

Voter Guide On The January 15, 2008 Michigan Democratic Presidential Primary

1. Voters will vote at their regular polling places between 7 A.M. and 8 P.M.
2. Voters can vote by absentee ballot if they meet one of the requirements – out of town, age 60 or older, disability, etc.
3. The deadline to register to vote is 30 days before January 15, 2008 or December 17, 2007.
4. In order to vote at a polling place, a voter must show a photo ID or sign a statement that they do not have a photo ID with them. Absentee voters do not have to produce a photo ID.
5. Voters will be asked whether they want a Democratic or Republican ballot, and a record will be made of which ballot they take.
6. The voter's choice of candidate will be secret as in all public elections.
7. The Democratic ballot will have 6 choices:
 - Hillary Clinton
 - Christopher Dodd
 - Mike Gravel
 - Dennis Kucinich
 - Uncommitted
 - Write-in
8. A vote for "uncommitted" is a vote to send delegates to the Democratic National Convention who are not committed or pledged to any candidate. Those delegates can vote for any candidate they choose at the Convention.
9. Supporters of Joe Biden, John Edwards, Barack Obama and Bill Richardson are urged to vote "uncommitted" instead of writing in their candidates' names because write-in votes for those candidates will not be counted under state law.

Paid for by the Michigan Democratic State Central Committee, 606 Townsend, Lansing, MI 48933, 517-371-5410 and not authorized by any candidate or candidate committee.

12/12/07

**BEFORE THE MICHIGAN DEMOCRATIC PARTY STATE
CENTRAL COMMITTEE AND THE RULES AND BYLAWS
COMMITTEE OF THE DEMOCRATIC PARTY**

IN RE: VERIFIED IMPLEMENTATION CHALLENGE

PETITIONERS: Philip Skaggs, Philip T. Shepard, Carol Palmer, Danielle Erland, Wendy Richardson, Rita J. Casey, G. Kenneth McFarlane, Mary Ellen Valentine, Anthony J. Valentine, Lance Penny, Martha Hayes, Earl Erland, Michael B. Simon, Timothy Moore, Anne S. Pancella, Matthew Spayth, Wendy Hall, Cameron Fure

I. JURISDICTION

1. This Implementation Challenge is being brought under Reg. 3.4.C. of the *Regulations of the Rules and Bylaws Committee for the 2008 National Convention* (Adopted December 2, 2006 and Amended February 1, 2007). The Verified Challenges of 18 Individuals satisfying the requirements of Reg. 3.2.A. are attached as Exhibit One to this Verified Implementation Challenge. The statements contained in each Verification are incorporated into this Petition.

II. STATEMENT OF CHALLENGE

2. The 2004 Democratic National Convention (hereinafter "DNC") passed a resolution calling for the creation of the Commission on Presidential Nomination and Scheduling (hereinafter "The Commission"). This Resolution was co-sponsored by United States Senator Carl Levin (D MI.) and Michigan Democratic National Committeewoman Debbie Dingell.

3. The Commission was tasked with the responsibility of studying the timing of Democratic presidential primaries and caucuses and developing appropriate recommendations for the 2008 nominating cycle.

4. The Commission began work in March of 2005. It held five hearings on this matter, and received significant input from various state parties.

5. In its Executive Summary, the Commission acknowledged that one of its purposes was to address the role played by Iowa and New Hampshire in the process of selecting the Democratic Part's nominee for President. The report acknowledged the "valuable" roles played by Iowa and New Hampshire in the nomination process. In particular, the

Commission identified as positive “the personal engagement and involvement of the voters who participate in these contests.”

6. The Commission recognized the existence of reform efforts “over the last three decades” that have attempted to “broaden participation in the delegate selection process.”

7. The Commission report also related the concern of various state parties that expressed “significant concerns” about the “disproportionate influence” of the Iowa Caucus and the New Hampshire primary. One of the states expressing such concern was Michigan.

8. One of the stated goals of the Commission was a reaffirmation of the Democratic Party’s commitment to a nominating process “that [would] produce the best and strongest candidate as a nominee for the office of President of the United States.”

