

LIBERTARIAN PARTY BALLOT ACCESS COMMITTEE REPORT

Libertarian National Committee meeting

Aurora, Colorado

April 21-22, 2018

Dear Colleagues:

The following memo addresses ongoing petition drives and petitioning opportunities for the LNC in 2018.

The Ballot Access Committee (“BAC”) currently consists of Ed Marsh, Dustin Nanna, Mark Axinn, Richard Winger and me. I want to thank all the BAC members for their work on this committee and input into this written report and any oral report that I will deliver in Aurora. I will likely have updates at this LNC meeting.

I will be using the vernacular “Gross” and “Net” to describe “Total” and “Valid” signatures, respectively.

We currently have ballot access for statewide office in 2018 in the following 40 states: AK, AR, AZ, CA, CO, CT (US Senate + one US House district only + two CT House districts), DE, DC, FL, GA, HI, ID, IN, IA, KS, KY, LA, ME, MA (5,000 sig primary petition for Dan Fishman is ongoing with a deadline in May), MD, MI, MS, MO, MT, NE, NH, NV, NM, NC, ND, OK, OR, SC, SD, TX, UT, VT, WV, WI & WY.

We currently have three ongoing petition drives that involve LNC expenditures: OH, TN & IL, which I will address momentarily.

The NY petition drive is for a six week period (July 10-August 20). The LPNY needs 15,000 net sigs to place its statewide candidates on the ballot. If the LPNY candidate for Governor earns at least 50,000 votes, the LPNY will be a recognized political party in New York State through the November 2022 general election, which means no petition drive would be necessary in 2020.

The LPNY stated that it would likely need \$45,000 of outside funds for a successful petition drive. Michael Chastain has very generously offered a \$10,000 contribution to the LPNY petition drive, which means that the LPNY request to the LNC will be reduced to \$35,000. Funds for the LPNY petition drive have not yet been encumbered by the Executive Committee.

The Ballot Access Committee unanimously recommends that the EC encumber \$35,000 for the LPNY petition drive.

Now, the ongoing drives:

OH: Party petition deadline is Thursday, July 5, although we want to turn in as soon as possible, as long as we are highly confident that we have enough valid signatures. Only one sig turn in is allowed. Net sigs needed: 54,965.

As of April 11, the LPOH had 87,977 gross sigs. Of that, according to its 100% validity check, were 54,075 net sigs (for a 61.46% validity rate). However, signatures are “melting,” given that if someone signs with their then current address but later moves and changes their voter registration address before our petition turn-in, their signature is ruled invalid. (As an aside, I wonder about the constitutionality of such a law or rule, but I won’t address that further here.) Also, on a long petition drive (and this started in November 2016), there are going to be some duplicate sigs, which I do not think have been accounted for in the 61.46% validity rate.

Given the recent problems that the LPOH has had with another political party (that shall go nameless), the BAC thinks we need to go in with what we think are AT LEAST 60,000 net sigs (and maybe more). Given the validity rate to date, 5,925 more net sigs would mean that at least 9,640 more gross sigs need to be gathered.

We are working on recruiting more paid petitioners there.

Also, Primary Day in Ohio is Tuesday, May 8. We are organizing a special petitioning effort, consisting mainly of volunteers. Of course, the success of this effort will be highly dependent on weather conditions in Ohio that day, as precipitation and outdoor petitioning are mutually exclusive.

We will be asking not just Ohio LP members, but LP members from contiguous states to go to Ohio to petition on Primary Day. Wes Benedict and I are trying to put a group together to drive from the Washington, DC area to someplace in eastern Ohio to petition at large polling places on May 8.

Further commentary from Ken Moellman, who has been the Ohio petition drive manager, follows:

Short version: We have about \$40k to go from today to hit the 21%-over number, at which point we should be safe. Anything less is likely to be challenged in Republican-heavy courts. They spent \$600,000 to kick us off the ballot. They're not going to let us back on for cheap. Currently there is \$18,317 left in the budget from the LNC.

Long version: If we hit the 10% over number at 60,462, that's not really "safe". In my mind, this is "bare minimum" and I believe that we will get challenged if we turn in with only that many valid signatures.

