



NATIONAL CONFERENCE OF STATE LEGISLATURES

The Forum for America's Ideas

State Primary Election Systems

**Note this chart only pertains to state, local and congressional elections.*

	Closed <i>Voters must be registered members of the party holding the primary.</i>	Partially Closed <i>Voters must be registered members of the party holding the primary; however, parties may choose each election whether to allow unaffiliated voters to participate.</i>	Open <i>Voters may choose which primary to vote in privately. The choice does not register the voter with the party.</i>	Open to Unaffiliated Voters <i>Unaffiliated voters may choose which party primary they want to vote in, but voters affiliated with other parties may not cross over</i>	Partially Open <i>Voters may choose which primary to vote in, but must either do so publicly or their vote may be regarded as a form of registration with that party.</i>	Alternative Systems	Applies to Presidential?
Alabama ¹			X				YES
Alaska ²		X					NO
Arizona ³				X			NO
Arkansas ⁴			X				YES
California ⁵				X		Top-Two	NO
Colorado ⁶		X					NO
Connecticut ⁷							YES
Delaware ⁸	X						YES
Florida ⁹	X						YES
Georgia ¹⁰			X				YES
Hawaii ¹¹			X				NO
Idaho ¹²		X			X		NO
Illinois ¹³					X		YES
Indiana ¹⁴					X		NO
Iowa ¹⁵					X		NO
Kansas ¹⁶	X						NO
Kentucky ¹⁷	X					Top-Two	NO
Louisiana ¹⁸							NO
Maine ¹⁹	X						YES
Maryland ²⁰		X			X		YES
Massachusetts ²¹							YES
Michigan ²²			X				NO
Minnesota ²³			X				NO
Mississippi ²⁴					X		YES
Missouri ²⁵			X				YES
Montana ²⁶			X				YES
Nebraska ²⁷						Mixed	NO

	<u>Closed</u> <i>Voters must be registered members of the party holding the primary.</i>	<u>Partially Closed</u> <i>Voters must be registered members of the party; however, parties may choose each election whether to allow unaffiliated voters to participate.</i>	<u>Open</u> <i>Voters may choose which primary to vote in privately. The choice does not register the voter with the party.</i>	<u>Open to Unaffiliated Voters</u> <i>Unaffiliated voters may choose which party primary they want to vote in, but voters affiliated with other parties may not cross over</i>	<u>Partially Open</u> <i>Voters may choose which primary to vote in, but must either do so publicly or their vote may be regarded as a form of registration with that party.</i>	<u>Alternative Systems</u>	<u>Applies to Presidential?</u>
Nevada ²⁸	X						NO
New Hampshire ²⁹		X					NO
New Jersey ³⁰	X						NO
New Mexico ³¹	X						YES
New York ³²	X						YES
North Carolina ³³		X					YES
North Dakota ³⁴			X				NO
Ohio ³⁵					X		YES
Oklahoma ³⁶		X					YES
Oregon ³⁷		X					YES
Pennsylvania ³⁸	X						YES
Rhode Island ³⁹		X			X		YES
South Carolina ⁴⁰		X					NO
South Dakota ⁴¹		X					NO
Tennessee ⁴²					X		NO
Texas ⁴³					X		YES
Utah ⁴⁴		X					NO
Vermont ⁴⁵			X				YES
Virginia ⁴⁶					X		YES
Washington ⁴⁷						Top-Two	NO
West Virginia ⁴⁸				X			YES
Wisconsin ⁴⁹			X				YES
Wyoming ⁵⁰					X		NO

Pros and Cons

Closed: In general, a voter seeking to vote in a closed primary must first be a registered party member. Typically, the voter affiliates with a party on his or her voter registration application. This system deters “cross-over” voting by members of other parties. Independent or unaffiliated voters, by definition, are excluded from participating in the party nomination contests. This system generally contributes to a strong party organization.

Partially Closed: Political parties use this system to allow independent or unaffiliated voters to participate in their nominating contests. In this type, parties let in independents, while still excluding members of opposing parties. This variation can increase turnout at the primary and can increase party membership because voters are sometimes required to affiliate with the party for a period of time in order to receive a ballot, as is the case in Rhode Island.

Open: In general, but not always, states that do not ask voters to choose parties on the voter registration form are “open primary” states. In the pure open primary, voters may choose privately in which primary to vote. In other words, voters may choose which party’s ballot to vote, but this decision is private and does not register the voter with that party. The completely open primary permits a voter to switch parties for the primary election and cast a so-called crossover vote. This vote can affect an open primary’s outcome because there is no public repercussion—i.e., no change in registration—to switching party allegiance. Consequently, critics argue that the open primary dilutes the parties’ ability to nominate. This system gives voters maximal flexibility—allowing them to cross party lines—and maintains their privacy, but tends to dilute the parties’ ability to nominate representative standard bearers.

Partially Open: Some state parties keep track of who votes in their primaries as a means to identify their backers. This system permits voters to cross party lines, but they must either publicly declare their ballot choice or their ballot selection may be regarded as a form of registration with the corresponding party. Illinois and Ohio have this system. Iowa is an exception; it asks voters to choose a party on the state voter registration form, yet it allows a primary voter to publicly change party affiliation for purposes of voting on Primary Election Day.

