the Rules proposal, is closing meetings to the public for purposes of discussing, among other things, sensitive political information.

As a political party, we are not a government entity. We are a group whose mission it is to elect liberty candidates and place them on the ballot.

Opening everything, including sensitive political strategy, to the voting members to dissemination beyond the party may irreparably harm the party and its interests.

R 700.003 Requirements for conducting an Executive Session. The following requirements shall be met as a condition for conducting Executive Sessions:

- A. Notice shall be given in regular open meeting of the general nature of the business to be discussed in Executive Session and the reason for the closed session;
- B. Executive sessions may be held only after a motion is made and carried by a majority vote in open, public session;
- C. No final action may be taken at an Executive Session; and
- D. No matters may be discussed at an Executive Session other than those publicly announced prior to convening the closed session.

R 700.004 Posting of Meeting Minutes to Website. Meeting minutes for all Parties, upon approval, shall be provided to the State Party Secretary within three (3) days, and posted to the State Party website within seven (7) days.

R 701 – Open Records (Constitution Article VI Section 6; codified _____, amended _____)

R 701.001 Definition of Open Record.

- A. All meeting minutes for any committee or convention, quarterly or monthly financial summaries, officer reports presented at any meeting, photographs of any meeting or event, meeting or event audio recordings or meeting or event video.
- B. Any and all reports that are physically filed with any public agency, including the Kentucky Registry of Election Finance.
- C. Any record stored on any resource owned, leased, operated, and/or maintained by the Party, except for any information from Executive Session.
- D. The list of Voting Members of the party, or any affiliate, with the name, mailing address, district, and county provided, but shall not include any e-mail address, telephone number, age, or sex.

R 701.002 Valid Requests.

- A. A "Requestor" is defined as any Voting Member of a Party who is currently, or has been within the past six months, a Voting Member.
- B. A Requestor may request to inspect any Open Record of the party by placing the request in writing to the Party Secretary, or the affiliate secretary, where applicable, provided the person so-requesting certifies that they are not seeking the records for a commercial purpose. In no event shall any record be released to anyone other than a valid Requestor.
- C. If the person to whom the application is directed does not have custody or control of the Open Record requested, that person shall notify the Requestor that they do not have custody, and, if they know who does, shall so inform the Requestor.
- D. A request for Membership data shall be valid, and the list generated, not more than once every 30 days by an individual Requestor. Such a request may be filled with a list generated up to 14 days prior.
- E. For physical copies, the secretary may charge \$0.15 per page copied, plus reasonable postage fees, and may require advance payment of the prescribed fee, including postage where appropriate.

R 701.003 Exemptions.

- A. The following shall be exempt from disclosure and the Open Records provisions:
 - 1. Software licensed or used by the Party;
 - 2. Specific addresses of files, passwords, access codes, user identifications, or any other mechanism for controlling the security or restricting access to records in the party's computer system;
 - 3. Personally-identifying Member information other than what is outlined as an Open Record;
 - 4. Donor lists and data, other than such information as is filed publicly;
 - 5. Specific personal identifying information of any member, including social security number, banking information, or similar personal identifying information.
 - 6. Records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy, but this shall not include any meeting minutes or public meeting audio or video;

Commented [CW23]: This is literally going to end up in inordinate amounts of requests that will bog down the party to the point of not being able to function if someone gets a burr in their saddle.

It also conflicts with the next provision about membership information.

This provision would potentially open the party to an inordinate numbers of requests for information.

7. Any legal advice, memorandum, or matters protected by the attorney-client or other applicable legal privilege recognized by state or federal courts;
8. The contents of real estate appraisals, engineering or feasibility estimates and evaluations relative to acquisition of property, until such time as all of the property has been acquired;
9. Records of the Party involved in adjudication that were compiled in the process of regulating elections, determining compliance with party requirements, or investigatory matters if the disclosure of the information would harm the party by premature release of information to be used in a prospective adjudication;
10. Preliminary drafts, notes, correspondence with private individuals, other than correspondence which is intended to give notice of final action of the Party;
11. Preliminary recommendations, and preliminary memoranda in which opinions are expressed or policies formulated or recommended;
12. All Open Records or information the disclosure of which is prohibited by federal or state law or regulation;
13. Any other record of a proprietary or confidential nature, the release of which to the general public has a substantial likelihood of seriously damaging the party or its interests in the judgment of the Officers of the State Party, who, by majority vote, shall both agree that the exception applies; this exception shall not be used to prevent the release of the minutes of any meeting or general financial reports; and
14. Materials that relate solely to internal party operations with sensitive data of a political or operational interest.

