



State of New York

## STATE BOARD OF ELECTIONS

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### **THE PRESIDENTIAL PRIMARY ELECTION IN NEW YORK STATE: SUMMARY OF THE BALLOT ACCESS REQUIREMENTS**

**Primary Date: February 5, 2008**

The purpose of the presidential primary is to select delegates to a national convention of a political party. The provisions for the delegate selection process are found in the Election Law, the rules of the party and Chapter 228 of the Laws of 2007.

#### **DEMOCRATIC PLAN**

The Democratic Presidential Primary is really a “dual primary.” Candidates for president run against each other in a statewide primary, and delegates and alternate delegates run in each congressional district. Delegates and alternates are either committed to a particular presidential candidate or uncommitted. EL § 2-122-a

#### **REPUBLICAN PLAN**

The selection of delegates and alternate delegates to the Republican Party’s national convention is determined by a statewide primary election of candidates for the office of President of the United States. The names of delegates and alternate delegates do not appear on the ballot. Additional at-large delegates may also be selected by the state committee. EL § 2-122-b.

## BALLOT ACCESS REQUIREMENTS

<b>REPUBLICAN PLAN</b>	
<p>Presidential candidates shall be eligible to appear on the primary election ballot by any of the following three manners:</p>	
<p>Matching Funds Eligible EL § 2-122-b (3)(a)</p>	<p>Any candidate who has been certified as eligible to receive presidential primary matching fund payments or any candidate who meets the eligibility criteria regarding matchable contributions, regardless of whether such candidate actually applied for such matching fund payments, may request, to the State Board of Elections that such candidate appear on the ballot.</p> <p>Requests must be filed by December 11, 2007.</p>
<p>Nationally Known EL § 2-122-b (3)(b)</p>	<p>Such candidate shall be eligible to appear on the ballot only if the Republican commissioners of the State Board of Elections, determines that the person is a nationally known and recognized candidate and the candidacy of such person for the party nomination for president is generally and seriously advocated or recognized according to reports in the national or state news media.</p> <p>Requests must be filed from October 16, 2007 to December 11, 2007.</p>
<p>Designating Petition EL § 2-122-b (3)(c)</p>	<p>Presidential candidates may file a designating petition with signatures of 5000 or five percent, whichever is less, of the enrolled Republicans to appear on the primary election ballot.</p> <p>There is no geographic distribution requirement for signatures as with other statewide petitions.</p> <p>The first date to sign petitions is October 30, 2007. Petitions must be filed with the State Board of Elections from December 3, 2007 to December 6, 2007.</p>

<b>DEMOCRATIC PLAN</b>	
<p>Presidential Candidates EL § 2-122-a (2)(3)(4)(5).</p>	<p>Candidates must file petitions with 5,000 signatures of enrolled Democrats</p> <p>There is no geographic distribution requirement for signatures as with other statewide petitions.</p> <p>The first date to sign petitions is October 30, 2007. Petitions must be filed with the State Board of Elections from December 3, 2007 to December 6, 2007.</p> <p>A statewide “uncommitted petition” with 5,000 signatures will create the opportunity for congressional district delegates to appear on the ballot as uncommitted to any presidential candidate.</p> <p>The first date to sign petitions is October 30, 2007. Petitions must be filed with the State Board of Elections from December 3, 2007 to December 6, 2007.</p>
<p>District Delegates and Alternate Delegates EL § 2-122-a (6)(7)</p>	<p>Delegates and alternates must file petitions signed by either 500 enrolled Democrats within the congressional district or signed by 0.5% of the enrolled Democrats in the congressional district, whichever is less. All of the delegates and alternates on a petition must be pledged to the same presidential candidate or they must all be uncommitted. The petition must indicate the name of the presidential candidate the delegate or alternate is supporting, or that he or she is running as uncommitted. Petitions containing the names of more than one delegate or alternate must be equally divided between the sexes.</p> <p>The first date to sign petitions is October 30, 2007. Petitions must be filed with the State Board of Elections from December 3, 2007 to December 6, 2007.</p>
<p>Delegate Certificate of Candidacy EL § 2-122-a (7)(a)</p>	<p>Delegates must also file a certificate of candidacy with the Democratic State Committee, giving their name, address, gender, presidential candidate preference and district.</p>
<p>Over Designations EL § 2-122-a (7)(c)</p>	<p>If the number of delegates designated exceeds the number allowed for the district, presidential candidates may choose those delegates they wish to appear on the ballot as supporting them. Delegates rejected by the presidential candidate will not appear on the ballot.</p>
<p>Withdrawal of Presidential Candidate EL § 2-122-a (6)(g) (7)(c)</p>	<p>If a candidate for president withdraws, or elects not to have his or her name appear next to any delegate, the delegates pledged to that candidate will not appear on the ballot.</p>

