

MEMORANDUM

TO: Interested Persons
FROM: Credentials Committee of the Michigan Republican Party
DATE: February 7, 2012
RE: Application of Possible Penalty Imposed Pursuant to Rule 16 of the Rules of the Republican Party (the "National Rules") to Govern the 2012 Republican National Convention

BACKGROUND

The Michigan Election Code requires that the Michigan presidential primary election occur on February 28, 2012. MCL 168.613a. February 28 is one of four statewide election dates for 2012 in Michigan, the others being May 8, August 7, and November 6. Consequently, if the presidential primary were held on a date other than February 28, 2012, the citizens of Michigan would pay an additional \$10 million in scarce public dollars to conduct this election. Therefore, the Michigan Legislature has no interest in changing the February 28, 2012 presidential primary election date.

Rule No. 15(b) of the National Rules indicates that states which allocate their delegates proportionally (like Michigan) are allowed to conduct their process on March 6, 2012 or later. Rule No. 16 of the National Rules imposes penalties upon any state that chooses to elect, select, allocate or bind delegates to the 2012 Republican National Convention earlier than the first day of the month in which that state is authorized to do so under Rule No. 15(b) of the National Rules. These penalties include a fifty percent (50%) reduction in the number of delegates that state is authorized to send to the 2012 Republican National Convention, as well as a prohibition on the three (3) Republican National Committee members from that state serving as delegates or alternate delegates.

Because of these penalties, it is proposed that Michigan receive 30 voting delegates and alternates to the 2012 Republican National Convention, instead of 59 delegates to the 2012 Republican National Convention.

On August 13, 2011, the Michigan Republican State Committee adopted the "Republican Party of Michigan Rules for Selection of Delegates and Alternates to the 2012 Republican County, State and National Conventions" (hereinafter referred to as the "State Rules"). According to Rule No. 19G. of the State Rules:

"G. Intent to Send Full National Convention Delegation

That the full Delegation of National Delegates and Alternates of the Michigan Republicans be sent to the National Convention in 2012, notwithstanding the fact that the Delegation may be chosen prior to March 6, 2012."

Based on the foregoing, Michigan plans to appeal any penalty assessment under the National Rules. The bottom line: The Michigan delegation to the Republican National Convention should not be penalized for conducting a presidential primary election on a date completely outside of its control, and entirely under the control of the Michigan Legislature.

PURPOSE OF THIS MEMORANDUM

The purpose of this Memorandum is to advise interested persons how the Michigan Republican Party will allocate its National Convention delegates and alternates among Republican presidential candidates assuming that the Michigan delegation is limited to 30 National Convention delegates and alternates, as currently provided under the penalties imposed pursuant to the National Rules. Since this Memorandum is an interpretation of the existing State Rules, the Republican National Committee has advised

that interpretation is not an amendment to the State Rules, therefore, a waiver from the Republican National Committee is unnecessary.

The process for the allocation of National Convention delegates and alternates is straightforward: The Michigan Republican Party will adhere to Rule No. 19 of the State Rules as closely as possible. For your convenience, a copy of Rule No. 19 of the State Rules is attached.

As Rule No. 19G. of the State Rules provides, Michigan will send its full 59-member delegation to the National Convention; however, it is possible that only 30 of these delegates and alternates will be officially recognized at the Republican National Convention. To arrive at 30 "officially recognized" delegates and alternates to the National Convention, Michigan intends to designate two (2) National Convention delegates and alternates from each congressional district as the "officially recognized" delegates and alternates to the National Convention. In accordance with Rule No. 19C. of the State Rules, the Republican presidential candidate who receives the most votes in the Presidential Preference Vote for a congressional district shall be allocated the delegates and alternates from that particular congressional district. This process of allocation will remain unchanged. Now, however, of the three (3) National Convention delegates and alternates allocated to each congressional district, there shall be two (2) "officially recognized" delegates and alternates from that congressional district. Since there are 14 congressional districts in Michigan, this will account for 28 "officially recognized" National Convention delegates and alternates.

