

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION**

CHIP HUNT; REPUBLICAN PARTY OF  
TEXAS,

*Plaintiffs,*

v.

STATE OF TEXAS; JANE NELSON,  
in her official capacity as Texas  
Secretary of State,

*Defendants.*

Civil Action No. 2:25-cv-200

**PLAINTIFFS' OPPOSITION TO**  
**DEFENDANT SECRETARY OF STATE JANE NELSON'S**  
**MOTION TO DISMISS**

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## INTRODUCTION

The First Amendment protects the Republican Party of Texas’s (the “Party”) associational freedom to “identify the people who constitute” the Party, and to “limit” the Party’s membership to “those people only.” *Cal. Democratic Party v. Jones*, 530 U.S. 567, 574 (2000). The Party seeks to exercise that right by conducting closed primary elections in which only those voters who qualify as Republicans under Republican Party of Texas Rule 46 can vote in a Party primary. Yet Texas law overrides that judgment, telling the Party that a ‘Republican’ is simply anyone who shows up on election day and asks for a Republican ballot. That is unconstitutional. As the Supreme Court has repeatedly held, forcing a political party to associate with non-members in selecting its nominees severely burdens First Amendment rights and triggers strict scrutiny—a test the State cannot meet.

The Secretary of State, and *not* the State of Texas, has moved to dismiss for lack of jurisdiction and failure to state a claim, *see* ECF 30, 30-1, but each of her arguments fails.

As an initial matter, Plaintiffs have Article III standing. Forcing a political party to associate with members of another party when choosing its nominees is a recognized constitutional injury. That injury here is caused by Secretary Nelson’s enforcement of Texas’s open-primary provisions. And Plaintiffs’ requested declaratory and injunctive relief would redress this injury by enabling the Party to implement closed primaries itself or through the Texas Legislature. Plaintiffs’ claim is ripe for essentially the same reason: There is an active and concrete dispute as to whether the Secretary can force the Party to ignore its own rules and select candidates according to Texas’s open primary provisions. The Secretary disputes this Court’s jurisdiction because she asserts that the Party “has not adopted a permanent closed-primary rule.” ECF 30-1 at 14. But this is wholly mistaken. The Party has both a permanent version of Rule 46 requiring closed primaries *and* an emergency temporary version that accomplishes the same goal through a more streamlined registration process. The Party’s constitutional injury from having to conduct open primaries is therefore not speculative and Plaintiffs’ claims are ripe.

This Court likewise has jurisdiction over Plaintiffs' claim *against the State of Texas*. Secretary Nelson asserts that this Court should dismiss Plaintiffs' claim against the State because the State has sovereign immunity. But Secretary Nelson and her out-of-state counsel do not represent the State of Texas. She thus cannot assert the defense of sovereign immunity on the State's behalf. Nor can this Court invoke the State's immunity *sua sponte*, especially since the State has chosen to affirmatively waive that defense by seeking a judgment from this Court declaring Texas's open-primary system unconstitutional.

Plaintiffs have stated a claim against the Secretary on the merits. The Supreme Court has held that a party's associational rights are severely burdened by the forced participation of non-party members in the party's primary. *Jones*, 530 U.S. at 581-82. This is because even "a single election in which the party nominee is selected by nonparty members could be enough to destroy the party." *Id.* at 579. Plaintiffs allege that Texas's open-primary laws force the Party to associate with non-Republican voters to choose its nominees and that these voters—called crossover voters—not only exist in relatively large numbers but have cast the deciding votes in multiple Texas primary elections. ECF 1 ¶¶ 44-56 ("Compl."). That is a severe burden. And the State offers no compelling interest that would justify forcing the Party to open its primaries to Democrats and independents who can strategically influence or sabotage the Party's nominee selection. Nor has it shown that Texas's open-primary system is narrowly tailored to that compelling interest.

Secretary Nelson argues that an open primary does not severely burden the Party (and so is not subject to strict scrutiny) because Texas law says that anyone who votes in the Republican primary is, by definition, a Republican. But it is bedrock First Amendment law that a state does not get to define who is a member of a political party—the party does. She also disputes the prevalence of crossover voting, professing shock that Democrats and independents will temporarily "affiliate" with the Republican party to strategically vote in the Republican primary. But this case is at the motion to dismiss stage, so Plaintiffs' plausibly pled allegations of crossover voting must be taken as true.

The Court should deny Secretary Nelson's motion to dismiss.

## BACKGROUND

Although the Constitution grants the States “a broad power to prescribe the ‘Times, Places and Manner of holding Elections’ for state offices, that “authority does not extinguish the State’s responsibility to observe the limits established by the First Amendment,” and therefore “does not justify” the abridgment of “the freedom of political association.” *Tashjian v. Republican Party of Conn.*, 479 U.S. 208, 217 (1986) (cleaned up). Accordingly, where State laws force “political parties to associate” with “those who, at best, have refused to affiliate with the party, and, at worst, have expressly affiliated with a rival,” they severely burden a party’s First Amendment rights. *Jones*, 530 U.S. at 577. And courts strike down such laws unless they can survive strict scrutiny. *See id.* at 582.