## SELECTION OF DELEGATES

<b>REPUBLICAN PLAN</b>	
<p>Number of Delegates</p> <p>NYS Republican Party Rule Art. XI Rule 1</p>	<p>87 delegates and 87 alternate delegates will be selected - 3 from each of the state's 29 congressional districts. Additional at-large delegates will be selected by the New York Republican State Committee.</p>
<p>EL § 2-122-b (4)(a)</p>	<p>The Republican Party shall certify to the State Board of Elections, at least eight weeks (12/11/2007) prior to the winter primary election, the number of delegates to which such party is entitled to. Such number may exclude at-large delegates selected by the state committee of such party in accordance with the rules of the national committee of such party.</p>
<p>Selection of Delegates</p> <p>EL § 2-122-b (4)(b)(c)</p>	<p>A presidential candidate must file a complete slate of delegates with the State Board of Elections no later than five weeks (12/31/2007) before the winter primary election. Delegates and alternate delegates must be enrolled members of the political party. The State Board of Elections shall review each such slate, and if it determines that such slate is not complete or is not otherwise in compliance, it shall notify the candidate of any defects and provide such candidate with no less than five business days to cure any defects.</p> <p>Delegates and alternate delegates, other than at-large delegates selected by the state committee, shall be allocated to the candidate receiving the greatest number of votes at the primary election.</p>

<b>DEMOCRATIC PLAN</b>	
<p>Number of Delegates</p> <p>The 2008 Delegate Selection Plan of the NYS Democratic Party</p>	<p>There will be a total of one hundred and fifty one (151) pledged delegates and 25 pledged alternate delegates elected from Congressional Districts in the Primary or, if no one is so elected, then in post-Primary caucuses comprised of members of the State Committee representing that District.</p>
<p>Part III Section A 3</p>	<p>Additional pledged, pledged-at-large and unpledged delegates and alternates will be selected as outlined below:</p> <ul style="list-style-type: none"> <li>- the eighteen (18) members of the Democratic National Committee from New York, and twenty-four (24) Democratic Members of Congress, one (1) Democratic Governor and one (1) Distinguished Party Leader shall be automatic unpledged delegates;</li> <li>- the state convention shall elect 30 pledged delegates who qualify as party leaders or elected officials;</li> <li>- the state convention shall elect 4 unpledged delegates; and</li> <li>- the state convention shall elect 51 pledged-at-large delegates and 14 pledged-at-large alternate delegates.</li> </ul>
<p>Selection of Delegates</p> <p>The 2008 Delegate Selection Plan of the NYS Democratic Party</p> <p>Part III Section B 8 &amp; 9</p>	<p>In the Presidential candidate contest, a Presidential candidate must receive a threshold percentage of at least fifteen (15%) of the votes cast for all Presidential candidates according to the vote they receive in a Congressional District. If only one Presidential candidate reaches the threshold percent in a Congressional District, then that candidate shall be entitled to all district delegates and alternates in the Congressional District.</p> <p>In order to ensure equal division within each District, delegate positions will be assigned in Congressional Districts with an even number of delegates (A) first to the candidate for delegate who receives the highest vote total among those pledged to the Presidential candidate who receives the highest vote total in the district and (B) thereafter, alternating by gender, first to the next highest vote-getter among delegate candidates for the next highest vote-getting presidential preferences in descending order until all positions are assigned...</p>

## **OTHER POLITICAL PARTIES IN NEW YORK STATE**

Any political party in New York State may nominate a candidate for the offices of President and Vice-President. They may either nominate delegates to a national convention pursuant to either the Republican Plan or the Democratic Plan. They may also nominate candidates at a statewide convention or by filing designating petitions.

## **INDEPENDENT CANDIDATES**

An independent candidate for president is someone who is running on a line other than an official party line. Petitions for independent candidates must include the names of the presidential and vice-presidential candidates, as well as the names of person(s) running for the electoral college. The petition for president must contain the names of at least one but not more than 29 candidates for electors.

Independent petitions for president must contain 15,000 signatures. At least 100 signatures must come from each of 15 congressional districts. Election Law §6-142(1). Each candidate named in an independent petition for president is required to file an acknowledged acceptance of the nomination no later than the third day after the last day to file the petition. Election Law §6-146(1).

If there are 10 or more pages in a petition, there must be a cover sheet. A multi-volume petition requires a cover sheet for each volume. 5 NYCRR §6215.

