



ADVISORY 2021-01

January 15, 2021

To: All County Boards of Elections
Board Members, Directors, and Deputy Directors

Re: Recognized Minor Political Parties Following the 2020 General Election

BACKGROUND

Officially recognized political parties in Ohio are either major political parties or minor political parties.¹ A major political party is a political party organized under the laws of the state whose candidate for governor or nominees for presidential electors received not less than 20 percent of the total vote cast at the most recent regular state election.² Two major political parties exist in Ohio—the Democratic and Republican Parties.

On the other hand, under Ohio law, minor political parties are recognized only if either of the following apply:³

1. The minor party's candidate for governor or presidential electors received less than 20 percent but not less than three percent of the total vote cast at the most recent regular state election;⁴ or
2. A group of voters, after failure to meet the three percent threshold, filed a party formation petition with the Secretary of State's Office that satisfies the requirements of R.C. 3517.01.⁵

In 2020, the Libertarian Party of Ohio ("LPO") was the only political party that met the legal qualifications for minor political party recognition. The LPO filed a party formation petition that met the legal requirements for recognition in July of 2018. To retain the party's recognition, LPO's presidential candidate in the 2020 General Election needed to receive at least three percent of the total votes cast. The Libertarian candidate for President, Jo Jorgensen, received only 1.14

¹ See [Election Official Manual Chapter 13, Section 1.02](#).

² *Id.*; see also [R.C. 3501.01\(F\)\(1\)](#).

³ [R.C. 3501.01\(F\)\(2\)](#) and [R.C. 3517.01\(A\)\(1\)](#). Both the Ohio Supreme Court and Sixth Circuit Court of Appeals rejected challenges to the current statutory scheme. See *Libertarian Party of Ohio v. Husted*, 831 F.3d 382 (6th Cir. 2016); *Libertarian Party of Ohio v. Husted*, 2017-Ohio-7737.

⁴ [R.C. 3501.01\(F\)\(2\)\(a\)](#). A political party that meets the requirements of this provision (i.e. received less than 20 percent but not less than three percent) remains a political party for a period of four years after meeting those requirements.

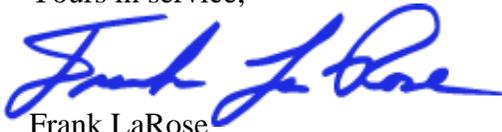
⁵ [R.C. 3501.01\(F\)\(2\)\(b\)](#). A political party formed by petition retains its minor party status until a presidential or gubernatorial election that takes place at least 12 months from the date of the party's formation.

percent of the total votes cast in the 2020 General Election.⁶ As a result, the LPO lost recognized minor political party status. Following the 2020 General Election, no minor political party met the threshold for minor party recognition under Ohio law. Therefore, no minor political party presently qualifies for ballot access as a legally recognized minor political party under Ohio law.

INSTRUCTIONS

Each board of elections must share this Advisory with its legal counsel, the county prosecuting attorney. If any person inquires about the petition requirements to run for the nomination of a minor political party, the board may provide a copy of this Advisory and explain that no minor political party presently qualifies for ballot access. Boards of elections cannot certify the petitions of any candidate seeking the nomination of a minor political party. If you have any questions concerning this Advisory, please contact the Secretary of State's elections counsel at (614) 728-8789.

Yours in service,



Frank LaRose
Ohio Secretary of State

⁶ See [2020 Official Elections Results](#) for the 2020 General Election.