The Election Code permits any registered voter to ‘affiliate’ with a party by showing up on election day and voting in its primary. Compl. ¶ 15 (citing Tex. Election Code §§ 162.002, 162.003, 172.001, 172.002). Secretary Nelson, who is responsible for implementing and enforcing those provisions, *id.* ¶¶ 13, 22, has therefore informed voters that they are “not required to pre-register or take any steps towards affiliating themselves with a party before voting in a party’s primary election,” *id.* ¶ 16 (citation omitted). By voting in a party’s primary, the voter ‘affiliates’ with that party under State law, meaning that they may not vote in another party’s primary (or runoff). *Id.* ¶ 20. But that restriction means very little because it “automatically terminates at the end of each voting year.” *Id.*

The Election Code’s primary provisions together with the prevailing political conditions in Texas make crossover voting—where voters who align with one party (or no party at all) vote in the Republican Party primary, *id.* ¶ 2 n.1—“rampant” in the State, *id.* ¶ 44. As academics and courts have acknowledged, this kind of voting behavior is common nationwide. *Id.* ¶¶ 34-38. And it is especially prominent in “one-party” States like Texas, *id.* ¶ 39, where Republicans have dominated “elections and state offices for the past several decades,” *id.* ¶ 52. That’s because in Texas, the Party’s primaries are usually the “only game in town,” meaning that non-Republican voters must cross over “in order to have any meaningful influence in elections.” *Id.* ¶ 39 (citation omitted).

Two recent elections demonstrate how crossover voting affects the Party’s primaries. In the 2024 Speaker of the House primary runoff, the “moderate” candidate—whom Democrats and independents were more likely to support—won the election by an exceedingly narrow margin: 389 votes out of the 25,000 cast. *Id.* ¶ 47. And the Party identified that “nearly 9% of the voters” in that election “were known Democrats.” *Id.* ¶ 51. In a separate Party primary—the winner of which would run uncontested in the general election since the Democrats did not put up a candidate—the winner grossed only 763 more votes than his opponent, out of 30,000 cast. *Id.* ¶ 48. Against the backdrop of these closely contested primaries, the Democratic party has at times encouraged its party members to vote in the Party’s primaries. *Id.* ¶ 49.

Recognizing the threat posed by crossover voting to the Party’s message and purpose, Party members soon “demanded action.” *Id.* ¶ 57 (alteration omitted). Those members, including Plaintiff Hunt, made clear to the Party that “only Republicans should pick Republican nominees” because that “protect[s] [the Party’s] platform . . . values . . . and [] future.” *Id.* ¶¶ 57-58 (alteration omitted). As a result, the Party “overwhelming[ly]” adopted the first version of Rule 46 in 2024. *Id.* ¶ 60. That version of Rule 46 became permanent in January 2025, *see* Ex. A at 41 (setting out the original Rule 46 and providing that it would take effect on “January 1 of the odd-numbered year” following the convention, *i.e.*, 2025), and limits the ability to vote in Republican primaries to voters who (1) “voted in the previous Republican primary or primary runoff election”; (2) are “registered as a Republican”; (3) “submitted a certificate of affiliation” with the Party no later than the first day on which a candidate may for a place on the general primary election ballot; or (4) are “voting in his or her first primary election” and are “under the age of 21,” Compl. ¶ 61 (cleaned up); Ex. A at 41. The Rule also provides that it “supersedes any other rule or law of the State of Texas.” Ex. A at 41.

The Party later adopted a temporary and emergency version of Rule 46 in June 2025 that similarly closes the primaries but simplifies who may vote in the Republican primary. Compl. ¶¶ 62-63. This version of Rule 46 states that “only a United States citizen eligible to vote in Texas who is registered to vote with the Texas Secretary of State as a Republican may cast a ballot in” a

Republican primary. *Id.* ¶ 63. This version of Rule 46 is currently in effect and will become permanent in January 2027 if it is ratified by the delegates at the biannual state convention. If it is not ratified for some reason, Rule 46 will revert to the permanent version that became effective in 2025. Ex. A at 41. Accordingly, the Party’s rules currently require closed primaries and will continue to require closed primaries, regardless of whether the current version of Rule 46 becomes permanent.

After the Party adopted Rule 46, it notified Secretary Nelson. *See id.* ¶ 70; ECF 1-1. Yet despite Rule 46 defining Party “membership more restrictively than Texas law’s current ‘affiliation’ standard,” Compl. ¶ 64, Secretary Nelson indicated that she would continue to enforce the current primary provisions, and “indicated that she will not place the Party’s nominees on the general election ballot” unless they are chosen “in accordance with the open-primary process . . . required by the Texas Election Code.” *Id.* ¶ 73.

