

## Comments for the WV Democratic Executive Committee on the 2020 WV Delegate Selection Plan

Respectfully submitted by Selina Vickers

Thank you for the opportunity to comment on what, in my mind, is one the most relevant processes to our democracy. The delegate selection plan lays out the foundation that serves to select nominees for the offices of President and Vice President of the United States and to adopt and promulgate a platform. It is truly appreciated that grassroots Democratic voters, like myself, have the opportunity to give feedback on this important process.

In developing the comments, I reviewed and will reference the *Delegate Selection Rules for the 2020 Democratic National Convention (Rules or Rule #)*, the *2020 Call for the Democratic National Convention (Call)*, the *Regulations of the Rules and Bylaws Committee (Reg)*, the *DNC Charter and Bylaws* and the *WV State Code*. I also reviewed the Delegate Selection Plans for some other states. I will refer to the WV Delegate Selection Plan as WV DSP.

I have divided these comments into two sections. First are **technical errors**. Some are minor, but could be confusing to someone that receives a copy later - like numbering pages. However, there are significant content errors that are addressed. At the 2016 DNC Convention, the full delegation put in motion a process to address some of the most contentious issues of the 2016 primary election in an effort to develop unity among democratic voters - for example, "superdelegates" were a contentious issue. The process that was decided on was the Unity Reform Commission (URC). The URC developed a report that was given to the DNC Rules and Bylaw Committee (RBC). The RBC then reviewed the recommendations and folded many of them into the *DNC Charter and Bylaws*, the *Rules*, the *Call* and the *Reg*. and were adopted by the full DNC at the August 2018 meeting. However, several of these new recommendations/ rules are not reflected in the *WV DSP*.

The second section of comments are **process comments** with recommendations for allowable change or questions to consider.

### Technical Errors

1. **Numbering and Lettering**- Although it is a minor issue, there are some numbering issues with the document that I recommend that the DEC correct to make it easier for people to read this document, once approved. For instance, the Table of Contents guide for pages, doesn't match up with the actual pages (Example Table of Contents say Introduction and Description of Delegate Selection Process is on page 1, however, the page number printed on that page is "fPage 3") and some of the numbered points under the alphabetical descriptions are incorrect (For example, in Section I.B, the first number begins as 5, instead of 1). For these comments, I will use the number at the top of the page of the document and the letters and numbers listed in the document. There are also some indentation edits that could be made.

Recommendation: Reconcile the Table of contents, page numbering and incorporate accurate lettering of the document.

2. **Description of Delegate Selection Process** - Page 3 - Section I.B.6 - West Virginia has their county conventions BEFORE the Primary elections, instead of after. Most states have

theirs after their Primary or Caucus. In the various DNC documents, the term “first determining step” indicates the primary or caucus and obviously can be done by secret ballot if it is a primary (*Rule 12*). However, in WV, our true “first determining step” is the county conventions and the delegate selection process begins at that level. Certainly the county convention process in their selection of delegates to the state convention is significant to the delegate selection process, but is not mentioned here. I don’t know how to reconcile the issue of “first determining step” being different in WV than what is intended in the *Rules*, however, the county convention process does need to be included in this section. This issue also needs addressed on page 27, Section IX.A

Recommendation: I recommend that the county conventions that will be held before the Primary be included in that section somehow, and also in Section IX.A

3. **Voter Participation** - On page 4 under the table, the Voter Participation section should be marked as C, and it isn’t clear what C.1. means. It currently says, “Voter Participation in Process”. In other state party DSP’s, this section states, “Participation in (insert state)’s delegate selection process is open to all voters who wish to participate as Democrats”, per *Rule 2.A* and *2.C*.

In 1.a, the word “register”, should be “registration”.

In 1.f, the “first determining step” issue is discussed with respect to secret ballots. This area says that secret ballots can be used at the “first determining step” only, which would normally be the Primary. Since our first determining step is the county convention and secret ballots cannot and be used at that level of the delegate selection process, this seems contradictory.

Recommendation:

- Mark Voter Participation as C. and include the the statement, “Participation in West Virginia’s delegate selection process is open to all voters who wish to participate as Democrats.”
- Change the word “register” to “registration” in 1.a.
- Address the “secret ballot” and “first determining step” issue to be clearer considering West Virginia’s unusual process.