If we want to be safe, we need to hit the 21% over number, at 66,508 valid. This would require an additional \$21,312.81, according to the spreadsheet.

LPO volunteers are out collecting signatures. They're now active and doing what they can despite the weather. I am trying to get the data together to figure out which precincts will be the busiest on May 8th, the day of the partisan primary in Ohio. That's going to be a big day, if we can pull it off.

I think LPO should look to see if they can do another round of fundraising. While I'm sure the LNC would be unhappy, it may be wise to ask them to take on the additional \$21k as well, since we're bailing out of AL completely. I know it sucks, and I hope that LPO could raise that \$21k now. If the volunteer effort on May 8th is successful this amount will be decreased.

Production slowed significantly in December, when winter hit hard. Since the weather began to break, we've had significant competition for petitioners, especially because of Michigan petitioning. Michigan petitions end May 20th so we need to be ready to hire like crazy on May 21st if we've got the funds to hit 21%-over.

As of today, the LNC has put in \$123,559.76 for signatures (with \$18,317.00 remaining in the current budget), and the LPO has put in \$50,595 for signatures. This does not include the cost of printing petitions or other expenses LPO has incurred. I don't know the exact amount LPO has spent in expenses, but I do know that it's likely close to \$2,000, and maybe more. Dustin would know.

IL: 25,000 net sigs needed. Drive started Tue, March 27. Deadline: Mon, June 25.

Here is the Wed, April 11 report from LPIL Ballot Access Coordinator Krysta Walker. I will probably have an update at the LNC meeting.

Current count: Approx 4,000 gross

1674 volunteer

1289 paid

970 contractor in hand

Current validity: 81%

It's been two weeks since our drive started. We have faced a couple hiccups so far. The weather has been bad, I had a contractor go awol and another was ill. Our first weekend was also a holiday weekend. However, we are starting to build momentum now, as I expected. I did see signatures double between week 1 and week 2.

We currently have just south of 4,000 sigs. That includes 1,289 paid signatures, about 970 in hand as of this morning (I expect that number is already higher), and about 1,674 volunteer signatures that were reported to me in time for this report.

Our chapters will be having their county conventions next week, and I should have a very solid count on our volunteer sigs at that time. I expect there are more out there than I know of currently. Some of our Precinct Committeemen have finished half of or all of their 200 signature pledge, which is very exciting.

I am trying to get our members into a routine of turning into their chapter chairs twice a month, but it's a new process for us, so I expect it will take some time to get everyone on board.

The current pace is not fast enough, but I don't think it's indicative of our trajectory. As I said, we had one contractor disappear that I am working to replace; however, two of my contractors have each said they are bringing 1-2 subcontractors on board. Between that and warm weather arriving, parades and events starting up around the state, we should start to see signatures begin coming in much larger numbers.

I am proud to say, while we are ramping up more slowly than I'd like, our validity rates are really solid. Our current average is 81%.

TN: There is a telephone conference call on the LPTN petition drive on Wed, April 18. I will have an oral report on the LPTN petition drive at the LNC meeting.

I will now address other states:

AL: The LPAL decided not to pursue a party petition in 2018. There are county LP and individual candidate petition drives that are ongoing. The LNC and the LPAL can consider a party petition in 2020, but we can also do (and have done over the last several Presidential elections) an Independent petition for 5,000 net sigs.

PA: It is my understanding that there is a 5,000 net sig petition drive in PA to put Ken Krawchuk on the ballot for Governor and candidates for other offices. The EC has not encumbered funds for this.

VA: The Matt Waters for US Senate campaign is funding its 10,000 net signature petition drive itself. As of a week ago, it had 4,000 gross sigs. The deadline is Tue, June 12. Between 13,000 and 14,000 gross sigs will be needed to hit 10,000 net. I think it is likely this petition drive will succeed. If Matt Waters earns 10% of the vote, the LPVA will be a recognized party in VA through the 2021 general election. That might be possible if a strong Donald Trump supporter earns the Republican nomination for US Senate.

Legislation & Lawsuits:

AZ: From ballot-access.org:

On April 6, the Arizona Libertarian Party filed this reply [brief](#) in its ballot access case, *Libertarian Party of Arizona v Reagan*, 17-16491. The issue is the large number of

signatures needed for a member of the Libertarian Party to get on the party's primary ballot. The U.S. District Court had upheld the law, which kept all Libertarians off the primary ballot in 2016 except just one candidate for county office.

