



128 Dorrance Street, Suite 400
Providence, RI 02903
Phone: (401) 831-7171
Fax: (401) 831-7175
www.riaclu.org
info@riaclu.org

October 15, 2021

The Hon. Peter Neronha
Attorney General
150 South Main Street
Providence, RI 02903

VIA MAIL AND EMAIL

Dear Attorney General Neronha:

I write concerning a controversy that has arisen this month between the R.I. Democratic Party (RIDP) and the R.I. Democratic Women's Caucus (RIDWC), and which directly involves the authority of your office.

On October 5, Samantha Weiser, Chair of the RIDWC, received a letter from RIDP Senior Advisor Kate Coyne-McCoy, asking that the Caucus cease using the word "Democratic" in the organization's title. A copy of that letter is enclosed.

The letter asserted reliance upon a state law, R.I.G.L. §17-23-7, which makes it "unlawful for any club or society or association, whether incorporated or not, to include in its name the word 'republican' or 'democrat' or any designation indicating its affiliation with a political party" without the party's consent. The law purports to provide both criminal enforcement, declaring that any member of an organization violating the statute is guilty of a petty misdemeanor, and injunctive relief, specifically directing that, upon written request of an appropriate party member, "the attorney general shall institute appropriate court proceedings to prevent continued violations of this section." R.I.G.L. §17-23-7(c). We have found no court decision indicating that this law, enacted in 1931 and last amended in 1978, has ever been enforced, but it remains on the books.¹

The ACLU of Rhode Island was contacted by the RIDWC for assistance, and we share the concerns they have raised. We believe that this statute raises serious constitutional concerns, and simply cannot withstand scrutiny under the First Amendment. The statute imposes a severe burden on freedom of association and expression and its sweep is far broader than any claimed interest in preventing voter confusion at the ballot box. The statute's flaws are heightened by the fact that violations carry criminal penalties.

RIDWC and its members are understandably concerned with any threat of civil or criminal enforcement. The organization is clear in its communications that it is not affiliated with the local Democratic Party, while its name is central to its communications and its mission. Yet the statute leaves a potential six-month prison sentence hanging over the heads of every member of the RIDWC if they ignore the RIDP's request.

¹ Cf. *McGarry v. Curvin*, 406 F.Supp. 57 (D.R.I. 1976).

While we recognize that you have no power on your own to formally declare the statute unconstitutional, we are writing to ask you to proactively confirm that your office would decline to enforce this statute either upon criminal complaint or if provided a request to seek injunctive relief by an authorized member of the RIDP. This will provide the assurances that the organization's members need in dealing with the threat of prosecution implied by the RIDP's letter.

Thank you in advance for your attention to this, and I look forward to hearing back from you about it at your earliest opportunity.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven Brown". The signature is fluid and cursive, with the first name "Steven" and last name "Brown" clearly distinguishable.

Steven Brown
Executive Director

Enclosure

cc: Miriam Weizenbaum
Samantha Weiser, RIDWC



www.ridemocrats.org

October 5, 2021

Samantha Weiser, Chair
RI Democratic Women's Caucus

Dear Ms. Weiser,

I hope this finds you healthy and well. I am writing to you today to draw your attention to RI General Law Title 17, Chapter 17-23. This law protects the names of major parties including the Democratic party in Rhode Island.

We appreciate the activism and the work that your organization devotes to RI. Your efforts to educate voters and leaders on issues critically important to women contribute to our "lively experiment." We recognize that having the group you chair called the RI Democratic Women's Caucus contributes to some confusion about the groups affiliation with the Democratic Party. The RIDP wants it to be clear to Rhode Islanders, members of the press and those paying attention to RI politics from across the nation that the group that you chair, currently the "RI Democratic Women's Caucus" is not affiliated in any way with the Rhode Island Democratic party. I am fairly certain that you and the members of the group also would prefer not to have any confusion about whether you are affiliated to the RIDP. We all should follow the law.

Given the law, we respectfully request that you cease using the word Democratic in your title, and in all communications. We hope that this issue can be rectified civilly and easily.

Sincerely,

Kate Coyne-McCoy
Senior Advisor