4. **Date for the County Conventions** - The date for the county conventions is listed in the *WV DSP* as both April 11, 2020 (page 7, Section III.A.3.f) and April 1 (page 29 in the timeline). As April 11th is a Saturday, and the 2016 County Conventions were on a Saturday, I assume that the April 1 date is a typographical error.

Recommendation: Reconcile the dates listed in the WV 2020 Delegate Selection Plan on pages 7 and 29, once the correct date is determined. NOTE: The date of April 11, 2020 is also addressed in the “Process Comments” due to being a religious holiday.

5. **Election date for the WV DEC** - On Page 11, Section III.C.4.c, this area states that the WV DEC was elected on the 2014 Primary ballot. The current WV State DEC was elected on the 2018 Primary ballot, with officers being elected at the 2016 WV Democratic Convention.

Recommendation: Change this to accurately reflect the placement of the WV DEC members on the Committee.

6. **Automatic/Unpledged Delegates** - Page 9, Section III.B.1.a - This section is titled “Automatic” and this area states, “*The following categories shall constitute the **Pledged** Party Leaders and Elected Official delegate positions*”.

This is incorrect. This section describes “Automatic” delegates and they can also be referred to as “Unpledged”, per Rule 9 of the *Rules* and *The DNC Charter and Bylaws*, Article Two, Section 4(h) of the Charter.

Unpledged delegates are also mentioned in Section VI.C.

Recommendation: Change the word “Pledged” to “Unpledged or Automatic” in Section III, B.1.a and use the term “unpledged or automatic” in Section VI.C.

7. **Wrong Rule cited:** Page 14, Section III.E.1.a.2.b - This area states, “*If a presidential candidate has only one alternate, and that alternate permanently replaces a delegate of the opposite sex, thereby causing the delegation to no longer be equally divided, the delegation shall not be considered in violation of Rule 6.C. In such a case, notwithstanding **Rule 17 D (2)**, the State Party Committee shall, at the time of a subsequent permanent replacement, replace a delegate with a person of the opposite sex, in order to return the delegation to equal division of men and women*”.

*Rule 17* covers Proxy Voting and doesn’t have a D or (2).

Recommendation: Reference the correct *Rule*. I believe it is *Rule 19.D.2*.

8. **Wrong Rule cited:** Page 15, Section III.E.2.c - This area states, “Automatic distinguished Party Leader delegates allocated to the state pursuant to Rule 8.A.(5)...”. *Rule 8.A* doesn’t have a 5 and the *Rule 8* is about delegate apportionment.

Recommendation: Reference the correct *Rule*. I believe it is *Rule 9.A.5*.

9. **Standing Committee Members** - Page 16, Section IV.B. The Table of Contents lists this area as “*Permanent Standing Committee Members*” and it is titled as “*Standing Committee Members*” on page 16. In the *Call*, VII, the committees are referred to as “*Standing Committees*.”

Recommendation: Reconcile the Table of Contents and Section IV.B to both say “*Standing Committees*”

10. **Wrong Rule cited:** Page 16, Section IV.B.2.a - This area states, “*The members of the standing committees allocated to West Virginia shall proportionally represent the presidential preference of all candidates (including uncommitted status) receiving the threshold percentage used in the state’s delegation to calculate the at-large apportionment pursuant to **Rule 12.E** of the Delegate Selection Rules*”.

*Rule 12.E* doesn’t exist and *Rule 12*, overall, has to do with the Timing of the Delegate Selection Process.

Recommendation: Reference the correct Rule. It is *Rule 14.E*

11. **Sex vs Gender and Non-Binary** - One of the changes that occurred in the 2020 DNC documents is the use of the term “sex”. For the most part, the DNC documents have been updated to use the term “gender” instead of “sex”. They have also included in the discrimination sections, the term “gender expression”. Additionally, for the sections related to equal division, they allow for the situation where a “non-binary” individual is a delegate. There are several areas in the *WV DSP* where the updated terminology isn’t included. Page 17, Section IV.B.4.a-b is one area. Another is Page 19, Section VI.C.

Recommendation: Review the document and replace the word “sex” with “gender” where appropriate, adding the term “gender expression” in the non-discrimination areas, and include how to account for a “non-binary” individual in equal division.