The Party therefore found itself faced with two losing choices. On the one hand, it could refrain from exercising its associational right to require voters to join the Party pursuant to Rule 46 before voting in its primaries. On the other, it could attempt to close its primaries according to Rule 46’s requirements, and risk not only Secretary Nelson’s refusal to place its nominees on the general election ballot, *id.* ¶ 73, but also potential enforcement actions and mandamus suits by Secretary Nelson and the State, *id.* ¶¶ 26-27.

Accordingly, the Party brought this action, claiming that the primary provisions of the Election Code violate its associational rights. *Id.* ¶¶ 80-89. For relief, the Party seeks a declaration that the primary provisions are unconstitutional as applied to the Party, as well as an injunction prohibiting Defendants from enforcing the primary provisions against the Party. *Id.* ¶¶ 90-91. Shortly after the Party filed its Complaint, Plaintiffs together with the State filed a joint motion for consent judgment, in which the State acknowledged the unconstitutionality of the primary provisions. *See* ECF 27.

Secretary Nelson has now moved to dismiss Plaintiffs’ claims. ECF Nos. 30, 30-1.

## ARGUMENT

The Court should deny Secretary Nelson’s motion to dismiss for three reasons. *First*, Plaintiffs have standing and this case is ripe because there is a live and concrete dispute as to whether the Party can close its primaries as Rule 46 requires. *Second*, Secretary Nelson has no basis to assert a sovereign immunity defense on behalf of the State, which is represented by the Attorney General and has affirmatively waived that defense by asking this Court to enter a judgment. *Third*, Plaintiffs have plausibly alleged that Texas’s open-primary system violates their First Amendment associational rights because it forces the Party to allow non-Party members to select Republican party nominees.

### **I. The Court has Jurisdiction Over This Action.**

#### **A. Plaintiffs Have Standing.**

Plaintiffs have standing because Defendants enforce provisions of the Texas Election Code that prevent Plaintiffs from exercising their First Amendment rights. Secretary Nelson attempts to avoid this obvious basis for standing by asserting that the Party has not changed its rules and then speculating that this shows the Party does not really intend to close its primary. This is baseless. The Party adopted Rule 46 to implement closed primaries and has alleged its intent to hold closed primaries when Defendants no longer prohibits it from doing so. If Secretary Nelson wants to challenge the sincerity of the Party’s commitment to closing its primary, she should attempt that feat at summary judgment, not the pleading stage.

1. To establish Article III standing, a plaintiff must allege (1) an injury in fact, (2) a causal connection between the injury and the conduct complained of, and (3) a likelihood that the injury will be redressed by a favorable decision. *See Tex. Tribune v. Caldwell County*, 121 F.4th 520, 526 (5th Cir. 2024). Plaintiffs have alleged each.

To start, “[t]he allegation of having to associate with members of the other party during their candidate-selection processes unquestionably pleads a constitutional injury.” *Miller v. Brown*, 462 F.3d 312, 316 (4th Cir. 2006). The Complaint in this case specifically alleges that, despite Rule

46, Texas law “requires the Party instead to nominate candidates through an open-primary system that allows non-Republicans, including independent voters and Democrat voters, to vote in Republican primary elections.” Compl. ¶ 84. Plaintiffs’ “alleged constitutional injuries are not conjectural or hypothetical” because “[t]he participation of Democrats in the plaintiffs’ upcoming primary is inevitable.” *Miller*, 462 F.3d at 317; *see, e.g.*, Compl. ¶ 44 (“Crossover voting is rampant in Texas.”).

Secretary Nelson has not challenged traceability, but it is similarly easy. “The mere existence of the open-primary law causes these decisions to be made differently than they would absent the law, thus meeting the standing inquiry’s second requirement of a causal connection between the plaintiffs’ injuries and the law they challenge.” *Miller*, 462 F.3d at 318. Secretary Nelson is responsible for enforcing Texas’s unconstitutional law. *See* Compl. ¶ 13 (“As Secretary of State, Defendant Nelson is responsible for enforcing the Texas Election Code provisions regarding primary elections at issue in this case[.]”). And she “has indicated that she will” continue to enforce that unconstitutional law by refusing to “place the Party’s nominees on the general election ballot unless those nominees are chosen in accordance with the open-primary process unconstitutionally required by the Texas Election Code.” *Id.* ¶ 73.