## **WRITE-IN CANDIDATES**

To run as a write-in candidate for president, you are required to file a certificate of candidacy with the State Board of Elections no later than the third Tuesday prior to the general election. The certificate must be signed by the presidential candidate and must contain the name and address of the presidential candidate; the name and address of any vice-presidential candidate, and a signed certificate of acceptance from such candidate; and the name and address of at least one, but not more than 29 candidates for elector, with an acceptance certificate and pledge of support signed by each such candidate for elector. Election Law §6-153.

## PRESIDENTIAL PRIMARY ELECTION CALENDAR

EVENT	SECTION OF LAW	TEXT	DATE
<b>DATE OF PRIMARY ELECTION</b>			
Primary Election (Winter or Presidential)	§8-100 (1) (a) Ch. 17 of 2007	In each year in which electors of president and vice-president of the United State are to be elected an additional primary election, to be known as the winter primary, shall be held on the first Tuesday in February unless otherwise by an act of the legislature.	2/5/08
<b>DELEGATE SELECTION PLAN</b>			
Last day for a party to select the delegate selection method	§ 1 of Ch.228 of 2007	A state committee providing for the selection of delegates and alternate delegates to a national party convention or national party conference in the year 2008 shall select either section two (aka: Democratic Plan) or section three (aka: Republican Plan) of this act (Chapter 228 of 2007) in order to conform to the rules of a national committee. A certified copy of such rule or resolution shall be filed with the state board of elections no later than the first day of November, 2007.	11/1/07
<b>DEMOCRATIC DELEGATE SELECTION PLAN FILING DATES</b>			
Last day for candidates to decline designations	§2-122-a (2)	With respect to declinations in subdivision 2 of section 6-158 such candidates may decline such designations not later than December 10, 2007	12/10/07
Last day for CBOE to notify SBOE candidates which filed at CBOE	§2-122-a (6)(h)	Every board of elections with which designating petitions are filed pursuant to the provisions of this section shall, not later than four days after the last day to file such petitions, file with the state board of elections by express mail or by electronic transmission, a complete list of all candidates for delegate and alternate delegate together with their residence addresses, the districts in which they are candidates and the name of presidential candidate whom they are pledged to support or that they are uncommitted. Such boards of elections shall, not later than the day after a certificate of declination or substitution is filed with respect to any such candidate file such information with respect to such candidate with the state board of elections by electronic transmission.	12/10/07
Last day for presidential candidate to file certificate of candidacy	§2-122-a (7)(a-b)	The rules of a state committee adopted pursuant to the provisions of this section may provide that no candidate for the positions of delegate and alternate delegate may appear on the ballot as pledged to support a particular presidential candidate, or as uncommitted, unless the name of such candidate for such position appears on a certificate listing the names of those candidates for such positions who have filed statements of candidacy for such positions with the secretary of the state committee within the time prescribed by such rules and who, if their statements of candidacy contained a pledge of support of a presidential candidate, were not rejected by such presidential candidate. Such certificate shall be filed by the secretary of such state committee, with the board of elections with which the designating petitions for such candidates for such positions are required to be filed, not later than December 18, 2007	12/18/07
Last day for boards of election to notify party committee of candidates who will appear on ballot	§2-122-a (7)(d)	Every other board of elections with which designating petitions for delegate and alternate delegate were filed pursuant to the provisions of this section shall, not later than December 31, 2007, send a list of the names and addresses of those candidates who will appear on the ballot to the secretary of each such state committee.	12/31/07

<b>REPUBLICAN DELEGATE SELECTION PLAN FILING DATES</b>			
Last day for other political parties to choose Republican plan	§ 2-122-b (1)	The state committee of any other political party may, by rule or resolution, opt to conduct the selection of delegates and alternate delegates in any such year in accordance with the provisions of this section. A certified copy of such rule or resolution shall be filed with the state board of elections no later than twenty weeks prior to the date of such election.	9/18/07
Last day for matching funds candidate to file certificate with State Boards requesting ballot access	§2-122-b (3)(a)	Any candidate who has been certified as eligible to receive presidential primary matching fund payments pursuant to the provisions of 11 code of federal regulations part 9033, or any candidate who meets the eligibility criteria regarding matchable contributions established in 11 code of federal regulations part 9033.2(b)(3) regardless of whether such candidate actually applied for such matching fund payments, may request, by certificate filed with the state board of elections not later than eight weeks prior to the date of the winter primary, that the name of such candidate appear on the ballot at the primary of such party in the State of New York for that year.	12/11/07
Dates for nationally known candidate to file certificate with State Board requesting to appear on ballot	§2 -122-b (3) (b);	Any candidate may request, by certificate filed with the state board of elections no sooner than sixteen weeks and not later than eight weeks prior to the date of the winter primary, that the name of such candidate appear on the ballot at the primary of such party in the State of New York for the office of President of the United States.	10/16/07- 12/11/07
Last day for party to certify the number of delegates for the convention	§2-122-b(4)(a)	A political party shall certify to the state board of elections, at least eight weeks prior to the date of the winter primary, the number of delegates to which such party is entitled pursuant to its rules. Such number may exclude at-large delegates selected by the state committee of such party in accordance with the rules of the national committee of such party.	12/11/07
Last day for presidential candidate to certify slate of delegates and alternate delegates	§2 -122-b (4) (b)	Any candidate eligible to appear on a primary ballot pursuant to the provisions of subdivision three of this section shall file a certificate with the state board of elections no later than five weeks prior to the date of the winter primary setting forth a complete slate of proposed delegates and alternate delegates for each delegate and alternate delegate position to be determined by the statewide primary election.	12/31/07