FINANCIAL TRANSPARENCY AND ACCOUNTABILITY

R 800 – Annual Budget (Constitution Article IV Section 2.A.ii.c, Constitution Article VI Section 5.D; codified _____, amended _____)

R 800.001 Fiscal Year. The fiscal year of the Libertarian Party of Kentucky shall begin January 1 of any calendar year, and run through the last day of the following December.

R 800.002 Budget Preparation. Not later than the last day of November, the Treasurer, on behalf of the Finance Committee, shall present a draft budget to the Executive Committee for the following year. That budget shall outline expected receipts for the following year. It shall also outline expected expenses in detail. Any budget, draft or final, shall not permit greater expenses than receipts and balance carry-forward combined. A sample budget follows:

FY 2017-2018 Budget, LPKY - District 1 (July 1, 2017 through June 30, 2018)

Fund balance from FY 16-17:	\$200
Revenues:	
Dues passed through from State:	\$300
Direct Contributions:	\$500
Convention attendance fees (\$15 x 15):	\$225
Total:	\$1025
Total available for appropriation:	\$1225

Expenses:

Convention costs:		
Venue:	\$100	
Food (\$5 x 15):		\$75
Credentials costs (\$4 x 15):	\$60	
Total:	\$235	
Outreach costs:		
Marshall county fair:	\$100	
Graves county fair:	\$100	
Brochure costs:		\$50
LP Gear costs:	\$100	
Total:	\$350	
Administrative Costs:		
Postage:	\$14.70	
Banking fees:	\$15	
P.O. Box fees:	\$60	
Total:	\$89.70	
Total Expenses:		\$674.70

Balance Carry Forward to FY 18-19: \$550.30

R 800.003 Adoption of budget. Following presentation of the draft budget to the Executive Committee, it may adopt the draft budget, or amend the draft budget. Any expenses set forth in the budget are explicitly approved, and no further authorization need be made. Further, the Executive Committee may require additional approval for any expense line item that it wishes to exercise more oversight over by so noting that desire in any approval motion. Any budget or amended budget that has been passed shall be transmitted to the State Treasurer for archiving in the records of the party within 30 days of passage.

R 800.004 Amendment of budget. The Executive Committee may amend the budget at any time within or before the fiscal year, or within 30 days following the fiscal year. Budget amendments should be sent to the State Treasurer for archiving the records of the party within 30 days of passage.

R 800 – Financial Reporting Requirements (Constitution Article VI Section 5.D; codified _____, amended _____)

R 801.001 External Requirements. A Party must file KREF paperwork, and stay current with KREF filings, in accordance with Kentucky law, to remain in good standing and receive or expend any funds, including in-kind donations.

R 801.002 Internal Party Requirements. In addition to any legal requirements, forms shall be generated to conform with the reporting requirements outlined in the Constitution. When these forms exist, a Party must complete these forms to remain in good standing. When possible, these forms will be made available to be completed via the state party website. All information covered under reporting requirements shall be read into the minutes of the next committee meeting.

Commented [CW24]: We are not sure about the wisdom of this provision, given the fact that KREF non-compliance may occur from a variety of factors, and be outside the control of a particular party.

Consider, also, that if KREF imposes a fine, we may be depriving an affiliate of the very means by which they will become compliant.

Commented [CW25]: What requirements?

PARTY ASSETS

R 900 – External transfers of Party Assets. (Constitution Article VI Section 5.D; codified _____, amended _____)

R 900.001 Ownership. A party asset is owned by the Party and, when advertised, is advertised as the asset for that Party. Personal assets may not be advertised as party assets.

R 900.002 Gifts at or under \$10 in value. If the item is of a value less than or equal to \$10, then the value and the number of items, along with the date, location, and event title given shall be reported to the Executive Committee treasurer.

R 900.003 Gifts greater than \$10 in value. If the item is of a value greater than \$10, then the name and contact information of the recipient shall also be reported, in addition to requirements in 900.002.