12. **No Content** - Page 18, Section V.C.4 - #4 is listed, but there is no content. Is there supposed to be something there?

Recommendation: Add the content of #4, or if there is no content, delete #4.

13. **Evolution of the Six Basic Elements** - Page 19, Section VI.A.1-6 - This area describes the “Six Basic Elements”, which are the six anti-discrimination standards adopted by the party in 1966. These six basic elements “have evolved and grown along with the constant push for more inclusion and empowerment”, and now reflect the term “disability” rather than “physical disability”, recognizing that not all disabilities are physical. They also include the term “gender expression”, per *Rule 4.A-B.1-6*. This section of the *Rules* has also been updated to include the word “status” at the end of the second element. The 5th element has been expanded to include an education strategy.

Recommendations:

- In 1. add “gender expression” and remove the word “physical”.

- In 2. add “based on status” at the end of the sentence.

- In 5. add, “*Each State Party should develop a strategy to provide education programs directly to voters who continue to experience confusing timelines for registration, changing party affiliation deadlines, or lack of awareness of the process for running for delegate, to ensure all Democratic voters understand the rules and timelines and their impact on voter participation*”.

Question: Since all of these elements in the Rules indicate that State parties “should” do these things, would the correct wording for this section continue to be “should”, or would “will” be more appropriate since these elements seem to be incorporated in the plan?

14. **Use of Proxies** - In Section VI.I (page 20) - This area states that a delegate can hold no more than three (3) proxies at one time. This is incorrect. *Rule 17* states that, “No such rule shall allow a person to hold more than one (1) proxy at a time”.

Recommendation: Change three (3) to one (1) in that section.

15. **Include Outreach and Inclusion Programs** - in many places throughout the document, the Affirmative Action Plan is mentioned. *Rule 1A* requires state parties to include Affirmative Action Plan and Outreach and Inclusion Programs. However, in various parts of the *WV DSP*, only the Affirmative Action Plan is mentioned and not the Outreach and Inclusion Programs.

Recommendation: Wherever Affirmative Action Plan is mentioned in the document, also include Outreach and Inclusion Programs, if accurate and appropriate to do so.

16. **Affirmative Action Committee responsibility vs State Party** - On page 22, Section VII.2.d.5 - d.1-4 are the responsibility of the Affirmative Action Committee. d.5 is a responsibility of the State Democratic Party.

Recommendation: Make d.5 a new letter, E.

17. **Wrong date** - On page 23, Section VII.B.3 - the last sentence in the paragraph indicates that the Affirmative Action Committee will distribute the *WV DSP*'s in various delegate districts not later than December 1, 2019. This is a violation of *Rule 1.H*, which states that this shall be done no later than October 1.

Recommendation: Change December 1, 2019 to October 1, 2019

18. **County Conventions left out of the Efforts to Publicize** - On page 23, Section VII.C.5 - this area describes the State Party's responsibility to publicize the delegate selection process. In this description, the county conventions are left out. Only the state primary and post-primary convention are listed as being effectively publicized. The county conventions, being the first step of becoming a delegate, needs to be included in this publicity plan.

Recommendation: Include county conventions in #5.

19. **Uncommitted Status** - On page 24, Section VII.E.4 - states, "Presidential candidates (including uncommitted status)....". This may be an error.

Recommendation: Review this area and remove "(including uncommitted status)" if it is an error.

20. **Wrong Rule cited** - Page 25, Section VIII.A 2 - states, "Under Rule 20.B" and goes on to explain the jurisdiction regarding challenges. *Rule 20.B* does not cover jurisdiction issues.

Recommendation: Reference correct Rule. I believe it is *Rule 21.B*

21. **Wrong Section cited** - On page 26, Section VIII.C.1 - this section also discusses challenges and jurisdiction and states, "(see Section VII.A above)". Section VII.A covers being and open party and the adoption of an affirmative action program.

Recommendation: Reference correct section of the *WV DSP*. I think it is Section VIII.A.

22. **Wrong Rule cited** - On page 27, the asterisk under the table - this area discusses Automatic PLEO's and cites *Rule 8.A*. This is incorrect. *Rule 8.A* discusses the apportionment of district-level delegates.

