

LETTER OPINION
94-L-33

February 4, 1994

Representative James Boehm
Route 1, Box 83
Mandan, ND 58554

Dear Representative Boehm:

Thank you for your January 14, 1994, letter asking whether a district political party meeting, which was not called by the district chairperson and at which the district chairperson was purportedly removed from office, comports with state law.

North Dakota statutes provide a framework for political party committee organization. North Dakota Century Code (N.D.C.C.) ch. 16.1-03 creates a three tier system where citizens at local caucuses, which are held in each election precinct, send members to district committees for each state senatorial district and which in turn send members to the state party convention. A party caucus is held at every election precinct on or before May 15 following the last preceding general election. N.D.C.C. ? 16.1-03-01(1). A chairperson, committee members, and such officers as may be provided by party rules are elected at each precinct caucus. N.D.C.C. ? 16.1-03-03(1). In every odd numbered year, a district committee of each party is required to meet within 15 days after the precinct caucus. N.D.C.C. ? 16.1-03-07. The district committee consists of the precinct committeepersons, the political party's members of and nominees for the Legislative Assembly, former members of the Legislative Assembly who may be included by a majority vote of the district committee members, and the officers of the district committee upon their selection. N.D.C.C. ? 16.1-03-06. One of the officers which a district committee must elect is a chairperson. N.D.C.C. ? 16.1-03-07(1). The state committee of a party consists of the chairperson of each district committee, the national committeeman and national committeewoman, and any person provided for in the state committee's by-laws. N.D.C.C. ? 16.1-03-08.

Although state law requires the district committee to meet in every odd numbered year within 15 days after the precinct caucus at a time and place set by the existing district committee chairperson, there is no indication in the law that this is the only time at which the district committee may choose to meet.

See N.D.C.C. ? 16.1-03-07. In fact, this section contemplates other meetings of the district committee for filling a vacancy in the office of chairperson. At this statutory meeting the district committee is required to select its chairperson to attend the state committee. Therefore, the existence of the state committee is dependent upon the statutory district committee meeting being held. The district committee meeting is an essential element of political party organization under N.D.C.C. ch. 16.1-03 and must be conducted if the chapter is to accomplish its purpose.

The predecessors to the present laws governing political party organization were interpreted to address only those issues which were clearly expressed by their terms. State v. McLean, 159 N.W. 847, 852 (N.D. 1916). Indeed, the North Dakota Supreme Court viewed the majority of a political party's state central committee as having inherent powers not expressed in the statutes, including the inherent power to elect its officers and the authority to reconsider the action taken. Id. at 851. If presented with the question, the court might well determine that a district committee has similar inherent authority.

The present law authorizes each district committee to adopt rules and modes of procedure which are not in conflict with law. N.D.C.C. ? 16.1-03-07(2). At various places in N.D.C.C. ch. 16.1-03, the subject of party rules is mentioned. Therefore, because the political party committee organization statutes do not provide for or address every issue or aspect of political party organization or governance and because the statutes do not clearly address the issues you have raised, the particular rules and modes of procedure of the affected political party must be consulted to determine the answers to your questions.

The courts are reluctant to intervene in purely political matters that concern the organization and control of political parties in the absence of a clearly expressed statute. State v. McLean, 159 N.W. at 852. See also State ex rel. Spaeth v. Meiers, 403 N.W.2d 392, 394 (N.D. 1987). Political parties are not treated as governmental agencies; "they have a good deal of leeway in operating and that it is only in unusual cases that the courts will interfere with their procedure." Letter from Attorney General Leslie R. Burgum to Mr. John Richardson (June 21, 1961). The officers of a political party do not exercise any portion of the sovereign power of the state and, therefore, are not public officers. State v. McLean, 159 N.W. at 851. Previous opinions of this office have declined to review actions taken by political parties where issues involve political questions of the type which the North Dakota Supreme Court has declined to review on the grounds that they should be settled by the political parties. Letter from Attorney General Helgi Johanneson to Mr. James Kent (June 6, 1968).

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Because state law does not directly address the questions you raise, the answers must be found in the state or district party by-laws, rules, or policies. The attorney general does not have the authority, nor would it be appropriate, for the attorney general in any official capacity to interpret the internal by-laws, rules, or policies of a political party.

Sincerely,

Heidi Heitkamp
ATTORNEY GENERAL

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