With respect to at-large delegates and alternates, please note that absent a penalty from the Republican National Committee, Michigan is entitled to fourteen (14) at-

large delegates and alternates. According to Rule No. 19C(2). of the State Rules, at-large delegates and alternates are allocated on a proportional basis of the statewide vote, to presidential candidates receiving at least fifteen percent (15%) of the statewide vote. This process of allocation will remain unchanged. Now, however, an at-large slate of two (2) National Convention delegates and alternates will also be selected to complete the "officially recognized" listing of 30 National Convention delegates and alternates from Michigan. The allocation of this "officially recognized" at-large slate of two (2) National Convention delegates and alternates shall be calculated in accordance with Rule No. 19C(2). of the State Rules by merely substituting "two (2)" for "fourteen (14)."

The final allocation of National Convention delegates and alternates to any Republican presidential candidate shall be determined by the Credentials Committee of the Michigan Republican Party, and may be appealed pursuant to Rule No. 19F. of the State Rules. If any interested person should have any questions regarding this Memorandum, please contact Eric Doster, Michigan Republican Party General Counsel, at 517-371-8241.

ED:js:dr

19. ELECTION OF NATIONAL CONVENTION DELEGATES AND ALTERNATES

A. Allocation of National Convention Delegates and Alternates

National Convention delegates and alternate delegates shall be elected based on the presidential preference vote (the "Presidential Preference Vote") taken at the presidential primary election, to be held between February 28, 2012 and March 6, 2012. All challenges with respect to the Presidential Preference Vote shall be heard and determined by the Credentials Committee, whose decision(s) shall be final, unless changed by a two-thirds (2/3) vote of the full State Convention present and voting on Saturday, May 19, 2012.

The Presidential Preference Vote shall be a closed primary. Any Michigan Republican is eligible to vote if s/he is a registered Michigan elector and declares her/his party designation by selecting a Republican-designated ballot at her/his precinct on the primary election date. Electors may select absentee Republican-designated ballots if qualified to vote by absentee ballot. The names of all electors who select the Republican-designated ballot shall be collected by the Secretary of State and maintained as a public list of Republican-designated ballot voters in a manner similar to the Secretary of State records of voter registration.

B. Designation of Potential Presidential Candidates

The Credentials Committee shall prepare a slate of the potential presidential candidates for the Republican Party to be placed on the ballot (the "Ballot") for the Presidential Preference Vote and provide the Ballot to the State Party Chair, who shall submit the Ballot in a timely manner to the Michigan Department of State, according to the Michigan Election Code. However, the vote of twenty-five percent (25%) of the members of the MRSC elected and serving (not by proxy) may add a name or names to the Ballot while the vote of 66.66% of the members of the MRSC elected and serving (not by proxy) may remove a name or names from the Ballot.

C. Determining the Number of Delegates and Alternate Delegates to be Committed to Each Presidential Candidate

Except as provided in Rule 19E, National Convention delegates and alternate delegates shall be elected based on the votes casts as uncommitted or for each respective Republican presidential candidate of the Republican Party's total statewide vote at the Presidential Preference Vote. The determination of these allocations shall be made as follows:

- (1) The Republican presidential candidate (or, if applicable, uncommitted) who receives the most votes in the Presidential Preference Vote for a congressional district shall be allocated the three (3) National Convention delegates and three (3) National Convention alternate delegates for that particular congressional district.
- (2) National Convention at-large delegates and at-large alternate delegates shall be elected on a basis that insures that the proportion of the at-large

National Convention delegation that is committed to each Republican presidential candidate equals, as nearly as is practicable, the proportion of the statewide vote that was cast for each respective presidential candidate (or, if applicable, uncommitted) at the statewide Presidential Preference Vote. The determination of these proportions shall only include the votes cast for that particular Republican presidential candidate (or, if applicable, uncommitted), if the total vote cast for that particular Republican presidential candidate (or, if applicable, uncommitted), equals at least fifteen percent (15%) of the total statewide vote cast for all Republican presidential candidates (or, if applicable, uncommitted) at the Presidential Preference Vote (hereinafter the "Threshold Vote").

