

**Decision of the WVDP Board of Appeals  
regarding the Grievance filed by Jarryd Powell  
against Jacob Hively**

**I: Introduction and background:**

This matter was initiated by the Grievance filed with the Board of Appeals (“Board” or “BOA”) on January 8, 2024, by Jarryd Powell (“Powell” or “grievant”), who was recognized in 2023 as the WV Young Democrat of the Year, against Jacob Hively (“Hively” or “respondent”), purportedly the President of the West Virginia Young Democrats (“WVYD”).

Mike Pushkin (“Pushkin”), Chair of the West Virginia State Democratic Executive Committee (“WVSDEC”) sent an email dated February 5, 2024, notifying Hively of the hearing and requesting that he provide a response by February 12, 2024. Pushkin caused a letter, dated February 7, 2024, to be sent to Hively by certified mail, return receipt requested, Hively did not pick up the letter.

Upon notice to all parties, and the public, the BOA held a virtual Zoom hearing which was [live streamed via YouTube](#), beginning at approximately 2:00 pm EDT on February 16, 2024, which was concluded approximately 3:00 pm that day.

Pushkin chaired the hearing. All four (4) BOA members were present as was Powell. Neither Hively, nor anyone representing him appeared at the meeting. Although requested by the BOA, Hively failed to submit a Response to the grievance, nor did he submit a written statement or any evidence to the hearing.

Powell testified at the hearing and submitted documentary evidence, after which members of the BOA asked questions.

At the closing of the hearing, the BOA held the hearing open for submission of post hearing briefs to be filed with the BOA within 3 calendar days immediately following close of the hearing. The BOA reserved a decision until after filing of any post hearing briefs and request for additional information. Hively did not file a post hearing brief. Powell filed a post hearing brief. Additionally, an email, dated February 16, 2024, was sent by the BOA to Hively requesting that he provide certain documents and other information to the BOA within 24 hours following the February 16 hearing. The requested information was not provided.

Art. III, sec. F.12 of the BOA Rules provides: “The Board of Appeals shall make and file a written decision within 30 calendar days of the completion of the hearing or the receipt of the last brief filed, whichever comes later, which report shall include findings of fact, conclusions of law (to include Party rules), and a disposition of the grievance. The report shall be served on all parties to the grievance, shall be reported to the WVSDEC at the next regular meeting, and shall be made available to the public upon request.”

“Democratic Party rules” refers collectively to governing documents, which include the Charter and Bylaws of the Democratic Party of the United States (“national Charter” and “DNC Bylaws”), DNC Bylaws, the Six Basic Elements of an Open Party, and WVDP Bylaws.

## **II: Finding of fact:**

1. Hively was never appointed or elected as President of the WVYD.
2. Hively was not appointed as Executive Vice President in August 2022, or to any other office of the WVYD, per the provisions of the WVYD Constitution.
3. Hively did not have the authority or standing to claim that he was the President of the WVYD in November 2022, or act accordingly.
4. The WVYD is an organization which has historically been recognized by the WVSDEC, and, therefore, is subject to the rules of the national Democratic Party, and those of the WVSDEC, as well as those of the YDA; and, where applicable, to Robert’s Rules of Order (most recent version) (“RONR”).
5. Up to July 2023 the WVYD was chartered by the Young Democrats of America (“YDA”).
6. The YDA is a national organization which charts local YD organizations, primarily in states.
7. Historically, WVYD has been chartered by the YDA and recognized by the WVSDEC and has had voting representation on the WVSDEC.
8. Beginning July 2023 to date, the WVYD has not been chartered by the YDA. According to YDA President Wathum-Ocama, the WVYD charter expired in July 2023, and, to date, the WVYD has not been re-chartered.
9. On November 7, 2023, Hively, holding himself out as president of the WVYD (which at that time was not chartered by the YDA), issued a 30-day notice to a very limited number of individuals announcing a WVYD meeting on December 9, 2023, at 6:00 PM via Zoom, the primary purpose of which was to elect officers, including the President. The 30-day notice issued by Hively specifically refers to: “New Business: Elections of Officers.”
10. The December 9 meeting was not publicly noticed and was not open to the public.