Lastly, declaratory and injunctive relief would redress Plaintiffs’ injuries because “[a] favorable court decision in this case would allow the plaintiffs to exclude Democrats from participating in their primary and thus eliminate their alleged injuries.” *Miller*, 462 F.3d at 318; *see* Compl. ¶ 78 (alleging that “taking the steps to transition to closed primaries without legislation is not feasible unless and until this Court issues relief declaring the Party’s rights”). Courts accordingly and routinely reach the merits in cases like this one. *See, e.g., Jones*, 530 U.S. at 586 (holding unconstitutional a California law “forcing political parties to associate with those who do not share their beliefs”); *Idaho Republican Party v. Ysursa*, 765 F. Supp. 2d 1266, 1268 (D. Idaho 2011) (“[B]y mandating [an open-primary] nomination process, the State violates the Party’s constitutionally guaranteed right to freedom of association.”).

What is more, standing extends beyond the party itself to its adherents, including Plaintiff Hunt. *See* Compl. ¶ 85 (alleging that Defendants’ conduct “severely burdens . . . the rights of individual Republicans like Plaintiff Hunt”). Secretary Nelson doubts Plaintiff Hunt’s injury in fact, *see* ECF 30-1 at 23, but the Supreme Court has been clear: “Any interference with the freedom of a party is simultaneously an interference with the freedom of its adherents.” *Democratic Party of U.S. v. Wisc. ex rel. La Follette*, 450 U.S. 107, 122 (1981) (quoting *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957)). Plaintiff Hunt does not want to associate with non-Republicans to select the Republican nominee. *See* Compl. ¶¶ 45, 58, 60. Secretary Nelson’s enforcement of an unconstitutional law “severely burdens . . . the rights of individual Republicans like Plaintiff Hunt, because many non-Republicans take advantage of this open-primary system and vote strategically in Republican primary elections.” *Id.* ¶ 85.

2. The Secretary’s entire argument against standing rests on a misunderstanding of the facts Plaintiffs have alleged. The Secretary repeatedly asserts that the Party “has not adopted a permanent closed-primary rule.” ECF 30-1 at 14. That is incorrect. The Party adopted Rule 46 at the Party’s biennial convention in 2024. Compl. ¶¶ 60-61. It then became permanent in January 2025. *See* Ex. A at 41 (setting out that the Rule took effect in 2025); *see* ECF 30-1 at 14-15 (describing same). The Party later changed Rule 46 in the summer of 2025 on an emergency and temporary basis to alter the specific ways in which individuals may affiliate with the Party for purposes of being eligible to vote in a closed primary. Compl. ¶¶ 62-63. And that current version of Rule 46 either will become permanent in January 2027 if ratified by the convention, or will expire such that the Party rules revert to the prior, permanent version of Rule 46. Either way, the Party has a permanent rule closing the Party’s primaries.

Because either version of Rule 46 closes the Party’s primaries, the Secretary has no basis to argue that an injury caused by a conflict between the Party rule and the Texas Election Code is “speculative.” ECF 30-1 at 16. There is constitutional injury under either version, as both versions close the Republican primary in a way that directly conflicts with the Election Code. Likewise, because Rule 46 is currently in place, the Secretary’s redressability argument fails. The Secretary

argues that any associational harm would not be redressed because “the Party lacks a closed-primary rule, meaning it would still associate with unwanted voters even if it wins.” *Id.* at 16. In fact—as Plaintiffs have alleged—relief from this Court would immediately allow Plaintiffs to implement Rule 46, whether under the current version of Rule 46 or the permanent version if the current version is not made permanent.

Secretary Nelson’s reliance on *Barbour* does not help her. *See id.* at 16-17. To begin, *Barbour* supports the Party’s standing at this pleading stage. The Fifth Circuit recognized that “[t]he party unquestionably pleaded a constitutional injury by alleging that Mississippi’s semi-closed primary statute requires it to associate with members of the other party during its candidate-selection process.” *Miss. State Democratic Party v. Barbour*, 529 F.3d 538, 545 (5th Cir. 2008). But the *Barbour* district court did more than deny a motion to dismiss. It granted a preliminary injunction, which requires evidence, not just allegations, of standing. That is why the Fifth Circuit went on to discuss how “prov[ing] standing to raise a First Amendment facial challenge” requires “produc[ing] evidence of ‘an intention to engage in a course of conduct arguably affected with a constitutional interest, but proscribed by statute.’” *Id.*

In *Barbour*, the Democratic Party had “taken no steps to authorize the party to conduct closed primaries.” *Id.* It had not “plac[ed] the policy up for a party-wide vote” or “adopted any policies to exclude voters not registered as Democrats from its primary.” *Id.* It had “provided no affidavit evidence that it intends to do so.” *Id.* On the contrary it had a “liberal membership policy” and “never pursued to completion its attempt to preclear with the DOJ any proposed change to a closed primary.” *Id.*

This case is precisely the opposite. The Party has taken numerous steps to close its primary. The issue was the subject of a party-wide vote in 2024, and “[t]he results overwhelmingly supported closing the primary.” Compl. ¶ 59. The Party has adopted a rule closing its primary not once but twice. *Id.* ¶¶ 60-64. The Party has specifically alleged its intention to close its primary: “[T]he Party can and will transition to closed primaries for future election cycles even without legislation.” *Id.* ¶ 75. Secretary Nelson’s quibbling about effective dates does nothing to undermine

these allegations of “the party’s intention to effectuate a closed primary.” *Barbour*, 529 F.3d at 545. Nor do the “liberal membership policy,” *id.*, and preclearance considerations from *Barbour* apply here, *see Shelby County, Ala. v. Holder*, 570 U.S. 529, 557 (2013).