9. Another of the stated goals of the Commission was to receive and consider a broad input on the process of selecting a Democratic nominee from a wide range of interested and knowledgeable individuals and organizations.

10. To this end, the Commission met with 31 individuals including Senator Carl Levin and Michigan Democratic National Committeewoman Debbie Dingell. Also, the Commission took written testimony from an additional 14 individuals or organizations having extensive knowledge of the presidential primary process.

11. As noted by the Commission, Michigan has long played a role in the oversight of the nomination process:

“In 1975 the DNC created another reform body to study the nominating process. Formally called the Commission on the Role and Future of Presidential Primaries, the group was chaired by then-Michigan State Chair Morley Winograd and became known as the “Winograd Commission.” As part of its work, the Winograd Commission considered various alternatives, including a national primary, regional primaries and limiting the length of the delegate selection process. The Commission concluded that the existing system had strengths and weaknesses, noting that: “Many have complained that the delegate selection process is too long. Others have complained that the early primaries and caucuses have undue influence on the process....” Ultimately, the Commission concluded that “the length of the delegate selection process should be condensed to 13 calendar weeks, with the first determining stage...occurring not prior to the second Tuesday in March.....” Consistent with this recommendation, Rule 10.A. of the 1980 Delegate Selection Rules provided that no event “constituting the

first determining stage in the presidential nominating process....may be held prior to the second Tuesday in March....." or March 11, 1980."

12. The Commission also noted the more current involvement of Michigan in the efforts to reform the nomination process:

"When the DNC adopted its 2004 Delegate Selection Rules in January 2002, Michigan Democratic leaders voiced their opposition, as they had in the past, to the exceptions provided in the rules for Iowa and New Hampshire. Later in 2003, the Michigan State Party indicated that it was its intention to submit a delegate selection plan that scheduled its contest for the same day as the New Hampshire primary. This proposed action engendered a not unexpected reaction from Iowa and New Hampshire and generated intense media attention. Ultimately, following serious discussions between the DNC and Democratic leaders in Michigan, Michigan agreed to hold its 2004 contest inside the window. For its part, the DNC agreed to form a commission to review the rules and make recommendations with respect to the 2008 calendar. Accordingly, then DNC Chairman McAuliffe, Senator Levin, and Ms. Dingell jointly co-sponsored a resolution adopted by the 2004 Democratic National Convention on July 25, 2004 establishing a "Commission on Presidential Nomination Timing and Scheduling."

13. Senator Levin and National Committeewoman Dingell appeared at the May 14, 2005 meeting of the Commission held in Chicago, Illinois. According to the Commission Report:

"The comments by the Party leaders from Michigan centered on what they described as the dominating role and privileged position of Iowa and New Hampshire at the start of the nominating process. The leaders asserted that these early contests have a disproportionate impact on the nominating process rendering contests in later states less meaningful or altogether irrelevant. They suggested that the retail politics espoused by Iowa and New Hampshire can be duplicated in other states. It was suggested that both states are able to keep their coveted status based on a strategy of commitments and pledges that the states have exerted on past potential presidential candidates. The actions by other states to move their contests closer to those held in Iowa and New Hampshire suggest that voters

in other states are anxious to also have their issues addressed and their voices heard. The Michigan presenters stated that ending the Iowa and New Hampshire exemptions would allow the Party to fulfill its promise and commitment to treat voters and states equally, and would prevent any state from having and exerting a disproportionate influence over the process."

14. In its written report, the Commission stated:

"The rules that govern this process are not abstractions unrelated to broader goals. Rather, they are designed, if somewhat imperfectly, to help ensure that the Democratic Party selects its nominees through a fair, open, inclusive and representative process."

15. In its written report, the Commission stated its concern about the negative impact of "front loading" the nomination process.

16. In its report, the Commission acknowledged the power of the National Party to control the presidential primary process:

"It is well established that the Party processes through which delegates are selected – caucuses and Party run primaries – are subject to the rules of the National Party. As such, no state law can dictate to a State Party how, whether, or when to hold a Party-run event. Moreover, it is solely within the DNC's purview to determine if those Party-run events have been conducted in compliance with applicable rules, and if their results will be recognized by the National Party."

