

El. Bd. Op. 88-1 (Reaffirmed 5/5/08)

Summary:

A recognized political party which does not run a candidate for president or whose candidate does not receive one percent of the state presidential vote at the presidential general election does not lose its ballot status. Ballot status of recognized political parties is determined by the ability of the party candidates to establish a minimum level of support by obtaining at least one percent of the vote for any statewide office at a gubernatorial general election. (Issued to Dennis Boyer, Esq., March 9, 1988)

This opinion was reviewed by the Government Accountability Board pursuant to 2007 Wisconsin Act 1 and was reaffirmed on May 5, 2008.

Opinion:

You have requested the Elections Board to issue a formal opinion pursuant to the provisions of §5.05(6), Stats., relating to the ballot status of a recognized political party under several circumstances concerning the November, 1988 general election. You have asked the following questions:

1. Does a recognized political party lose its ballot status if the party does not run a candidate for president in the 1988 general election?
2. Does a recognized political party lose its ballot status if the party's presidential candidate does not win at least one percent of the vote cast for all candidates for that office?
3. If the candidate of a recognized political party for United States Senator receives at least one percent of the vote cast for that office at the November, 1988 general election does the party maintain its ballot status?
4. If an independent candidate for United States Senator receives at least one percent of the votes cast for that office at the November, 1988 general election, does the organization the candidate represents qualify for ballot status?

The Elections Board concludes that a recognized political party does not lose its ballot status if the party does not run a candidate for president at the November, 1988 general election, or if its presidential candidate does not receive at least one percent of the votes cast for that office at the general election. This is because the basis for the party's qualification for ballot status derives from the performance of its candidates for statewide office at the gubernatorial election. §5.62(1)(b), Stats.

Similarly, if a recognized political party whose candidate for United States Senator at the November, 1988 general election does not receive at least one percent of the votes cast for that office, the party does not lose its ballot status. However, if an independent candidate for United States Senator receives at least one percent of the vote cast for that office at the 1988 general

election, the organization that the candidate represents does not qualify for ballot status.
§5.62(1)(b), Stats.

The current provisions of §5.62(1)(b), Stats., were created by legislation introduced at the request of the Elections Board in response to a request made by the Labor-Farm Party in June, 1984. The intent of the legislation was to make it clear that a recognized political party does not lose its ballot status by failing to field a candidate for president, when that is the only statewide office on the ballot.

It appears clear that the intent of the new language was to assure that a recognized political party garnering one percent of the vote for any statewide office at a gubernatorial general election maintained ballot status for that party until the next gubernatorial election. The statute sets up two alternative ways to obtain ballot status. The first method is satisfied if a candidate for any statewide office at a gubernatorial general election receives one percent of the vote for that office. The second method only applies when a candidate for president receives one percent of the state presidential vote. Since 1988 is not a gubernatorial general election, a candidate for United States Senator may not qualify the candidate's organization for ballot status.