11. WVYD Constitution provides that WVYD officers must be elected via convention.
12. The meeting of December 9 failed to meet the requirements provided for in the WVYD Constitution for a convention to elect officers.
13. The meeting of December 9 did not meet the requirements of Democratic Party rules regarding effective notice, public notice, or open meetings. Additionally, the meeting did not meet some of the Six Basic Elements of an Open Party, in that the meeting was not publicized fully in a manner as to ensure notice to all interested parties, and the qualifications of offices and the procedures for election were not fully publicized.
14. In addition, Hively did not respond to the BOA request for the recording of the December 9 meeting, bank account information from November 2022 to present, minutes of WVYD meetings from Nov 2022 to present, and a copy of the legal opinion referenced in the December 9 meeting allegedly stating that Hively had the authority to **appoint** himself President and to **appoint** other officers who, under the Constitution, must be elected.

### **III: Conclusions of Law and Findings:**

#### **A. Related to Hively as Misrepresentation**

WVYD Constitution art. V, secs. 7.1 and 7.2 provide: “In the event of the President unable or unwilling to continue his duties, the Executive Vice President will fulfill the remainder of the outgoing President’s term. If both the President and Executive Vice President are unable or unwilling to continue the duties of the presidency, the State Executive Committee will **elect** a member of the **Committee** to fulfill the term as President.” 7.2 “Other Officer Vacancies: If any other office becomes vacant, or no member of West Virginia Young Democrats runs for an elected office, the President shall appoint a member of West Virginia Young Democrats in good standing to fulfill the remainder of the term, with the advice and consent of the State Executive Committee.” (Emphasis added.)

**Finding:** The BOA finds that Hively was never appointed Executive Vice President of the WVYD according to the process provided for in the WVYD Constitution, nor did he have the authority or standing to claim that he was president in November 2022. Additionally, the BOA finds that Hively was not elected or appointed president of the WVYD at the December 9 meeting or thereafter.

**Finding:** The BOA finds that Hively did not have the authority or standing to call the December 9 meeting, nor did he have the authority or standing to appoint officers. All actions of the December 9 meeting are, therefore, found to be null and void.

## **B. Related to Loss of Charter**

The YDA provides charters to state Young Democrat organizations according to their Standing Rules. Rule 3, which pertains to applications for charters, requires, among other things, the most recent unit convention, a copy of the unit's governing documents, and the unit's code of conduct, a list of unit officers, dates of election, estimated dates of term expiration, and certification signed by at least one member of the Democratic National Committee representing the applying unit's territory stating that the unit is recognized, sanctioned, or authorized by the Democratic Party of that territory as that territory's official organization of Young Democrats and that the unit's officers were elected subsequent to the preceding National Convention.

YDA President Quentin Wathum-Ocama informed the WVDP via email that as of July 2023, the WVYD is not chartered. The BOA recognizes and credits the statement provided by President Wathum-Ocama.

## **C. Related to Abandonment of Case**

WVSDEC Bylaws art. VIII, sec. 3 provides: "Any party to the controversy, who fails to appear at the duly called meeting without good cause sufficient in law, shall be deemed to have abandoned his or her case, and a decision will automatically be entered against him or her."

Hively did not respond to any attempts to communicate with him, nor did he or any representative appear at the hearing, nor did he provide any response to the grievance.

**Finding:** The BOA finds that Hively abandoned this matter, and the BOA finds in favor of Powell.

## **D. Related to Party Rules and Recognition by the WVSDEC**

The Democratic Party has rules that provide for full participation in all Party affairs. These rules are in place so that every interested person knows when meetings are to take place, how to participate, and how to run for office, if they are eligible and if they choose to do so. Holding a closed meeting, such as the December 9 meeting, without public notice, and without notice to members of the organization, is counter to not only specific rules of the Party, but is counter to the spirit of the Democratic Party, which values and prioritizes participation, transparency and inclusion.