Lastly, Secretary Nelson speculates based on her misunderstanding of the Party’s rules that the Party will not actually implement its closed-primary rule even if it secures judicial relief. *See* ECF 30-1 at 16. That is baseless. Although “the Party strongly prefers that the Legislature implement closed Republican primaries through a system in which the Secretary maintains lists of registered Republican voters,” “even without legislation,” “the Party can and will transition to closed primaries for future election cycles.” Compl. ¶ 75. The Complaint specifically details what the Party would do with judicial relief absent legislation. *See id.* ¶¶ 76-79.

Secretary Nelson’s doubts about the Party’s commitment to closing its primary is nothing more than speculation on her part. She cannot challenge the truthfulness of Plaintiffs’ allegations at this stage.

#### **B. Plaintiffs’ Claim is Ripe.**

The Secretary’s ripeness attack fares no better than her standing attack because in cases like this one “standing and ripeness issues . . . ‘boil down to the same question.’” *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158 n.5 (2014) (quoting *MedImmune, Inc. v. Genentech, Inc.*, 549 U.S. 118, 128, n. 8 (2007)). As the Fifth Circuit remarked in *Barbour*, “the standing and ripeness issues both turn on whether the [political party’s] alleged [associational] injury is actual or imminent rather than conjectural or hypothetical.” 529 F.3d at 545; *see also Nat’l Org. for Marriage, Inc. v. Walsh*, 714 F.3d 682, 688 (2d Cir. 2013) (“[T]o say a plaintiff’s claim is constitutionally unripe is to say the plaintiff’s claimed injury, if any, is not ‘actual or imminent,’ but instead ‘conjectural or hypothetical.’” (cleaned up)). For all the reasons explained above, Plaintiffs have alleged an actual and imminent injury because the Party is required to allow Democrats and independents to decide the Party’s nominees. Their claim is therefore ripe.

Even if this Court applies the two-step ripeness analysis “out of an abundance of caution,” *Inst. for Free Speech v. Johnson*, 148 F.4th 318, 331 (5th Cir. 2025), the result is the same. A claim is ripe under this analysis when (1) the issues are “fit” for “judicial decision,” and (2) there is “hardship to the parties of withholding court consideration.” *Neese v. Becerra*, 2022 WL 1265925, at \*8 (N.D. Tex. Apr. 26, 2022) (Kacsmaryk, J.) (citing *Texas v. United States*, 497 F.3d 491, 498 (5th Cir. 2007)). Both requirements are easily met.

The issue here—whether Texas’s open-primary system violates Plaintiffs’ First Amendment associational rights—is fit for judicial decision because it is a “legal” question. *Inst. for Free Speech*, 148 F.4th at 331. The Secretary does not really dispute that the constitutionality of Texas’s open-primary system is a legal one but instead argues that further factual development is necessary to determine “whether the Party will adopt a permanent closed-primary policy” and, if so, what the Party’s closed primary policy will be. ECF 30-1 at 18-19. But no factual development is needed<sup>1</sup> because the Party *has* adopted a closed primary rule, and both versions of that rule conflict with the Texas Election Code: They require voters to associate themselves with the Party *before* the primary election to cast a ballot, whereas Texas law authorizes individuals to vote in the Republican primary if they simply show up and ask for a Republican ballot.

The Secretary also argues that Plaintiffs’ claim is not fit for review because the Party has not resolved every aspect of how a closed primary system will operate. *Id.* But a court need not “wait and see precisely how [the Party’s] political activities will develop before evaluating [its] First Amendment claim[.]” *Inst. for Free Speech*, 148 F.4th at 332 (cleaned up). That is because, regardless of how exactly the Party will fill in the details down the road, *any* implementation of the Party’s rules conflicts with Texas’s unconstitutional law. The legal issue presented to this Court

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<sup>1</sup> To be clear, factual development in this context means waiting for additional events to occur so that a dispute is not “premature or speculative.” *DM Arbor Ct., Ltd. v. City of Houston*, 988 F.3d 215, 218 (5th Cir. 2021). This is different from the term factual development as it is sometimes used to refer to resolving factual disputes in the course of litigation. The need to resolve factual disputes—for example, here, the extent of crossover voting in Texas—is the bread and butter of trial litigation and does not implicate ripeness.