<b>DESIGNATING PETITIONS</b>			
First day for signing designating petitions.	§ 6-134 (4)	Signature made earlier than 37 days before the last day to file designating petitions for the Primary Election shall not be counted.	10/30/07
Dates for filing designating petitions.	§ 6-158 (1)	Designating petition shall be filed not earlier than the 10th Monday before, and not later than the 9th Thursday preceding the Primary Election.	12/3/07- 12/6/07
Last day to accept/decline a designation.	§ 6-158 (2)	Certificate of acceptance or declination of a designation shall be filed not later than the fourth day after the last day to file such designation.	12/10/07
Last day to fill vacancy after declination	§ 6-158 (3)	Certificate to fill a vacancy in a designation caused by a declination shall be filed not later than the 4th day after the last day to decline. Certificate to fill a vacancy in a designation caused by death or qualification shall be filed not later than 10 days after such death/disqualification, or 4 days before the primary election, whichever is earlier.	12/14/07

<b>CERTIFICATION</b>			
Certification of Primary ballot by SBOE of designations filed in it's office.	§ 4-110	The SBOE not later than 36 days before a Primary Election, shall certify to each county board of elections: 1. the name and residence of each candidate to be voted for within the political subdivision of such board for whom a designation has been filed with the state board. 2. The title of the office or position for which the candidate is designated. 3. The name of the party upon whose primary ballot his name is to be placed. 4. The order in which the names of the candidates are to be printed as determined by the state board.	12/31/07

<b>VOTER REGISTRATION FOR WINTER PRIMARY ELECTION</b>			
Mail registration: Last day to postmark application and last day it must be received by board of elections.	§ 5-210 (3)	Completed application forms showing a dated cancellation mark of the United States Postal Service or contained in an envelope showing such a dated cancellation mark which is not later than the twenty-fifth day before the election, and received no later than the twentieth day before such election shall entitle the applicant to vote in such election, if he is otherwise qualified.	1/11/08- 1/16/08
In person registration: Last day application must be received by board of elections to be eligible to vote in primary election.	§§ 5-210, 5-211, 5-212	Completed application forms must be received no later than the the twenty-fifth day before the election.	1/11/08
Change of Address	§ 5-208 (3)	If such a notice is received at least 20 days before a primary, special or general election, such change of address must be completed before such election.	1/16/08
<b>ABSENTEE VOTING FOR PRIMARY ELECTION</b>			
Last day to postmark application for ballot.	§8-400(2)(c)	All applications must be mailed to the board of elections not later than the seventh day before the election for which a ballot is first requested.	1/29/08
Last day to apply in person for a ballot.	§8-400(2)(c)	Applications must be mailed delivered to such board not later than the day before such election.	2/4/08
Last day to postmark ballot and date it must be received by the board of elections.	§8-412(1)	All ballots contained in envelopes showing a cancellation mark of the United States Postal Service or a foreign country's postal service, or showing a dated endorsement of receipt by another agency of the United States government, with a date which is ascertained to be not later than the day before election and received by such board of elections not later than seven days following the day of the election to be cast and counted.	2/4/08 2/12/08
Last day to deliver ballot in person to the county board.	§8-412(1)	Before the close of the polls on election day.	2/5/08
<b>MILITARY VOTERS FOR PRIMARY ELECTION</b>			
Last day for a BOE to receive application for ballot if not previously registered.	§ 10-106(5)	Application from a military voter not previously registered must be received by appropriate BOE not later than 25 days before a primary election.	1/11/08
Last day for a BOE to receive application if previously registered.	§ 10-106(5)	An application from a military voter who is already registered must be received at least seven days before an election	1/29/08
Last day to apply personally if previously registered.	§ 10-106(5)	An application from such a military voter who delivers his application to the BOE in person, must be received not later than the day before election.	2/4/08