R 901 – Internal transfers of Party Assets. (Constitution Article VI Section 5.D, Constitution Article VI Section 5.E; codified _____, amended _____)

R 901.001 Transfer to new Party leadership. At any Annual Convention for a party at which Officers are elected, all assets of that party not in a storage facility shall be brought to the convention for transfer to new leadership. The key, combination, or other security mechanism for access to assets stored in a storage facility, shall also be brought to the convention for transfer to new leadership. If paperwork is necessary to transfer control of a storage facility, that paperwork shall be brought to the convention and completed by the appropriate parties.

R 902 – Control of Party Assets. (Constitution Article VI Section 5.B, Constitution Article VI Section 5.D; codified _____, amended _____)

R 902.001 Maintaining party assets. By default, the responsibility for maintaining assets controlled by a Party, which are not otherwise outlined in the State Party Constitution or these Statewide Standing Rules as controlled by some other mechanism, shall fall to its Executive Committee who may create an Ad-Hoc Committee to control particular assets or classes of assets, provided that the Ad-Hoc Committee is directly-accountable to the Executive Committee.

R 902.002 Assets Not Owned By a Party. Any asset in the possession of, but not owned by, a Party shall be tracked. The owner's name, contact information, date obtained, and condition of use shall be maintained until a Party returns that asset to its owner.

INFORMATION TECHNOLOGY

R 1000 – IT Assets (Constitution Article V Section 2.B.i; codified _____, amended _____)

R 1000.001 State Party Property. All Information Technology assets operated by any Party are and remain the property of the State Party. Any IT asset not currently under the control of the State Party shall be transferred to the State Party IT Committee by April 15th, 2018.

R 1001 – Email (Constitution Article V Section 2.B.i, Constitution Article VI Section 6; codified _____, amended _____)

Commented [CW26]: This level of detailed tracking is likely to result in a burden on our officials that cannot, and will not be complied with.

Commented [CW27]: As drafted, this is going to create issues, particularly if there is an asset that is not in storage, but is otherwise unwieldy and unmanageable.

It is enough that arrangements are made by the close of the convention for the transfer of assets.

Commented [CW28]: So the State party is confiscating all of the social media pages of each and every affiliate?

How... Orwellian...

R 1001.001 Entitled Users. All members of any affiliated executive committee (State, District, County, Metro) and members of any sub-committee therein, upon official notification of election or appointment being sent to the IT Committee, will be assigned a lpky.org email address within five business days, and provided with account credentials and directions on how to access the account.

R 1001.002 Email Policy. This policy covers appropriate use of any email sent from a party email address and applies to all employees, members, volunteers, vendors, and agents. All email sent to or from a party email address, or on behalf of a party from any address, is the property of the State Party.

- A. All use of email must be consistent with governing documents and applicable laws.
- B. Email accounts shall be used for all party business-related purposes when acting in an official capacity on a committee. Email that is sent from and delivered to a party email account shall be deemed valid for all party business, and party members are required to use official email addresses (@lpky.org) for any and all party business that is conducted via email.
- C. The email system shall not be used for the creation or distribution of pornography, or offensive comments about race, gender, disabilities, age, sexual orientation, or national origin. Sending chain letters or inappropriate joke emails from an email account is prohibited. Nothing in this section shall prevent good faith political discussions about the foregoing issues that are pertinent to party business. Members who receive any emails with this content from any member should report the matter to any member of the State Party Executive Committee immediately.
- D. Users shall not use the email server as a mechanism to send unsolicited mailings, newsletters, or any form of bulk mailings to multiple external email addresses. External email services, such as MailChimp, should be used for bulk mailings.

R 1001.003 Records Retention. Email should be retained if it is not spam or a virus. Email shall be retained as follows: Record retention should be two years for records that do not include financial statements, checks, drafts, and authorization to spend funds, and four years for records that contain financial statements, checks, drafts, and authorization to spend funds.