Recommendation: Reference the correct Rule. I think this is *Rule 9.A*.

23. **Draft vs Review** - Page 28, Section IX.E - Timeline. This is after the fact, but should be reconciled in the document. Beside the date in the timeline, February 25, 2019, it indicates that the Affirmative Action Committee will meet to "draft proposed Delegate Section and Affirmative Action Plans". On page 22, Section VII.A.2.d.1, it states that the Affirmative Action Committee is responsible for "reviewing the proposed Delegate Section and Affirmative Action Plans". As drafting and reviewing are significantly different, the plan should reflect what the Affirmative Action Committee will do, or did do.

Recommendation: Reconcile these two areas to be the same and reflect what actually occurred.

24. **No process for choosing Presidential Electors** - There are parts in the *WV DSP* where electors are mentioned, but a process for selecting them is not described. I'm not sure if this is required in the *Rules*, but in 2016, the Democratic presidential electors were elected at the State Convention, one from each district and 2 At-large. *The WV Code* Chapter 3, Article 5, Section 21 outlines the process, which is by state convention. Other state delegate selection plans include a section for electing Democratic presidential electors.

Recommendation: Include the process for choosing Democratic presidential electors in the *WV DSP*.

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### Process Comments and Recommendations:

25. **Date for the County Conventions, consideration of Religious observation and Spring break** - As mentioned in #4 above, the date for the county conventions is listed in the *WV DSP* as both April 11, 2020 (page 7, Section III.A.3.f) and April 1 (page 29 in the Timeline). As April 11th is a Saturday, and the 2016 County Conventions were on a Saturday, I assume that the April 1 date is a typographical error and the county conventions would be April 11th. However, if the correct date is April 11th, consideration needs to be given that April 11th, 2020 is Holy Saturday and the last day of Holy Week in the Christian faith, most notably the Catholic religion. Also, Easter weekend is often the start or end of spring break for school staff and families with children in the public school system. Many families either plan to travel on Easter weekend or have family and guests to their home on Easter weekend.

The *Rule 3.A* and B are listed below.

A. *All official Party meetings and events related to the national convention delegate selection process, including caucuses, conventions, committee meetings, filing dates, and Party enrollment periods, shall be scheduled for dates, times and publicly accessible*

*places which would be most likely to encourage the participation of all Democrats, and must begin and end at reasonable hours. It shall be the responsibility of the State Party to select the dates, times and to locate and confirm the availability of publicly accessible facilities for all official party meetings and events related to the national convention delegate selection process.*

- B. *All such meetings or events which are the first meeting or event in the delegate selection process shall be scheduled at times and dates which are uniform throughout the state, except where it is established by the State Party and approved by the DNC Rules and Bylaws Committee that such uniform times and dates would significantly reduce participation in the delegate selection process.*

Additionally, in *WV DSP*, Section 1, Voter Participation, #5 (page 6), it states, “*In addition, the scheduling of meetings shall consider any religious observations that could significantly affect participation*”

I am unsure of how this religious observation would affect participation, and perhaps consideration has already been given to this date. However, at the very least, it will affect the timing of the county conventions due to religious services that will be held that day. Additionally, since some of our most valuable constituents are school staff and families with children in the public education system, it would be prudent to have the county conventions during a time when they are more likely to be able to attend.

Recommendation: Consider the potential of the religious observation on April 11th significantly affecting participation at the County Conventions when finalizing the the date for the County Conventions, as well as reconciling the dates listed in the *WV DSP* on pages 7 and 29.

26. **Selection of Alternates** - Page 4 chart; page 7, Section III.A.3.c; page 11 Section III.D. 2-3.b; and page 12 Section III.D.4.b.