17. As a part of its Findings and Recommendations, the Commission recommended that there be one or two "first-tier" caucuses between the Iowa caucus and the New Hampshire primary.

18. The recommendations of the Commission were, to a great extent, adopted by the Rules and Bylaws Committee and incorporated into the Delegate Selection Rules (hereinafter "DSR") for the 2008 Democratic National Convention.

19. On April 14, 2006 Michigan Democratic Party Chairman Mark Brewer submitted an application for a "pre-window" caucus slot. However, this application was rejected. Instead, two "pre-window" slots were awarded to Nevada and South Carolina.

20. DSR Rule 11 states:

"A. No meetings, caucuses, conventions or primaries which constitute the first determining stage in the presidential nomination process (the date of the primary in primary states, and the date of the first tier caucus in caucus states) may be held prior to the first Tuesday in February or after the second Tuesday in June in the calendar year of the national convention. Provided, however, that the Iowa precinct caucuses may be held no earlier than 22 days before the first Tuesday in February; that the Nevada first-tier caucuses may be held no earlier than 17 days before the first Tuesday in February; that the New Hampshire primary may be held no earlier than 14 days before the first Tuesday in February; and that the South Carolina primary may be held no earlier than 7 days before the first Tuesday in February. In no instance may a state which scheduled delegate selection procedures on or between the first Tuesday in February and the second Tuesday in June 1984 move out of compliance with the provisions of this rule.

B. All steps in the delegate selection process, including the filing of presidential candidates, must take place within the calendar year of the Democratic National Convention (except as otherwise provided in these rules or specifically allowed by the DNC Rules and Bylaws Committee)."

21. In Rule 20.C.1.a. the DNC established the following automatic sanction for states that violate Rule 11:

"Violation of timing: In the event the Delegate Selection Plan of a state party provides or permits a meeting, caucus, convention or primary which constitutes the first determining stage in the presidential nominating process to be held prior to or after the dates for the state as provided in Rule 11 of these rules, or in the event a state holds such a meeting, caucus, convention or primary prior to or after such dates, the number of pledged delegates elected in each category allocated to the state pursuant to the Call for the National Convention shall be reduced by fifty (50%) percent, and the number of alternates shall also be reduced by fifty (50%) percent. In addition, none of the members of the Democratic National Committee and no other unpledged delegate allocated pursuant to Rule 8.A. from that state shall be permitted to vote as members of the state's delegation. In determining the actual number of

delegates or alternates by which the state's delegation is to be reduced, any fraction below .5 shall be rounded down to the nearest whole number, and any fraction of .5 or greater shall be rounded up to the next nearest whole number."

22. In Rule 20.C.1.b. the DNC established the following automatic sanction for presidential primary contenders who campaign in a state holding a non DNC sanctioned primary of caucus:

"A presidential candidate who campaigns in a state where the state party is in violation of the timing provisions of these rules, or where a primary or caucus is set by a state's government on a date that violates the timing provisions of these rules, may not receive pledged delegates or delegate votes from that state."

23. In Rule 20.C.1.b. the DNC defined "Campaign" as follows:

"Campaigning" for purposes of this section includes, but is not limited to, purchasing print, internet, or electronic advertising that reaches a significant percentage of the voters in the aforementioned state; hiring campaign workers; opening an office; making public appearances; holding news conferences; coordinating volunteer activities; sending mail, other than fundraising requests that are also sent to potential donors in other states; using paid or volunteer phoners or automated calls to contact voters; sending emails or establishing a website specific to that state; holding events to which Democratic voters are invited; attending events sponsored by state or local Democratic organizations; or paying for campaign materials to be used in such a state. The Rules and Bylaws Committee will determine whether candidate activities are covered by this section."

24. Rule 13.A. of the DSR states:

"Delegates shall be allocated in a fashion that fairly reflects the expressed presidential preference or uncommitted status of the primary voters or, if there is no binding primary, the convention and/or caucus participants."

25. DSR Rule 1.A.2. required the Michigan Democratic Party to adopt state rules regarding the timing of its presidential delegate selection process. Further, DSR Rule 1.D. required the Michigan Democratic Party to submit these rules to the DNC's Rules and Bylaws Committee for review and approval. The Michigan Democratic Party submitted its Delegate Selection Plan, and it was approved, as provided for in the DSR.