R 1001.004 Mailing Lists. Provided that an official mailing list is established and functional for a particular committee, all business conducted via electronic mail, not covered under Executive Session, shall be conducted on that mailing list. Unless specifically denoted as a private list, all mailing list communication shall be made publicly available and transparent. Exceptions shall be limited to mailing lists created specifically for discussion to be held in Executive Session and internal party operations with sensitive data. Mailing lists shall be named using a naming convention which clearly outlines the purpose of that mailing list. The following lists will be created by default when there is an applicable functioning affiliate:

State Executive Committee	lpk-execomm@lists.lpky.org
State Membership Committee	lpk-membership@lists.lpky.org
State Finance Committee	lpk-finance@lists.lpky.org
State Platform Committee	lpk-platform@lists.lpky.org
State Rules Committee	lpk-rules@lists.lpky.org
State IT Committee (Private)	lpk-it@lists.lpky.org
District X Executive Committee	lpk-dX-execomm@lists.lpky.org
District X Membership Committee	lpk-dX-membership@lists.lpky.org

Commented [CW29]: So now we are dictating what email people use? What if they use an iphone and use the wrong account? It would invalidate committee action in that instance? We think that this is a recipe for trouble.

District X Finance Committee lpk-dX-finance@lists.lpsy.org
District X Platform Committee lpk-dX-platform@lists.lpsy.org

(where X is the district number)

County Y Executive Committee lpk-Y-execomm@lists.lpsy.org
County Y Membership Committee lpk-Y-membership@lists.lpsy.org
County Y Finance Committee lpk-Y-finance@lists.lpsy.org
County Y Platform Committee lpk-Y-platform@lists.lpsy.org

(where Y is the county name)

Metro Z Executive Committee lpk-mZ-execomm@lists.lpsy.org
Metro Z Membership Committee lpk-mZ-membership@lists.lpsy.org
Metro Z Finance Committee lpk-mZ-finance@lists.lpsy.org
Metro Z Platform Committee lpk-mZ-platform@lists.lpsy.org

(where Z is the Metro Party number)

R 1001.005 Confidentiality. Unless permitted by the State Party Executive Committee Officer responsible for maintaining such information, individual messages which are sent or forwarded by a user from the email system must not contain confidential information.

R 1001.006 Email access and monitoring. The State Party may monitor messages without prior notice., but is not obliged to monitor email messages. Monitoring of emails shall only occur in the event that there is probable cause to believe that there has been a misuse of party email, established through a report that inappropriate emails, which violate the State Party governing documents or state law, have been sent by the member's account, complaints from third parties, an abnormal amount of space being utilized by a particular email account, or other credible evidence of misuse. No person shall access the email account of another user without the permission of the user whose account is being accessed, except as authorized under this Subsection.

Commented [CW30]: Now we are removing all checks on privacy in party email that currently exist in bylaws?

R 1002 – Social Media (Constitution Article V Section 2.B.i; codified _____, amended _____)

R 1002.001 Operation. The Officers of the State Party Executive Committee and the designated administrator from the IT Committee shall have administrative privileges on all social media assets, but will not engage in day-to-day operations of any such asset other than assets for the State Party or assets for which there is not a chartered affiliate party.

- A. By default, day-to-day operation of a social media asset is to be executed by the officers of the executive committee for which the asset is the topic, and those officers shall be authorized to post content on behalf of those parties, unless posting privileges are revoked. An executive committee may take official action to add any additional posters to the account, or may establish a committee to handle such accounts.
- B. A party social media asset should be used only to make an original post. Responses to a comment or thread are to be made with personal accounts and not with a party account. A person making a post on such an account shall identify themselves as the person making the post for the page by placing their initials at the end of the post in parenthesis.

- C. The State Party Executive Committee shall have the ability to revoke privileges of any person from any party asset. In no case should a social media asset have fewer than 2 members with administrative privileges.

R 1002.002 Removal of content. Posts may be deleted that: (i) are clearly inconsistent with the platform; (ii) are in clear violation of these bylaws or the party's constitution; (iii) are clearly unnecessarily vulgar, profane, or obscene, without a corresponding and sufficiently offsetting benefit to the party in terms of advancing its mission; (iv) violate state or federal law; or (v) the post contains a link that is broken or misleading. In the event any post is deleted, the officer deleting the post shall inform the poster and relevant party chair of the action, and the reason for it. In the event that the poster believes that the post conformed to policy, they may appeal the deletion decision to the State Party Executive Committee, and, in the event of three successful appeals, the administrative privileges of the person deleting the posts shall be revoked by the State Party Executive Committee for a period not less than 90 days. Persons who make such posts on more than one occasion are subject to having their posting privileges revoked, temporarily or permanently.

R 1003 – Websites (Constitution Article V Section 2.B.i; codified _____, amended _____)

R 1003.001 Operation. Websites are to be maintained by the IT Committee, at the direction of the State Party Executive Committee. Duties to maintain the website, wiki, or other web-based technologies may be delegated to others, but the same requirements, rules, and restrictions shall apply to those to whom duties are delegated.