The Charter art. 9, sec. 11 requires that: “All meetings of the Democratic National Committee, the Executive Committee, and all other official Party committees, commissions and bodies ... shall be open to the public, and votes shall not be taken by secret ballot or use of the unit rule.” The December 9 meeting did not comply with this provision. The December 9 meeting was not open to the public and interested parties were left in a Zoom waiting room attempting to enter.

Regarding effective notice, WVDP Bylaws art. II, sec. 3 requires that: “Such meetings must be held in places accessible to all Party members. Additionally, notice of meetings shall be sent to a confirmed email or regular mail of all members of the respective committees, caucuses or recognized organizations...” The December 9 meeting was not accessible to all Party members, nor were all members notified of the meeting.

Regarding open meetings, WVSDEC Bylaws art. II, sec. 4 require that: “All meetings at all levels of the WV Democratic Party, **including organizations recognized by the WVDP**, shall be open to the public, and votes shall not be taken by secret ballot or use of the unit rule.” (Emphasis added.) The notice for the December 9 meeting violated these provisions. The meeting was not publicly noticed and was not open to the public.

The Six Basic Elements of an Open Party, adopted by the Democratic National Convention, and provided for in the WVDP Bylaws art. I, provides:

- “Element 3. The time and place for all public meetings of The West Virginia Democratic Party on all levels should be publicized fully and in such manner as to assure timely notice to all interested persons. Such meetings must be held in places accessible to all Party members and large enough to accommodate all interested persons.”
- “Element 5. The West Virginia Democratic Party should publicize fully and in such a manner as to assure notice to all interested parties a full description of the legal and practical procedures for selection of Democratic Party officers and representatives on all levels.”
- “Element 6. The West Virginia Democratic Party should publicize fully and in such a manner as to assure notice to all interested parties a complete description of the legal and practical qualifications of all positions as officers and representatives of the state Democratic Party. Such publication should be done in timely fashion so that all prospective candidates or applicants for any elected or appointed position within the West Virginia Democratic Party will have full and adequate opportunity to compete for office.”

The notice for the December 9 meeting and the appointment of officers violated these provisions.

**Finding:** The BOA finds that the December 9 meeting violated Party rules related to effective notice, open meetings and the Six Basic Elements of an Open Party, and, therefore, all actions at the December 9 meeting are null and void.

The WVYD must follow their own Constitution, unless it conflicts with another governing authority. The WVYD Constitution was not followed with regard to designating officers, holding meetings, holding an annual convention, noticing the December 9 meeting, holding the December meeting, and the nomination and election of officers.

The national Charter, art. X, sec. 3, requires: “Each official body of the Democratic Party **recognized by** or created under the authority of this Charter shall adopt **and conduct its affairs** in accordance with written rules, which rules shall be consistent with this Charter, the Bylaws and other provisions adopted pursuant to authority of the Charter, including resolutions or other actions of the National Convention.” (Emphasis added.)

The WVYD has not conducted its affairs consistent with Democratic Party rules.

The Bylaws of the WVSDEC, art. IV, sec. 1, provides: “The West Virginia State Democratic Executive Committee is the supreme governing authority of the Democratic Party in West Virginia and shall have control and supervision over all matters relating to or affecting the Party organizations and campaigns. All other political committees, clubs and organizations, incorporated or unincorporated posting as a segment of the Democratic Party within the state or within any political subdivision thereof, shall be subordinate thereto and under its direction.”

Organizations recognized by the WVSDEC must comply with the Bylaws of the WVSDEC, the national Charter, the DNC Bylaws, and the Six Elements of an Open Party.

YDA is recognized by the national Democratic Party Charter, and the WVYD, an organization formerly chartered by YDA, has historically been recognized by the WV Democratic Party, and, therefore, the WVYD must conduct its affairs in accordance with written rules, which rules are to be consistent with the national Charter, the DNC Bylaws and other provisions adopted pursuant to authority of the national Charter, including resolutions or other actions of the National Convention (including the Six Basic Elements of an Open Party) and the WVDP Bylaws.

