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

Primary Date: April 2, 2024

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 474 of the Laws of 2023.

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 (2), (3), (4)

Candidates must file petitions with 15,000 signatures of enrolled Democrats.

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

A statewide “uncommitted petition” with 15,000 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 12, 2023. Petitions must be filed with the State Board of Elections from January 8, 2024 to January 18, 2024.

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

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, residents of the district in which they are a candidate, 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 21, 2023, 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 they are 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 letter (X) if the candidate identifies as any gender other than female or male.

The first date to sign petitions is December 12, 2023. Petitions must be filed with the State Board of Elections or the local board, whichever applies, from January 8, 2024 to January 18, 2024.

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

The congressional districts used for the election of delegates and alternate delegates are the districts in effect for the 2022 congressional election.

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 their name appear next to any delegate, the delegates pledged to that candidate will not appear on the ballot.

SELECTION OF DELEGATES

DEMOCRATIC PLAN

Number of Delegates

There will be a total of 179 delegates elected from Congressional Districts in the Primary.

Congressional District	Number of Delegates
CD 1	7 (3 M, 4 F)
CD 2	5 (3 M, 2 F)
CD 3	7 (3 M, 4 F)
CD 4	7 (4 M, 3 F)
CD 5	7 (3 M, 4 F)
CD 6	5 (3 M, 2 F)
CD 7	7 (3 M, 4 F)
CD 8	7 (4 M, 3 F)
CD 9	8 (4 M, 4 F)
CD 10	10 (5 M, 5 F)
CD 11	5 (2 M, 3 F)
CD 12	11 (6 M, 5 F)
CD 13	8 (4 M, 4 F)
CD 14	6 (3 M, 3 F)
CD 15	5 (2 M, 3 F)
CD 16	8 (4 M, 4 F)
CD 17	8 (4 M, 4 F)
CD 18	7 (4 M, 3 F)
CD 19	7 (3 M, 4 F)
CD 20	8 (4 M, 4 F)
CD 21	5 (3 M, 2 F)
CD 22	6 (3 M, 3 F)
CD 23	6 (3 M, 3 F)
CD 24	4 (2 M, 2 F)
CD 25	7 (3 M, 4 F)
CD 26	8 (4 M, 4 F)
Total Delegates	179 (89 M, 90 F)

The 2024 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 19 members of the Democratic National Committee from New York, and 17 Democratic Members of U.S. Congress, one Democratic Governor and one Distinguished Party Leader shall be automatic unpledged delegates (38);
- the state convention shall select 29 pledged delegates who qualify as party leaders or elected officials;
- the state convention shall select 60 pledged-at-large delegates and 22 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. Delegates selected at the district level shall be allocated in proportion to the percentage of the primary vote won in that district except that candidates falling below a 15% threshold shall not be awarded any delegates. Within a district, if no presidential candidate reaches a fifteen percent (15%) threshold, the threshold shall be half the percentage of the vote received in that district by the front-runner.

The 2024 Delegate Selection Plan of the NYS Democratic Party

To ensure the district-level binary-gendered delegates are equally divided between men and women (determined by gender self-identification) the gender of the first binary delegate elected in each district will be designated. At the time of election of delegates in the district, the binary gender advantage will alternate as delegate positions are filled and the alternation shall continue across presidential preferences in order of vote-getting preference. In the case of non-binary gender delegates, they shall not be counted in either the male or female category, but do count towards the total delegate allotment.

The district-level delegates as a whole, and within each Congressional District, shall be equally divided by gender insofar as mathematically practicable. To assure such equal division among district-level delegates as a whole, the allocation set forth above shall determine the gender division between males and females in each of Congressional District, such allocation having been made by lot to set the gender preference in the first Congressional District to which an odd number of delegate positions is apportioned and thereafter alternating the advantaged gender in each succeeding Congressional District having an odd number of delegate positions. In the case of delegates those who identify as non-binary, they shall not be counted as either a male or female, and the remainder of the delegation shall be equally divided by gender.

In districts with an odd number of delegates, the first delegate selected for the winning presidential preference must be of the same gender as the advantaged gender in that district. Following that determination, the allocation would continue alternating by gender for the winning presidential preference and any subsequent preferences. In districts with an even number of delegates, the highest-vote getting delegate candidate for the district's winning presidential preference will be the first delegate assigned. Following that determination, the state will then designate the remaining positions for that presidential preference and any subsequent preferences alternating by gender, as mathematically practicable.

After the delegates are selected, the alternates will be awarded, using the same process described above.

BALLOT ACCESS REQUIREMENTS

REPUBLICAN PLAN

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

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 CFR Part 9033, or
- Meets the eligibility criteria regarding matchable contributions established in 11 CFR 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 (16) weeks and not later than nine (9) 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 therefore be filed between December 12, 2023 and January 30, 2024.

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

Any candidate may request, by certificate filed and received by the State Board of Elections no sooner than sixteen (16) weeks and not later than nine (9) 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 determine that the person is a nationally known and recognized candidate and that the candidacy of such person for the party nomination is generally and seriously advocated or recognized according to reports in the national or state news media.

Requests must therefore be filed between December 12, 2023 and January 30, 2024.

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

Any candidate may file a designating petition containing signatures of 5,000 or five (5) percent, whichever is less, of enrolled Republican voters in the state, 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 12, 2023. Petitions must be filed with the State Board of Elections from January 8, 2024 through January 18, 2024.

SELECTION OF DELEGATES

REPUBLICAN PLAN

Number of Delegates, Election Law § 2-122-b (2)

78 delegates and 78 alternate delegates will be elected based upon the state's 26 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)

Delegates and alternate delegates are awarded based upon results of separate and distinct congressional district elections. Three (3) delegates and three (3) alternate delegates from each congressional district shall be awarded to the presidential candidate who receives a majority of the total votes cast for presidential candidates in such congressional district.

If no presidential candidate gets a majority of the votes in a congressional district, the presidential candidate receiving the most votes in the congressional district shall be awarded two (2) delegates and two (2) alternate delegates. The presidential candidate who receives the second most votes in the congressional district shall be awarded one (1) delegate and one (1) alternate delegate, provided however, that a presidential candidate must receive at least twenty percent (20%) of the total votes cast for presidential candidates in the congressional district in order to be awarded any delegates or alternate delegates from that congressional district. If only one presidential candidate meets this threshold, that candidate shall be awarded all delegates and alternate delegates. If no presidential candidate meets this threshold, the delegates and alternate delegates from such district shall be deemed vacant and filled pursuant to the rules of the Republican National Committee.

Election of At-Large Delegates, Election Law § 2-122-b (5)

At-large delegates and at-large alternate delegates are elected by the New York Republican State Committee and apportioned to presidential candidates based upon the statewide results of the presidential primary.

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

A candidate determined eligible to appear on the presidential primary ballot may have their name removed from such ballot by filing a certificate with the State Board of Elections that is received no later than 56 days before the presidential primary, February 13, 2024. After such date but before the seventh (7th) day before the presidential primary, March 26, 2024, such candidate may file a certificate with the State Board of Elections deeming any vote cast for such presidential candidate to be a void vote.

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 28 candidates for electors.

Independent petitions for president must contain 45,000 signatures or one percent (1%) 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. At least 500 signatures must come from each of thirteen (13) congressional districts (Election Law §6-142).

The first date to sign petitions is April 16, 2024. Petitions must be filed with the State Board of Elections from May 21, 2024 through May 28, 2024. 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).

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 15, 2024). 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 28 candidates for elector, with an acceptance certificate and pledge of support signed by each such candidate for elector. Election Law §6-153.