R 1003.002 Posting of Minutes. The State Party Secretary will be given access to the primary LPKY State Party website in order to post events, press releases, meeting minutes, and other articles.

R 1004 – Telephony Assets (Constitution Article V Section 2.B.i; codified _____, amended _____)

R 1004.001 Party phone numbers. Any phone number or other telephony services used or advertised as an official party phone number or point of contact for any Party are, and remain, the property of the State Party.

ARBITRATION

R 1100 – Standard Procedures for all types of Arbitration (Constitution Article XII Section 5; codified _____, amended _____)

R 1100.001 Definition of Claim. A claim shall be defined as the same as a Demand for Arbitration.

R 1100.002 Due Process. All claims should be dutifully considered. The claimant's right to due process should be respected.

R 1100.003 Bringing Forth Claims. A claim may be brought before an Executive Committee for arbitration by a Voting Member when:

- A. A committee under the direction of the Executive Committee, or an individual member of an Executive Committee, has taken action, and that Executive Committee has not reversed that action within fourteen (14) days after being notified of that action.
- B. An Executive Committee has voted in the majority in favor of an action.
- C. When a claim against an Affiliate Party has been appealed to the State Party Executive Committee, and the State Party Executive Committee has either ruled on the claim, or has failed to take action on that claim after twenty-one (21) days.

Commented [CW31]: This expansion of arbitration is certain to result in select individual members wreaking havoc on our party and its limited resources.

R 1100.004 Form of the Claim. The form of a claim being brought to an Executive Committee shall be a one-line summary (“tag line”) of the claim, a summary of 500 words or less of the issues of the claim including the specific provisions of governing documents claimant believes to have been violated, and the remedy sought by the claimant.

R 1100.005 Right To Cure. The Executive Committee shall review the claim, and shall have the right to take action to remedy the claim within fourteen (14) days of the initial claim being submitted.

R 1101 – Affiliate Party Arbitration (Constitution Article XII Section 3, Constitution Article XII, Section 5; codified _____, amended _____)

R 1101.001 Bringing Forth Claims. The Executive Committee shall have fourteen (14) days to review the claim being filed.

R 1101.002 Response by the Executive Committee. The Executive Committee may, within the fourteen (14) day period outlined in R 1101.001:

- A. Accept the argument within the claim and correct the action as requested, or in a manner mutually-acceptable to both parties.
- B. Reject the argument within the claim, in writing to the claimant, with the reasoning or rationale behind the rejection of the argument.

R 1101.003 Reply by Claimant. If the Executive Committee does not accept the claim and/or does not correct the action as requested, the claimant shall be entitled submit a reply to the response within seven (7) days of notification, further explaining the claim and/or the desired remedy.

R 1101.004 Final Ruling of Affiliate Party. Upon receipt of a reply from the claimant, the Executive Committee shall consider the original claim, the response by the Executive Committee, and the reply from the claimant, as a whole. From these documents, the Executive Committee shall issue its final judgement within fourteen (14) days.

R 1102 – Appealing Arbitration to State Party (Constitution Article XII Section 4; codified _____, amended _____)

R 1102.001 Appeal of Affiliate Party or Rules Committee Arbitration. A claimant may appeal the ruling of arbitration with an Affiliate Party or the State Party Rules Committee to the State Party Executive Committee. The State Party Executive Committee shall review the original claim, response, and reply. The State Party Executive Committee may then consider the claim in the manner outlined in R 1101.

R 1103 – State Party Arbitration (Constitution Article XII Section 5; codified _____, amended _____)

R 1103.001 Bringing Forth Claims. The State Party Executive Committee shall have fourteen (14) days to review the claim being filed. During this period, the State Party Executive Committee shall begin the process of negotiation with the claimant.

R 1103.002 Negotiation. Every reasonable effort should be made to avoid the mediation and arbitration process, as long as those efforts do not infringe upon the Constitution, Bylaws, or Statewide Standing Rules. Mediation and arbitration should be a last-resort. The party who has brought forth a complaint should be given an opportunity to explain their position, and respond to the reply by the State Party.