The areas in the WV Delegate Selection plan mentioned above relate to the selection of Alternates. WV is allowed 2 alternates and the method for selection outlined in the current plan is by the WV State DEC. *The Rules* state that Alternates “shall be selected” (Rule 11.B) by one of the bodies outlined in Rule 10B, allowing for the current method under certain conditions:

**Information in bold parentheses added by me for informational purposes.**

*Rule 11.B - A state’s at-large delegates and **alternates** shall be selected by one of the bodies, subject to the same conditions specified in Rule 10.B.(a state convention or by a committee consisting of a quorum of district-level delegates -see Rule 10.B below), provided, however, the State Party Committee may choose such delegates and alternates only if the state’s Delegate Selection Plan is in full compliance with these rules.*

*Rule 10.B - A state’s party leader and elected official delegates may be **chosen by a state convention or by a committee consisting of a quorum of district-level delegates.** They may also be chosen by the State Party Committee, as recognized by the Democratic National Committee, but only if the state’s Delegate Selection Plan is in full compliance with these rules, and provided:*

1. *Membership on the State Party Committee is apportioned on the basis of population and/or some measure of Democratic strength;*

2. *Members of the State Party Committee have been elected through open processes in conformity with the basic procedural guarantees utilized for delegate selection;*
3. *Such delegates are elected at a public meeting subsequent to the election of district-level delegates;*
4. *Members of the State Party Committee exercising such authority shall have been elected no earlier than the calendar year of the previous national convention; and*
5. *Membership of the State Party Committee complies with the equal division requirements of Article 9, Section 16 of the Charter of the Democratic Party of the United States.*

Recommendation: Allow the full delegation of WV State Convention to select the 2 Alternates. This is in line with *Rule 11.B*, and allows for a larger, more diverse group to choose the Alternates, as the full delegation to the WV State Convention will have been selected following the implementation of the Affirmative Action Plan and Outreach and Inclusion Program laid out in the WV DSP. Additionally, other states allow their full delegation to choose their Alternates, as a way to further engage the grassroots in the process. If this change is implemented, I recommend the WV DSP be amended to reflect the process in the appropriate areas.

27. **Selection of PLEOs** - Similar to #26, the party leader and elected official (PLEO) delegates **may** be chosen by the state convention. Again, citing *Rule 10.B* (see 25 above for full language).

Recommendation: Allow the full delegation of the WV State Convention to select the 3 PLEO's. This is in line with *Rule 10.B*, and allows for a larger, more diverse group to choose the PLEOs, as the full delegation to the WV State Convention will have been selected following the implementation of the Affirmative Action Plan and Outreach and Inclusion Program laid out in the WV DSP. If this change is implemented, I recommend the WV DSP be amended to reflect the process in the appropriate areas.

28. **Selection of At-Large delegates** - Similar to #26 and #27, above, *Rule 11.B*, states that our At-Large delegates "shall be selected" by one of the bodies outlined in 10.B (see 25 above for full language), providing for the current method under certain conditions.

Additionally, on Page 11, Section III.D.3b - the current plan is in conflict with this statement: *"After the at-large delegates are elected by West Virginia State Democratic State **Convention**, those persons not chosen will then be considered candidates for at-large alternate positions unless they specify otherwise when filing"*.

Recommendation: Allow the full delegation of the WV State Democratic Convention select the At-Large delegates, following the guidelines to give first consideration to fulfilling the Affirmative Action Plan goals. This is in line with *Rule 11.B* and would allow for a larger, more diverse group to choose the At-Large delegates, as the full delegation to the WV State Convention will have been selected following the implementation of the Affirmative Action Plan and Outreach and Inclusion Programs laid out in the WV DSP. If this change is implemented, Section III.D.3b would not need to be changed. If this is not allowed, this area would need to be edited to reflect the correct process.



29. **Alternates** - Page 11, Section III.C.4.b - This section states that the “*Selection of the pledged PLEO delegates will occur June 13, 2020, in Charleston, WV which is after the election of the **district-level delegates and alternates** and prior to the selection of **at-large delegates and alternates***”. Larger states have many alternates and have alternates for both their pledged and at-large delegates; however WV only has 2, which are At-large Alternates, and the wording related to different types of Alternates is confusing.

Recommendation: I recommend that after the decision on how and when At-large, PLEO's and Alternates are selected, that this sentence be re-written to accurately reflect the plan.

30. **Social Media used in Publicizing** - Page 23, Section VII.C 1-6 covers the efforts to publicize the delegate selection plan. The WV DP email list, including use of NGP VAN, and social media sites, should be utilized to publicize the information about the delegate selection process.

Recommendation: Include WV DP email lists, email through NGP VAN and WV DP social media sites (Facebook, Twitter, etc) in this publicity plan section.