**Finding:** The BOA finds that the WVYD has not conducted its affairs in accordance with written rules which are consistent with Party rules, and, therefore, is not recognized by the WVSDEC.

**E. Related to Managing Accounts of the WVYD and potential development of a new recognized WVYD organization**

The WVYD has effectively been without leadership for some time now. Assuming that there are young Democrats in WV that wish to organize and have an organization recognized by the WVSDEC and/or chartered with Young Democrats of America, they will need to know what is needed to do so.

**Finding:** The BOA finds that in the event that an entity representing young Democrats in West Virginia seeks a charter with YDA and recognition by the WVSDEC, it must first comply with Party rules, including adopting written rules that are consistent with Party rules, and then make application to YDA for a charter and to the WVSDEC for recognition. It will be up to the WVSDEC to determine whether to recognize the entity.

**Order:** The BOA orders that Hively turn over all WVYD records and accounts of WVYD to include banking, social media, postal, etc., and the WVSDEC is authorized to take legal action should Hively fail to comply.

**F. Regarding WVYD finances:**

An additional issue brought to the attention of the BOA, but no documentation was provided when requested, was related to the finances of the WVYD.

The West Virginia Young Democrats organizational charter expired as of July 23, 2023. Although the charter has expired, the State of West Virginia Campaign Financial Statements continued to be filed with the West Virginia Secretary of State. The most recent filing dated December 4, 2023, is for the reporting period: 2023 3rd Quarter Report. This financial statement shows under the Cash Balance Summary an ending cash balance of \$4,293.60. This financial statement also shows Mr. Chase Jarrell as the Treasurer, and his name appears in the Oath/Affirmation swearing and affirming the truth and accuracy of the statement.

Pursuant to Bylaw art. VI, sec. 1 of the Bylaws of the WV Democratic Party, the West Virginia State Democratic Executive Committee (“WVSDEC”) is the “supreme governing authority of the Democratic Party in West Virginia and shall have control and supervision over all matters relating to or affecting the Party organizations ... . All other

political committees, clubs and organizations, incorporated or unincorporated [posing] as a segment of the Democratic Party within the state or within any political subdivision thereof, shall be subordinate thereto and under its direction.”

**Order:** Because there is currently no chartered organization known as the West Virginia Young Democrats the cash balance of \$4,293.60, less any recurring bank charges and web charges that may have reduced the cash balance since the reporting period 2023 3rd Quarter Report, shall be turned over to the WVSDEC by Jacob Hively, that last acting President of the expired WV Young Democrats; or Chase Jarrell, the last acting treasurer of the expired West Virginia Young Democrats; within 7 calendar days of the adoption of this ruling. Additionally, any and all bank records from November 2022 to the present, pertaining to the West Virginia Young Democrats, shall be provided to the WVSDEC by Jacob Hively or Chase Jarrell within 7 calendar days of the adoption of this ruling.

**Order:** The WVSDEC shall hold such funds to support the development and creation of a new West Virginia Young Democrats statewide organization and development of county and/or regional Young Democrat clubs seeking to become chartered. When a statewide West Virginia Young Democrats committee is chartered by Young Democrats of America, registers with the West Virginia Secretary of State as a political committee and receives written confirmation of final acceptance of registration from the West Virginia Secretary of State, the WVSDEC shall contribute any remaining balance of the funds to the newly chartered statewide West Virginia Young Democrats. The WVSDEC will assist in any required filings with the West Virginia Secretary of State to publicly document the transfer of the funds and closing of the now expired West Virginia Young Democrats organization and the contribution of the funds to a newly chartered statewide West Virginia Young Democrats organization.

**Order:**In the event the funds and bank records are not timely provided to the WVSDEC, the Chair of the WVSDEC is directed to initiate legal proceedings to obtain control of the funds and bank records.

ADOPTED: February 22, 2024

WVDP BOA Meeting Video: <https://www.youtube.com/watch?v=naitJggVOYE>

###