Top-Two: California, Louisiana, Nebraska (for state elections) and Washington currently use a “top two” format. The “top two” uses a common ballot, listing all candidates. In Louisiana, each candidate lists his or her party affiliation, whereas in Washington, each candidate is authorized to list a party “preference.” The top two vote getters in each race, regardless of party, advance to the general election. On June 8, 2010, California voters approved Proposition 14, which moves the state to a top two system similar to Washington, effective Jan. 1, 2011. Advocates of the top-two argue that it increases the likelihood of moderate candidates advancing to the general election ballot. Opponents maintain that it reduces voter choice by making it possible that two candidates of the same party face off in the general election. They also contend that it is tilted against minor parties who will face slim odds of earning one of only two spots on the general election ballot.

¹ <https://www.alabamavotes.gov/FAQ.aspx?m=Voters#11>

² The parties must submit notice clarifying whether or not their primaries will be open by September 1st of the year before the election. AS § 15.25.014. The Democrats have an open primary and the Republican primary is open to Republicans and unaffiliated voters. https://www.elections.alaska.gov/ei_primary.php.

In 2001 following the United States Supreme Court ruling against blanket primaries Alaska switched to a system which allows each party to determine which type of primary it will hold. In 2008 and 2010, the Democratic Party allowed any registered voter to participate in its “open” primary. The Republican primary was open to registered Republicans, Nonpartisan or Undeclared voters.

³ Arizona has a closed primary system, but independents can vote in any party’s primary. A.R.S. § 16-467.

⁴ A.C.A. § 7-7-307

5 <http://www.sos.ca.gov/elections/primary-elections-california/>

6 Unaffiliated voters can vote in party primaries, but they have to declare affiliation with that party and Colorado has election day registration. C.R.S.A. § 1-7-201. Colorado holds a closed caucus at which candidates who receive more than 30% of the vote proceed to the primary election. Candidates may also petition onto the primary ballot.

7 Connecticut has closed primaries but the individual parties may allow unaffiliated voters to vote. C.G.S.A. § 9-431. Candidates who lose the primary in Connecticut may then register as Independents, allowing them a position on the general election ballot.

8 15 Del.C. § 3110.

9 West's F.S.A. § 101.021

10 <http://www.southernpoliticalreport.com/2016/04/29/up-next-georgias-may-24-primary-election/>

11 Voters are entitled to select any party ballot they want. HRS § 12-31.

12 A party may elect to open its primary to unaffiliated voters and voters affiliated with other parties by notifying the Secretary of State's office by the last Tuesday before the election. I.C. § 34-904A. In April, 2011, Idaho enacted legislation to change from an open primary system without any party registration to a partially closed system. In 2012, voters can elect which party's ballot to vote, and their choice will constitute registration. After 2012, parties can decide prior to each election whether to permit unaffiliated voters or members of other parties to vote in their primaries.

13 10 ILCS 5/7-43

14 IC 3-10-1-6.

15 A voter can request any party's ballot after changing party affiliation at the polls. I.C.A. § 43.42.

16 A voter's right to vote in a primary can be challenged if that voter is not a member of the party. K.S.A. 25-216.

17 To vote in a party primary the voter must either be a new registrant or registered with that party since December 31st of the year before the election. KRS § 116.055.

18 In Louisiana, unlike in other top-two systems, a candidate who receives a majority of the vote in the primary is automatically elected, in which case the race does not proceed to a general election. <http://www.sos.la.gov/ElectionsAndVoting/GetElectionInformation/ReviewTypes/Objections/Pages/default.aspx>

19 A party may allow voters affiliated with other parties to vote in the party primary by providing notice to the Secretary of State's office by February 1st of the election year. If no notice is received then it remains a closed primary. 21-AM.R.S.A. § 340.

20 A party can permit unaffiliated voters to participate in its primary if the chairman of the party's State Central Committee notifies the State Board of Elections at least 6 months prior to the date of the primary election. MD Code, Election Law, § 8-202(c).

21 A voter can only vote in the primary for the party in which that voter is affiliated; however, the voter can change affiliation at any time from 20 days until the election through Election Day. M.G.L.A. 53 § 38. Although the "unenrolled" voters must declare, they are not thereby "enrolled" with the chosen party. Source: National Conference of State Legislatures

22 Michigan has nonpartisan voter registration. State primaries are open, but for presidential primaries voters must choose a party ballot and that ballot selection is public. http://www.michigan.gov/documents/sos/2016_Questions_and_Answers_for_Michigan_Presidential_Primary_510281_7.pdf

23 The ballot has a party for each column and voters may only vote for candidates in one party column. M.S.A. § 204D.08.

24 A poll worker can challenge a voter's vote if the poll worker knows that the voter is crossing over and voting in the opposite party's primary. <http://www.jacksonfreepress.com/news/2014/aug/20/mississippi-primaries-open-or-not/>

25 V.A.M.S. 115.397

26 Registration is nonpartisan, and voters may select one party ballot from any party. <http://sos.mt.gov/ELECTIONS/FAQ/index.asp>

27 Unaffiliated voters may vote in any party primary for U.S. House of Representatives and U.S. Senate. In contrast, for state offices Nebraska has closed party primaries unless a party notifies the Secretary of State's Office that they will be having an open primary by 60 days prior to the primary election. Neb. Rev. St. § 32-912. Nebraska uses a non-partisan top-two system for its unicameral legislature (senate) races and some state offices. In federal elections, unaffiliated voters may request a separate partisan ballot to vote in the partially closed primary.