R 1103.003 Mediation. If a dispute cannot be settled through negotiation, the parties shall first to try in good faith to settle the dispute by mediation through Commercial Mediation Procedures of the American Arbitration Association before resorting to arbitration. During mediation, the parties may choose any arbitrator or may negotiate on their own behalf. The mediation process should take no longer than 21 days, unless mutually agreed to by both parties.

R 1103.004 Arbitration. If a controversy or claim has not been settled by mediation, it shall be settled by binding arbitration. These provisions supersede any contrary arbitral rules that might otherwise apply.

- A. Pleadings. The arbitration demand must be a clear and concise statement of the claim or dispute. The respondent's answer and any counterclaims must be filed within twenty (20) calendar days of service of the demand.
- B. Arbitrator. Within seven (7) calendar days after the arbitration demand is served on the respondent, the parties must jointly select an arbitrator with at least two (2) years' experience in that capacity.
 1. If the parties do not agree on an arbitrator within seven (7) calendar days, the parties shall have seven (7) days to each select an arbitrator with at least two (2) years' experience in that capacity. The arbitrators for each party will select a third arbitrator to serve as chair of a three-person panel of arbitrators, and the term "arbitrator" as further used in this Section shall thereafter refer to the panel of arbitrators.
- C. Prehearing Conference. The arbitrator must promptly set a conference to clarify the claims and defenses, to establish fair procedures, and to set a schedule for completing the arbitration.
- D. Discovery.
 1. Required Disclosures. Except for impeachment-only information, each party must voluntarily disclose:
 - a. the names and addresses of persons who have discoverable information that the party may use to support its claims or defenses;
 - b. a copy of the documents that the party may use to support its claims or defenses; and
 - c. a computation showing each element of damages.
 2. Depositions. Each party may have no more than eight (8) hours, total, for depositions.
 3. Expert-Witness Reports. Each testifying expert must provide:
 - a. a written report stating all opinions that he or she will express at the hearing;
 - b. the basis and reasons for the opinions;
 - c. the facts and data considered in forming the opinions;

Commented [CW32]: Now we are invoking formal AAA Mediation procedures? One Committee member notes that, in his legal practice, a typical cost for such a mediation is around \$1,000 per mediation.

Commented [CW33]: 3 panel arbitration, with discovery, can be expected to cost the party at least \$10,000 per time it is invoked.

We STRONGLY believe that this is a recipe for mischief and mayhem.

- d. all exhibits that will be used to summarize or support the opinions; and
 - e. his or her résumé.
- 4. Other Discovery. Any documents from arbitration proceedings which occurred prior to this arbitration process may be submitted for consideration. No other discovery is allowed except by the arbitrator and for good cause.
- 5. Discovery Disputes. The parties must confer in good faith to resolve all discovery disputes. If they cannot resolve these themselves, the parties must attempt to do so in conference with the arbitrator. If the dispute is not resolved in conference, the arbitrator must promptly rule on the issues.
- E. Motions. The parties must not file any motions without first conferring with opposing counsel and obtaining leave from the arbitrator.
- F. Final Hearing. Unless otherwise mutually agreed to by both parties, the final hearing will be held in Frankfort, Kentucky, and must be concluded within two (2) months of the date the arbitrator is appointed.
- G. Award. The arbitrator must issue a written, reasoned award within fourteen (14) calendar days from the date the hearing is formally closed, or as soon after that as is feasible. The remedy will be corrective action and/or actual damages; no punitive damages are allowed.
- H. Sanctions. The arbitrator may impose reasonable monetary or other sanctions against a party, or the party's lawyer, as appropriate, for bringing forth a claim in bad faith, failing to comply with discovery obligations, or engaging in other disruptive or dilatory conduct, whether direct or indirect.
- I. Costs and Fees. Unless the arbitrator orders otherwise, the parties must share arbitration costs equally, including the arbitrator's fees and expenses. Each party must pay its own expenses and attorneys' fees. A court reporter's fees must be paid by the party who retains the reporter.
- J. Judicial Confirmation. The arbitrator's award may be confirmed, modified, or vacated, and judgment entered, by any state or federal court having subject-matter jurisdiction sitting in the state of Kentucky.
- K. No Invalidation. The arbitrator's failure to comply with any deadlines specified in this section is not grounds for invalidating any provision of this section.

Commented [CW34]: Formal discovery and expert witnesses? Motions? Hearings? Expect the costs to go up exponentially. One arbitration under these procedures and the entirety of our state party bank account will be depleted