26. In § I.B.2. of Michigan's Delegate Selection Plan, the Michigan Democratic Party announced that it would hold a caucus on February 9, 2008 for the purpose of selecting delegates to the National Convention.

27. On September 3, 2007 Governor Jennifer Granholm signed 2007 PA 52 into law. This bill was cosponsored by four Republican state senators, Michelle McManus, Cameron Brown, Bill Hardiman and Michael Bishop.

28. Under § 613a(1) of this Act, the Michigan Democratic Party was required to hold an open primary for the purpose of selecting delegates to the Democratic National Convention on January 15, 2007.

29. Under § 613a(2) of this Act, the Michigan Democratic Party had the ability to opt out of the January 15th Primary by notifying the Michigan Secretary of State in writing of its decision to opt out. This notification was to take place no later than 4:00 p.m. on November 14, 2007.

30. On November 14, 2007, the Chairman of the Michigan Democratic Party notified the Michigan Secretary of State that the Michigan Democratic Party would both participate in the January 15th Primary and use the results of that Primary for the purpose of selecting Delegates to the National Convention if two conditions were met: first, that 2007 PA 52 be upheld on appeal and, second, that the Michigan Republican Party also use the January 15th Primary to select its delegates.

31. On November 21, 2007 the Michigan Supreme Court upheld 2007 PA 52.¹

32. The Michigan Republican Party did not elect to opt out of the January 15th Primary.

33. At a meeting of the Executive Committee of the Michigan Democratic Party held on November 27, 2007, the MDP affirmed its decision to utilize the January 15th Primary for the purpose of selecting its delegates to the National Convention.

34. Any participation by the Michigan Democratic Party in the January 15, 2008 primary would constitute a violation of both the state Party's delegate selection rules and the DNC's rules on the timing of a state primary. Such a violation would trigger the automatic sanction provided for in DSR Rule 20.C.1.a. resulting in a loss to the state of fifty percent of its delegates to the national convention.

¹ Grebner, et al v Secretary of State, ___ Mich ___; ___ NW2d ___ (2007); available on line as of November 27, 2007 at: <http://www.michiganliberal.com/upload/135274%202007-11-21%20or.pdf>

35. Prior to the enactment of 2007 PA 52 all of the major candidates for the Democratic nomination signed a pledge stating that they would neither campaign nor participate in any state which schedules a presidential election primary or caucus before February 5, 2008, except for the pre-window states of Iowa, Nevada, New Hampshire and South Carolina.

36. As a result of the enactment of 2007 PA 52, four of the Democratic candidates, Sen. Joe Biden, former Sen. John Edwards, Sen. Barack Obama and New Mexico Gov. Bill Richardson withdrew from Michigan's presidential primary process.

37. In early September, 2007, and prior to the date 2007 PA 52 was signed into law, The polling firm ARG conducted a poll of 600 likely Michigan primary voters. The results of this poll revealed that 44 % of those polled expressed support, cumulatively, for the four withdrawn candidates. Cumulatively, the expressed support for the withdrawn candidates was greater than the support expressed for the front runner, Sen. Hilary Clinton.²

38. As things currently stand, at least 44% of Michigan's Democrats have been effectively disenfranchised by the current state of the primary process in Michigan. The demoralizing effect of this on participation in state party politics, or the election in November of 2008, cannot be underestimated. Further, given the experience of the Florida vote in November of 2000, and the Ohio vote in November of 2004, it is, at a minimum, puzzling that the Michigan Democratic Party would knowingly and consciously engage in a violation of both the DNC Rules and its own Delegate Selection Plan when the result of this decision is the effective disenfranchisement of close to one-half of the state's Democratic Primary voter base.

39. The decision to hold a primary on January 15, 2007 violates DSR Rule 13 in that any primary held without the participation of the withdrawn candidates would violate the Rule's requirement that delegates shall be allocated in a fashion that fairly reflects the expressed presidential preference or uncommitted status of the primary voters.

40. DSR Rule 20.C.2. provides, as a sanction for a violation of Rule 13, the same sanction for a violation of the DSR Rules on the timing of a presidential primary.

