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

**Primary Date: April 28, 2020**

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 290 of the Laws of 2019.

### **DEMOCRATIC PLAN**

The Democratic Presidential Primary is really a “dual primary.” Candidates for president run against each other in a statewide primary, and delegates run in each congressional district and are allocated based on the performance of the presidential candidates within the congressional district. Delegates are either committed to a particular presidential candidate or uncommitted. Election Law § 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. All delegates and alternate delegates to national convention shall be allocated to the presidential candidate receiving the greatest number of votes at the presidential primary election. Additional at-large delegates are selected by the state committee and shall be allocated to the presidential candidate receiving the greatest number of votes at the presidential primary election. Election Law § 2-122-b.

## **BALLOT ACCESS REQUIREMENTS**

### **DEMOCRATIC PLAN**

#### **Presidential Candidates, Election Law § 2-122-a (3)(4)**

Candidates must file petitions with 5,000 signatures of enrolled Democrats.

There is no geographic distribution requirement for signatures as with other statewide petitions.

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.

The first date to sign petitions is December 31, 2019. Petitions must be filed with the State Board of Elections from February 3, 2020 to February 6, 2020.

Note that while references to the committee to fill vacancies are deemed to be committee to receive notices, the members of such committee are not required to file acceptances.<sup>1</sup>

#### **District Delegates and Alternate District Delegates, Election Law § 2-122-a (6)(7)**

District Delegates and Alternate District Delegates must be enrolled members of the Democratic Party, in accordance with State Law, and 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 as of February 1, 2019, whichever is less. All of the delegates 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 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. On the designating petition shall appear the letter (M) if the candidate identifies as male, the letter (F) if the candidate identifies as female or the letters (NB) in the candidate identifies as non-binary.

The first date to sign petitions is December 31, 2019. Petitions must be filed with the State Board of Elections or the local board, whichever applies, from February 3, 2020 to February 6, 2020. *See fn 1.*

#### **Delegate Certificate of Candidacy, Election Law § 2-122-a (7)(a)**

Delegates must also file a certificate of candidacy with the Democratic State Committee, giving their name, address, gender, presidential candidate preference and district.

#### **Presidential Preference, Election Law § 2-122-a (7)(c)**

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.

#### **Withdrawal of Presidential Candidate, Election Law § 2-122-a (6)(g) (7)(c)**

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.

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<sup>1</sup> Under Election Law § 6-166 (3) the members of a committee to receive notices must ordinarily file an acceptance. However, Election Law § 2-122 enumerates the provisions of the Election Law that apply to ballot access for presidential candidates and delegates, and §6-166 does not apply.

## SELECTION OF DELEGATES

### DEMOCRATIC PLAN

#### Number of Delegates

There will be a total of 184 pledged delegates elected from Congressional Districts in the Primary.

<b>Congressional District</b>	<b>Number of Delegates</b>
CD 1	6 (3 M, 3 F)
CD 2	6 (3 M, 3 F)
CD 3	7 (3 M, 4 F)
CD 4	7 (4 M, 3 F)
CD 5	8 (4 M, 4 F)
CD 6	6 (3 M, 3 F)
CD 7	7 (3 M, 4 F)
CD 8	8 (4 M, 4 F)
CD 9	8 (4 M, 4 F)
CD 10	7 (4 M, 3 F)
CD 11	6 (3 M, 3 F)
CD 12	8 (4 M, 4 F)
CD 13	8 (4 M, 4 F)
CD 14	6 (3 M, 3 F)
CD 15	7 (3 M, 4 F)
CD 16	8 (4 M, 4 F)
CD 17	7 (4 M, 3 F)
CD 18	6 (3 M, 3 F)
CD 19	6 (3 M, 3 F)
CD 20	7 (3 M, 4 F)
CD 21	6 (3 M, 3 F)
CD 22	6 (3 M, 3 F)
CD 23	6 (3 M, 3 F)
CD 24	7 (4 M, 3 F)
CD 25	7 (3 M, 4 F)
CD 26	7 (4 M, 3 F)
CD 27	6 (3 M, 3 F)
<b>Total Delegates</b>	<b>184 (92 M, 92 F)</b>

#### **The 2020 Delegate Selection Plan of the NYS Democratic Party**

Additional pledged, pledged-at-large and unpledged delegates and alternates will be selected as outlined below:

- the 23 members of the Democratic National Committee from New York, and 21 Democratic Members of U.S. Congress, one Democratic Governor and one Distinguished Party Leaders shall be automatic unpledged delegates (46);
- the state convention shall elect 29 pledged delegates who qualify as party leaders or elected officials;
- the state convention shall elect 61 pledged-at-large delegates and 24 pledged alternate delegates.