28 <http://www.clarkcountynv.gov/election/Pages/PartyAff.aspx>

29 It is up to the parties to choose whether or not their respective primaries will be open to unaffiliated voters. Title LXIII 659:14.

30 In order to vote in a party primary the voter must have been a member of that party since 55 days prior to the primary, unless that voter is a new voter or has not voted in a primary before. N.J.S.A. 19:23-45. First time primary voters can declare their affiliation at the polls. <http://www.state.nj.us/state/elections/voting-information-voting-faq.html>

31 <http://www.theatlantic.com/politics/archive/2014/06/why-one-in-five-registered-voters-in-new-mexico-couldnt-vote-tuesday/458328/>

32 McKinney's Election Law § 8-302

33 Voters cannot cross over and vote in another party's primary, but unaffiliated voters can vote in party primaries if the party opens their primary to unaffiliated voters. N.C.G.S.A. § 163-59. If a party chooses to allow unaffiliated voters to vote in the primary they must notify the State Board of Elections by December 1st of the year before the election. N.C.G.S.A. § 163-119.

34 Voters may select one party ballot. <https://vip.sos.nd.gov/PortalListDetails.aspx?ptlhpPKID=55&ptlPKID=7>. North Dakota is also the only state that does not have voter registration. <https://vip.sos.nd.gov/pdfs/Portals/votereg.pdf>

35 Voters in Ohio do not declare a party affiliation when they register to vote, but are considered to be affiliated with a party when requesting that party's primary ballot. <http://www.sos.state.oh.us/sos/elections/Voters/FAQ/genFAQs.aspx#declare>. A poll worker may challenge a voter's party affiliation. R.C. § 3513.19. According to the Ohio Secretary of State's Office, a voter can only be challenged for crossing over to vote in another party's primary if the poll worker has actual first-hand knowledge that the voter is affiliated with a different party. In that case, the voter must sign a document declaring affiliation with the new party. <http://www.dispatch.com/content/stories/public/2016/What-you-need-to-know-about-voting-in-the-Ohio-primary.html>.

36 Oklahoma has closed party primaries, but the party may allow independents to vote by notifying the State Election Board between November 1st and 30th of the year before the election. 26 Okl.St. Ann. § 1-104.

37 The parties have the option of choosing between a closed primary and an open primary. <http://sos.oregon.gov/voting/Pages/voteinor.aspx>.
38 25 P.S. § 2999

39 Rhode Island voters must be affiliated with a party in order to vote in that party's primary, but a voter may register with that party on Election Day. Unaffiliated voters can vote in any primary, but once they do so they are considered a member of that party unless they disaffiliate. <http://www.elections.state.ri.us/faq/#typeprim>.

40 Parties may change their rules for membership. Title 7 § 7-9-20.

41 No voter can vote in a party primary without being affiliated with that party, but any party may allow unaffiliated voters to vote in their party primary through their constitution or bylaws. SDCL § 12-6-26.

42 A voter declares allegiance to a party when selecting that party's ballot. T.C.A. § 2-7-115(b)(2).

43 Texas has an open primary system, but voters are bound to be a member of the party they choose for a full year. V.T.C.A., Election Code § 162.004.

44 Parties that have primaries must file a statement with the Lieutenant Governor specifying whether unaffiliated voters or members of other parties may vote in their primary. U.C.A. 1953 § 20A-9-403(2)(a). Parties hold closed caucuses—if more than 60 percent of the vote goes to one candidate, the party bypasses the primary. If no candidate receives more than 60 percent of the vote, the party determines which type of primary it will hold.

45 VT Const. CH II, § 42

46 Virginia's open primary law was found to be unconstitutional on the grounds that it violates a party's freedom of association when people not affiliated with the party are selecting that party's nominee. *Miller v. Brown*, 503 F.3d 360 (4th Cir. 2007). In *Parson v. Alcorn* the United States District Court for the Eastern District of Virginia held that the Republican Party may choose to include a loyalty pledge on the ballot.

47 <https://www.sos.wa.gov/elections/faqcandidates.aspx>

48 Independents can request a ballot for any party. http://www.sos.wv.gov/elections/current/Pages/VoterFAQs.aspx#anchor_1404242592222.

49 Voters don't register with a party. Instead, they get a ballot with a column for each party and they are only allowed to fill out one column. <http://www.gab.wi.gov/node/3909>

50 Requesting a partisan primary ballot requires a declaration of affiliation with that party. W.S. 1977 § 22-5-212