therefore “will not be clarified by further factual development.” *Umphress v. Hall*, 133 F.4th 455, 468 (5th Cir. 2025); *cf. Wash. State Grange v. Wash. State Republican Party*, 552 U.S. 442, 455 (2008) (cited at ECF 30-1 at 21) (rejecting facial challenge to primary election law because the Court could imagine constitutional implementations of that law). The Secretary seeks to undermine this conclusion by speculating that maybe the Party would implement a “closed-primary system [that] allows voters to officially register as a Republican or Democrat on the same day as the election,” and that this would alter the “severity of the associational burden.” ECF 30-1 at 19-20. But this speculation directly contradicts both versions of Rule 46, the Party’s intent to close its primary, and unchallenged state law requiring voters to register at least 30 days before an election. Tex. Election Code § 13.143.

The Secretary’s questions about how soon the Party will implement closed primaries if the Legislature declines to do so also do not affect ripeness. ECF 30-1 at 19. A claim is ripe and no further factual development is necessary so long as the complaint alleges that the party “has an intention to engage” in “conduct that is . . . prohibited” by state law. *Inst. for Free Speech*, 148 F.4th at 332. Plaintiffs have alleged not only the Party’s intent to implement closed primaries, *see* Compl. ¶¶ 75-76, but have backed it up with rules, *see id.* at 22-24, ¶¶ 70-74, and (unsuccessful) attempts to convince Secretary Nelson to close the Republican primary, *see id.* at 22-24, ¶¶ 70-74. Questions about how long implementation will take are nothing more than a premature attack on the sincerity of the Party’s assertions.

Notwithstanding the Secretary’s insinuations to the contrary, *see* ECF 30-1 at 18-19, there is nothing unusual, much less jurisdictionally problematic, about giving the Legislature the first opportunity to remedy a constitutional violation in an election case. *See, e.g., Wise v. Lipscomb*, 437 U.S. 535, 540 (1978) (“When a federal court declares an existing apportionment scheme unconstitutional, it is therefore, appropriate, whenever practicable, to afford a reasonable opportunity for the legislature to meet constitutional requirements by adopting a substitute measure rather than for the federal court to devise and order into effect its own plan.”); Compl. ¶ 5

(explaining “other States . . . have remedied similar constitutional violations by passing legislation, including in response to a court declaration”).

Because the issue is fit for review, Plaintiffs need only show “some hardship in order to establish ripeness.” *Neese*, 2022 WL 1265925, at \*8 (quoting *Cent. & S. W. Servs. v. EPA*, 220 F.3d 683, 690 (5th Cir. 2000)). Here, the hardship from delayed review is as obvious as it is substantial: The Party must continue holding open primaries that violate its associational rights, and Hunt must continue associating with non-Republicans to choose Republican candidates for the general election. *See Susan B. Anthony List*, 573 U.S. at 167-68 (“[D]enying prompt judicial review would impose a substantial hardship on petitioners, forcing them to choose between refraining from core political speech on the one hand or engaging in that speech and risking costly Commission proceedings and criminal prosecution on the other.”); *Umphress*, 133 F.4th at 468 (finding claim ripe where the plaintiff would be forced “to choose between refraining from speech, expressive conduct, and religious exercise” or “engaging in those activities and risking Commission proceedings” (cleaned up)). The Secretary responds that continuing to force the Party to use open primaries is not a hardship because the open-primary system violates Plaintiffs’ First Amendment rights for their own good. *See* ECF 30-1 at 20 (asserting there is no hardship because the Republican Party has had electoral success with open primaries). But the Secretary does not get to decide whether open primaries or closed primaries are better for the Republican Party.

In short, Plaintiffs’ claim is ripe. The Party has alleged its intent to hold closed primaries in which voters must register as Republicans before election day, has acted on that intent by enacting Rule 46, yet cannot implement closed primaries because the Secretary continues to enforce Texas law requiring open primaries. Courts have routinely reached the merits in these circumstances because the First Amendment issue is clearly presented. *See, e.g., See Ysursa*, 765 F. Supp. 3d at 1270, 1277 (adjudicating merits based on the Republican Party’s closed-primary rule, even though the party had not set forth a detailed plan for implementing it). This case should be no different.

## II. Secretary Nelson and Her Out-of-State Private Counsel May Not Assert the State of Texas’s Sovereign Immunity.

Secretary Nelson next argues that Plaintiffs’ claims against *the State* must be dismissed because the “[t]he State of Texas is immune from suit” under the Eleventh Amendment to the U.S. Constitution. ECF 30-1, at 21. To be clear, she does not suggest that the claims against *her* are barred by immunity. Her immunity argument is therefore improper. Neither Secretary Nelson nor the out-of-state private lawyers she has hired represent the State of Texas. By law, the Attorney General represents the State of Texas.<sup>2</sup> The only attorneys to appear on behalf of the State in this matter are thus from the Office of the Attorney General, and they have chosen not to assert sovereign immunity. *See* ECF 39 at 3 (“Texas does not raise the defense.”).