III. RELIEF REQUESTED

41. Pursuant to Reg. 3.4.D.i.(g.) Petitioners request the following relief from the Michigan State Central Committee:

- a. That Chairman Brewer be directed to notify the Michigan Secretary of State in writing that the Michigan Democratic Party is rescinding its decision to participate in the January 15th Primary; or, in the alternative, that Chairman Brewer be directed to notify the Michigan Secretary of State in writing that

² As of November 27, 2007 the ARG poll was available online at: <http://americanresearchgroup.com/pres08/midem8-704.html>. The margin of error in this poll was $\pm 4\%$.

the Michigan Democratic Party is rescinding its decision to utilize the results of the January 15th Primary for the purpose of selecting delegates to the National Convention, and

- b. That the Michigan Democratic Party schedule and conduct the February 9, 2008 Caucus and that it use the results of that Caucus for the purpose of selecting delegates to the National Convention, and in all other ways conform its Delegate selection process to the approved Michigan Delegate Selection Plan and the DNC's Delegate Selection Rules.

42. Pursuant to Reg. 3.4.D.i.(g.) Petitioners request the following relief from the DNC's Rules and Bylaws Committee:

- a. That the National Democratic Party exercise its inherent supervisory control over the delegate selection process in the State of Michigan and schedule and conduct the February 9, 2008 Caucus and that it use the results of that Caucus for the purpose of selecting delegates to the National Convention, and in all other ways conform to the approved Michigan Delegate Selection Plan and the DNC's Delegate Selection Rules.
- b. That the Rules and Bylaws Committee determine and rule that the presence on the January 15th Primary Ballot of any Presidential contender is a form of campaigning prohibited by DSR Rule 20.C.1.b.;
- c. That the sanctions contained in DSR Rule 20.C.1.a. & b. be enforced and that no waiver for the January 15th Primary be granted to the Michigan Democratic Party; and
- d. That the Rules and Bylaws committee expedite its consideration of this Petition.

IV. LIST OF WITNESSES

43. Petitioners may call the following witnesses:

- a. All individuals who have signed the Verified Challenges attached to this Petition. Each witness' name, address and telephone number is stated in each Verified Challenge attached to this Petition.
- b. Mark Brewer, Chairman of the Michigan Democratic Party. His business address and telephone number are: 606 Townsend Street, Lansing, MI 48933; 517-371-5410.

44. Petitioners reserve the right to amend this Witness list.

V. LIST OF DOCUMENTS

45. Petitioners may utilize the following Documents, attached as Exhibit 2:
- a. The Michigan Supreme Court decision upholding 2007 PA 52;
 - b. Chairman Brewer's 11/14/07 correspondence to Terri Lynn Land;
 - c. Regulations of the Rules and Bylaws Committee for the 2008 National Convention;
 - d. Delegate Selection Rules For The 2008 Democratic National Convention;
 - e. Michigan Delegate Selection Plan For The 2008 Democratic National Convention;
 - f. The Charter and The Bylaws of the Democratic Party of the United States;
 - g. Report of the Commission on Presidential Nomination Timing and Scheduling;
 - h. 2007 PA 52;
 - i. The Michigan Secretary of State's Candidate Listing for the January 15, 2008 Presidential Primary.
46. Petitioners reserve the right to amend this document list.

VI. APPEARANCE OF COUNSEL

47. Earl E. Erland enters his appearance on behalf of the Petitioners.

Dated: November 28, 2007

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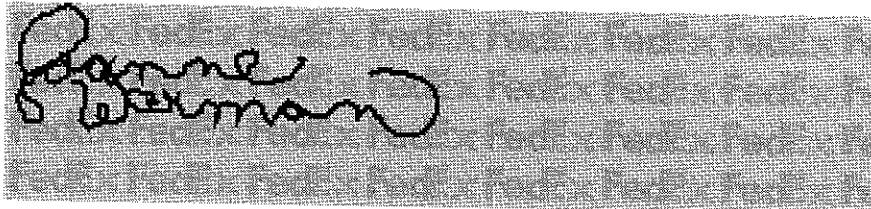
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