The new restrictive law, passed in 2015, does not apply to the Green Party, which had a good number of candidates on in Arizona in 2016.

GA: From ballot-access.org:

The Georgia Libertarian Party filed a lawsuit in U.S. District Court last year against the state's ballot access laws for U.S. House, which are so severe, no minor party candidate for U.S. House has appeared on the ballot in a regularly-scheduled election since 1942. *Cowen v Kemp*, n.c. 1:17cv-4660. The requirement for a petition of 5% of the registered voters was passed in 1943.

The court recently set a briefing schedule. Discovery must be finished by June 28, and all briefs must be in by August 20.

Also from ballot-access.org:

The Georgia legislative deadline for bills in the 2017-2018 session to pass one house passed on February 28, and neither of the bills to improve ballot access met that deadline. HB 133 would have reduced the number of signatures for most offices. SB 112 would have eliminated mandatory petitions for all candidates. Neither of them made any headway.

Not only that, no bill was introduced to acknowledge that in early 2017, the Eleventh Circuit agreed with the U.S. District Court that the number of signatures for president is unconstitutional. Until the legislature does something about that, the court order setting the petition at 7,500 signatures remains in effect.

The Libertarian Party lawsuit against the number of signatures needed for U.S. House candidates is in U.S. District Court, in the evidence-gathering phase.

BAN did not know that in 2017, the Georgia legislature made ballot access worse. HB 268, signed into law on May 9, 2017, moved the deadline for petitioning candidates to file their notice of candidacy and filing fee from June to the first week in March. The law does not affect candidates for presidential elector, though. Thanks to Hugh Esco for this news. The vote in the Senate was 32-18; in the House it was 111-57. Similar laws, requiring candidates to file a declaration of candidacy early in the year, have been declared unconstitutional in South Carolina (*Cromer v State*) and West Virginia (*Daly v Tennant*).

NY: We are still waiting on a decision on our lawsuit against the ban on out-of-state petitioners.

OK: A bill to change the retention requirement from 2.5% for Governor or President to 2.5% for any statewide office over a four year period. Richard Winger thinks that we will never have to petition again in OK, if this bill passes.

SD: From ballot-access.org:

On February 21, U.S. District Court Judge Lawrence Piersol struck down South Dakota ballot access laws for newly-qualifying parties. *Libertarian Party of South Dakota v Krebs*, 4:15cv-4111. The plaintiffs were the Libertarian Party and the Constitution Party. The case had been filed in 2015.

The opinion says that the March 27 petition deadline is too early, especially given winter weather in South Dakota. It also says the 2.5% (of the last gubernatorial vote) is also too high, given the historical record of few minor parties qualifying. The Reform Party did not qualify in South Dakota in 1996; the Green Party has never qualified; the Natural Law Party never qualified; the New Alliance Party never qualified.

The state defended the March 27 deadline by saying that deadline is necessary to give new parties their own primary in June. But the opinion says there is no state interest in requiring new or small parties to nominate by primary. It says, "In our two-party dominant system, the Republican and Democratic Parties often have more than one candidate for each political office and thus need to run in a primary election where the registered voters of each party must choose their candidate. But Defendants have not explained why this rationale should apply to new political parties."

Also from ballot-access.org:

On March 23, South Dakota Governor Dennis Daugaard signed HB 1286. It permits qualified parties that have registration under 2.5% of the state total to nominate all their candidates in conventions in the summer. It also reduces the petition requirement for newly-qualifying parties from 2.5% of the last gubernatorial vote, to 1%. And it moves the deadline for such a petition from March to July.

This bill represents the most significant improvement in any state's ballot access laws since 2017, when North Carolina made a huge improvement. Thanks to Aaron Aylward for the news of the bill's signing.

Sum of LNC 2018 petition drive expenditures through April 15: \$31,317.50, plus \$50 for the LNC's annual Coalition for Free & Open Elections (COFOE) dues expense. LNC 2018 budget has \$250,000 for ballot access expense.

Bill Redpath
Chair
Ballot Access Committee