The State Party Chair shall assure that the proportion of the at-large National Convention delegation committed to a particular presidential candidate (or, if applicable, uncommitted) is equal to the proportion of the statewide Presidential Preference Vote. That number shall be determined by dividing the total statewide Presidential Preference Vote received by each presidential candidate (or, if applicable, uncommitted) by the total statewide Presidential Preference Vote cast for all Republican presidential candidates (or, if applicable, uncommitted), not including within the total statewide Presidential Preference Vote those votes cast for any candidate (or, if applicable, uncommitted) that did not equal or exceed the Threshold Vote. The resulting percentage for each candidate (or, if applicable, uncommitted) shall be multiplied by fourteen (14) and rounded to the nearest whole number (.5 and above rounds up, below .5 rounds down), which shall be the number of delegates and alternate delegates that that candidate (or, if applicable, uncommitted) shall receive from the at-large National Convention delegation. If as a result of rounding off to the nearest whole number, there are more than fourteen (14) delegate and alternate positions assigned, the number of positions shall be decreased to fourteen (14) by subtracting the necessary number of positions from the Republican presidential candidate (or, if applicable, uncommitted) receiving the fewest votes cast at the Presidential Preference Vote. If as a result of rounding off to the nearest whole number, there are less than fourteen (14) delegate and alternate positions assigned, the number of positions shall be increased to fourteen (14) by adding the necessary number of positions to the Republican presidential candidate (or, if applicable, uncommitted) receiving the most votes cast at the Presidential Preference Vote.

D. Selecting the Individual National Convention Delegates and Alternate Delegates

At the congressional district caucuses on Friday, May 18, 2012, the congressional district caucuses shall elect the National Convention delegates and alternate delegates that are allocated to that presidential candidate (or, if applicable, uncommitted) in that congressional district.

At the State Convention meeting on Saturday, May 19, 2012, State Convention delegates shall vote on the slate of at-large delegates and at-large alternate delegates proposed by the Credentials Committee. In the event that a name on the slate is rejected by the applicable State Convention delegates, the Credentials Committee shall suggest a replacement name (which may be the same name) for consideration, as the State Convention only has the authority to reject, but not amend, any name on this slate.

If, after having been selected as a delegate to the National Convention, such delegate is unable to attend the National Convention, then the Credentials Committee shall fill such vacancy with an individual who was selected as a National Convention alternate delegate from the congressional district in which such vacancy occurs; provided, however, that if such vacancy occurs at least seven (7) days prior to the National Convention, the Credentials Committee shall only fill such vacancy after consultation with the District Chair of the congressional district in question. Since the elevation of a National Convention alternate delegate to a National Convention delegate will create a vacancy in a National Convention alternate delegate slot, the Credentials Committee shall select a replacement to fill this vacant National Convention alternate delegate slot; provided, however, that if such vacancy occurs at least seven (7) days prior to the National Convention, the Credentials Committee shall only fill such vacancy after consultation with the District Chair of the congressional district in question.

If, after having been selected as an alternate delegate to the National Convention, such alternate delegate is unable to attend the National Convention, then the Credentials Committee shall select a replacement to fill this vacant National Convention alternate delegate slot; provided, however, that if such vacancy occurs at least seven (7) days prior to the National Convention, the Credentials Committee shall only fill such vacancy after consultation with the District Chair of the congressional district in question.

If, after having been selected as an at-large delegate to the National Convention, such at-large delegate is unable to attend the National Convention, then the Credentials Committee shall fill such vacancy with an individual who was selected as a National Convention at-large alternate delegate. Since the elevation of a National Convention at-large alternate delegate to a National Convention at-large delegate will create a vacancy in a National Convention at-large alternate delegate slot, the Credentials Committee shall select a replacement to fill this vacant National Convention at-large alternate delegate slot.

If, after having been selected as an at-large alternate delegate to the National Convention, such at-large alternate delegate is unable to attend the National Convention, then the Credentials Committee shall select a replacement to fill this vacant National Convention at-large alternate delegate slot.