The Secretary insists that dismissal is still required because, she suggests, sovereign immunity operates as a jurisdictional bar which the Court may address *sua sponte*. ECF 30-1 at 21-23 & n.2. But that is only partially correct. The Supreme Court has “noted that ‘the Eleventh Amendment defense sufficiently partakes of the nature of a jurisdictional bar’ that it may be raised by the State for the first time on appeal.” *Patsy v. Bd. of Regents of State of Fla.*, 457 U.S. 496, 515 n.19 (1982) (quoting *Edelman v. Jordan*, 415 U.S. 651, 678 (1974)). The Supreme Court, by contrast, has “*never* held that [sovereign immunity] is jurisdictional in the sense that it must be raised and decided by this Court on its own motion.” *Id.* (emphasis added). That is because “Eleventh Amendment” immunity “does not automatically destroy original jurisdiction.” *Wis. Dep’t of Corrs. v. Schacht*, 524 U.S. 381, 389 (1998). “Rather, [it] grants the State a legal power to assert a sovereign immunity defense *should it choose to do so.*” *Id.* (emphasis added). Courts are therefore not required to “raise the [issue] on its own,” and “can ignore it” where, as here, the State does not assert it. *Id.*

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<sup>2</sup> In the General Appropriations Act, the Legislature commands that “the Attorney General shall have the primary duty of representing the State in the trial of civil cases” with exceptions not relevant here. S.B. 1, 89th Leg., R.S., at IX-76, § 16.01(a)(1) (May 21, 2025), <https://perma.cc/7TBE-Q7G9>.

The Secretary's attempt to raise sovereign immunity on behalf of the State is particularly mistaken in this case because the State of Texas has not only chosen not to assert the defense, but has instead affirmatively waived its immunity by "requesting that the Court enter a final judgment." ECF 27 at 2. As a general matter, "entering into a consent decree rather than asserting sovereign immunity in the initial suit usually waives any immunity against later enforcement of the decree." *Bergmann v. Mich. State Transp. Comm'n*, 665 F.3d 681, 683 (6th Cir. 2011) (Kethledge, J.) (citing *United States v. Gov't of Virgin Islands*, 363 F.3d 276, 288–89 (3d Cir. 2004)). This case follows *a fortiori*, as the Court is not presented with subsequent enforcement of a consent decree, only the initial entry of one.

Secretary Nelson fights this waiver, insisting that, as a matter of state law, the Attorney General's actions cannot waive sovereign immunity. *See* ECF 30-1 at 22-23 (citing decisions from Texas courts, a Texas statute, and briefs filed by the Attorney General). But that ignores the "rule of federal law that finds waiver through a state attorney general's invocation of federal-court jurisdiction." *Lapides v. Bd. of Regents of Univ. Sys. of Ga.*, 535 U.S. 612, 623 (2002). Whether the State has waived its immunity simply does not depend on state law. "[W]hether a particular set of state laws, rules, or activities amounts to a waiver of the State's Eleventh Amendment immunity is a question of federal law." *Lapides*, 535 U.S. at 623.

Secretary Nelson cites an earlier Fifth Circuit case to the contrary, *see* ECF 30-1 at 21 (citing *Magnolia Venture Cap. Corp. v. Prudential Sec., Inc.*, 151 F.3d 439, 443 (5th Cir. 1998)), but that decision relied on *Ford Motor Co. v. Department of Treasury*, 323 U.S. 459, 467 (1945), which was overruled in *Lapides*, 535 U.S. at 623 ("Finding *Ford* inconsistent with the basic rationale of that line of cases, we consequently overrule *Ford* insofar as it would otherwise apply."); *see Meyers ex rel. Benzing v. Texas*, 410 F.3d 236, 246 (5th Cir. 2005) ("[I]n order to remove an impediment to its reaffirmation of the voluntary invocation principle, the Court substantially overruled its previous decision in *Ford*."); *Levy v. Off. of Legis. Auditor*, 362 F. Supp. 2d 729, 734 (M.D. La. 2005) (rejecting an argument based on *Magnolia Venture* and "not[ing] that the cases cited by the plaintiff were decided prior to *Lapides*").

**III. Plaintiffs Have Plausibly Pleaded That Texas’s Open-Primary System Violates Their First Amendment Rights.**

Political parties “enjoy a constitutionally protected right of political association,” including the right to determine their own membership. *La Follette*, 450 U.S. at 121 (citation omitted). “In no area is [this] right to exclude more important than in the process of selecting its nominee[s].” *Jones*, 530 U.S. at 575. The Texas Election Code, however, requires the Party to select its candidates through an open-primary election in which non-Party members *can* vote, *have* voted, and *will* continue to vote in numbers that alter the outcome of primary elections and distort candidate messaging. *See* Compl. ¶¶ 28-56.