## **Awarding of Delegates**

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 in the Congressional District.

### **The 2020 Delegate Selection Plan of the NYS Democratic Party, Part III Section B 5, 6 & 7**

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 pledged to the highest vote-getting presidential candidate and then to the top vote-getters among delegate candidates for the next highest vote-getting presidential preferences in descending order until all positions are assigned.

In Congressional Districts with an odd 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 unless such candidate for delegate is of a gender disadvantaged in that District, in which event the candidate for delegate of the advantaged gender with the highest 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 highest vote-getter among delegate candidates pledged to the highest vote-getting Presidential Candidate and then to the top vote-getters among delegate candidates for the next highest vote-getting presidential preferences in descending order until all positions are assigned.

In the case of gender non-binary delegates, they shall not be counted as either a male or a female, and the remainder of the delegation shall be equally divided by gender.

## **REPUBLICAN PLAN**

### **Number of Delegates, NYS Republican Party Rule Art. XI Rule 1**

81 delegates and 81 alternate delegates will be elected based upon the state's 27 congressional districts (3 per congressional district). Additional at-large delegates will be selected by the New York Republican State Committee.

### **Election of Delegates, Election Law § 2-122-b (4)**

A presidential candidate must file a complete slate of delegates with the State Board of Elections no later than nine weeks before the presidential primary election, February 25, 2020. Delegates and alternate delegates must be enrolled members of the political party who reside in the congressional district they seek to represent. 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 three business days to cure any defects.

Delegates and alternate delegates, other than at-large delegates selected by the state committee, shall be allocated to the presidential candidate receiving the greatest number of votes at the primary election.

At-large delegates and at-large alternate delegates are selected by the state committee and allocated to presidential candidate receiving the greatest number of votes at the primary election.

### **Withdrawal of Presidential Candidate, Election Law § 2-122-b (3)(d)**

Presidential candidate determined eligible to appear on the presidential primary ballot may have their name removed from such primary ballot by filing a certificate with the state board of elections that is received no later than 56 days before the primary elections, March 3, 2020. After such date but before the 7<sup>th</sup> day before the presidential primary election, April 20, 2020, such presidential candidate may file a certificate with the State Board of Elections deeming any vote cast for such presidential candidate to be a void vote.

## **REPUBLICAN PLAN**

**Presidential candidates shall be eligible to appear on the primary election ballot by any of the following three manners:**

### **Matching Funds Eligible, Election Law §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 and received by the State Board of Elections no sooner than sixteen weeks and not later than nine weeks prior to the date of the presidential 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.

Requests must be filed between January 7, 2020 to February 25, 2020.

### **Nationally Known, Election Law §2 -122-b (3)(b)**

Any candidate may request by a certificate filed and received by the State Board of Elections no sooner than sixteen weeks and not later than nine weeks prior to the date of the presidential primary that they are a nationally known and recognized candidate. 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.

Requests must be filed between January 7, 2020 to February 25, 2020.

### **Designating Petition, Election Law § 2-122-b (3)(c)**

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.

There is no geographic distribution requirement for signatures as with other statewide petitions.

The first date to sign petitions is December 31, 2019. Petitions must be filed with the State Board of Elections, from February 3, 2020 to February 6, 2020.

## **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 <sup>\*2</sup>**

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.

The requirement for signatures for an independent nominating petition for president must contain 45,000 signatures or one percent of the total number of votes, excluding blank and void ballots, cast for the office of Governor at the last gubernatorial election, whichever is less, with at least 500 signatures, or one percent of enrolled voters, whichever is less, coming from each of one-half of the congressional districts (14) in the state. *See Effective January 1, 2020, Part V Recommendations of Public Financing Commission and 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 (October 13, 2020). 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, 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.

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<sup>2</sup> Effective January 1, 2020

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