E. No Allocation of Delegates Upon the Occurrence of Certain Events

Notwithstanding any provision in these Rules to the contrary, if at any time (even after the conclusion of the State Convention or during the National Convention), a Republican

presidential candidate, who takes any of the following actions, shall not be allocated and/or lose any delegates and alternate delegates that he/she may have otherwise been allocated pursuant to these Rules:

- (1) Publicly withdraws from contention as a Republican candidate for President of the United States.
- (2) Suspends his or her campaign as a Republican candidate for President of the United States.
- (3) Endorses another candidate for President of the United States.
- (4) Seeks the nomination of a political party other than the Republican Party for any political office.

The foregoing actions are irreversible. For example, if a Republican presidential candidate suspends his or her own campaign as a Republican candidate for President of the United States, a subsequent withdrawal of such action will not cure the loss of allocation of delegates as provided in this Rule 19E.

In the event that any of the foregoing actions occurs as determined by the Credentials Committee, then the Credentials Committee shall so notify the Republican presidential candidate in question. If the Republican presidential candidate in question disagrees with the Credentials Committee's determination, then the Republican presidential candidate in question must file an appeal with the MRSC within five (5) calendar days of the Credentials Committee's determination. Provided that a timely appeal is filed, a majority vote of the MRSC (either present at any meeting, telephonic conference, or voting by Internet/e-mail) shall be necessary to reverse the determination of the Credentials Committee as to whether any of the foregoing actions occurred.

In the event that a Republican presidential candidate is not allocated and/or loses delegates or alternate delegates by operation of this Rule 19E, such delegates or alternate delegates shall be deemed "uncommitted" delegates and alternate delegates to the National Convention.

F. Contest Procedure

(1) The Credentials Committee is hereby empowered to hear any challenges whatsoever related to the Michigan delegation to the National Convention. The Credentials Committee shall have the power to adopt procedural rules, not inconsistent with these Rules, which shall govern the expeditious prosecution of contests before the Credentials Committee. When any deadline set out in this Rule falls on a Sunday or legal holiday, such deadline shall be extended to the following day.

(2) In order to initiate a challenge whatsoever related to the Michigan delegation to the National Convention, a notice of contest must be filed as provided herein. A

notice of contest shall state the grounds of the contest and shall be filed, no later than ten (10) days after the conclusion of the State Convention (unless such deadline is extended by the Credentials Committee), with the State Party Chair and shall be sent, simultaneously, by registered mail to the person or persons being contested. A notice of contest may be filed only by a person who is eligible to participate at any level in the delegate selection process in Michigan.

(3) Only contests that are timely filed under these Rules shall be considered.

(4) For the purposes of this Rule 19F, the term “party” shall mean a person or persons who shall have filed a notice of contest pursuant to this Rule, and the person or person whose right to be seated as a delegate or alternate delegate is the subject of such notice of contest.

(5) Within ten (10) days after a notice of contest is filed pursuant to Rule 19F(2), each of the parties shall file with the State Party Chair at least three (3) printed or typewritten copies of the statement of position in support of the party’s claim to sit as delegates or alternate delegates to the National Convention together with such affidavits or other evidence as desired. The State Party Chair, upon receiving the statement of position of a party, shall furnish the opposing party a copy of said statement of position. Each statement of position shall begin with a summary of not more than one thousand (1,000) words setting forth succinctly a synopsis of the statement of position and a specific statement of the points relied upon.

(6) The Credentials Committee shall render its decision as to each contest as quickly as possible. The Credentials Committee shall promptly serve its decision upon the parties by the most expeditious method available, providing for written evidence of receipt including, but not limited to, overnight delivery service.

(7) Any appeal of the decision of the Credentials Committee may be made to the Republican National Committee pursuant to the Rules of the Republican Party as adopted by the 2008 National Convention. However, no notice of contest may be filed with the Republican National Committee unless a notice of contest has been submitted and decided by the Credentials Committee pursuant to this Rule 19F.

G. Intent to Send Full National Convention Delegation

That the full Delegation of National Delegates and Alternates of the Michigan Republicans be sent to the National Convention in 2012, notwithstanding the fact that the Delegation may be chosen prior to March 6, 2012.