This is a “substantial intrusion into the associational freedom” of the Party and its members like Ms. Hunt that cannot be justified because Texas’s open-primary system is not “narrowly tailored to serve a compelling state interest.” *Jones*, 530 U.S. at 576, 582. Plaintiffs have accordingly alleged that the open-primary laws are unconstitutional as applied to them.

**A. The Election Code Imposes a Severe Burden on Plaintiffs’ Associational Rights.**

The First Amendment “protects the freedom to join together to further common political beliefs.” *Id.* at 574. This “freedom to associate for the common advancement of political beliefs necessarily presupposes the freedom to identify the people who constitute the association, and to limit the association to those people only.” *La Follette*, 450 U.S. at 122 (cleaned up). This right to identify the people who constitute an association is particularly important to political parties and “the process by which a political party selects a standard bearer who best represents the party’s ideology and preferences.” *Jones*, 530 U.S. at 575 (cleaned up).

Courts have accordingly and repeatedly held that “allowing nonparty members to participate in the selection of a party’s nominee in conflict with the party’s expressed desires constitutes a ‘substantial intrusion into the associational freedom’ of the party’s members.” *Ysursa*, 765 F. Supp. 2d at 1270 (citation omitted). The canonical case is *California Democratic Party v. Jones*. *Jones* addressed what is known as a blanket primary, a primary system in which each voter’s ballot lists every candidate regardless of party affiliation and allows the voter to choose freely

among those candidates. 530 U.S. at 577. The Supreme Court held that this system violated the rights of the plaintiff political parties because those parties did not want to have unaffiliated individuals choose their parties' nominees. *Id.* at 581-82. The Court held that political parties cannot exercise their associational rights to choose their candidates through their own members if the state is "forc[ing] [them] to associate with—to have their nominees, and hence their positions, determined by—those who, at best, have refused to affiliate with the party, and, at worst, have expressly affiliated with a rival." *Id.* at 577.

Similarly, in *La Follette*, the Court held that Wisconsin's open-primary regime severely burdened the Democratic Party's associational rights by forcing the party to associate with non-Democratic voters. 450 U.S. at 123-24. Wisconsin required the parties to hold open primaries that permitted voters who were not affiliated with the Democratic Party to cast ballots in the Democratic Primary. *Id.* at 112. Wisconsin also required the Democratic Party's delegates—who were selected separately by the party—"to vote at the National Convention in accord with the results of the open-primary election," *id.*, even though this conflicted with Democratic Party rules stating that only those who "publicly declare their party preference and have that preference publicly recorded" should be allowed to participate, *id.* at 109. On these facts, the Court concluded that requiring the party to seat delegates selected in violation of party rules would impose a substantial burden on the party's associational freedom. *Id.* at 120-26. Indeed, the Court explained that, because "the inclusion of persons unaffiliated with a political party may seriously distort its collective decisions [and] impair[] the party's essential functions," political parties may "protect themselves from intrusion by those with adverse political principles." *Id.* at 122 (cleaned up).

Texas's open-primary system likewise substantially burdens the Party's associational rights by allowing non-Party members to participate in the Party's primaries despite the Party's rule excluding these voters. Texas's Election Code requires the Party to nominate candidates through an open-primary system that allows non-Republicans, including independent voters and Democrat voters, to vote in Republican primary elections. *See* Tex. Election Code §§ 162.002, 162.003, 162.012, 172.086, 172.125. As the Secretary concedes, all it takes for a registered voter to be able

to vote in the Republican Party primary according to Texas law is for that person to show up at their polling location and ask for a ballot so long as they have not already voted in another party's primary. ECF 30-1 at 24-25. *See also* Compl. ¶ 16 (“The Secretary tells the public that ‘[a] registered voter is not required to pre-register or take any steps towards affiliating themselves with a party before voting in a party’s primary election.’”).

This is in direct conflict with the Party’s rules, which require voters to communicate their association with the Party by taking affirmative, non-expiring steps *before* showing up to vote in the primary. The permanent version of Rule 46 does this by restricting the Party’s primary only to those voters who voted in the Party’s primary during the last election cycle or else registered or submitted a written certificate of affiliation with the Party before the election. Compl. ¶ 61. The current, temporary version of Rule 46 does this by restricting the primary to those voters who are “registered to vote with the . . . Secretary of State as a Republican.” *Id.* ¶ 63. But both versions are clear that simply showing up and asking for a Republican ballot is not sufficient for a voter to demonstrate to the Party’s satisfaction that the voter is a Republican. Indeed, that is the entire point of Rule 46. Allowing voters to “affiliate” with the Republican party simply by voting in the Republican primary incentivizes crossover voting where Democrats and independents strategically vote in the Republican primary “to force the nomination of moderate candidates who they prefer or the nomination of weak candidates they believe will lose general elections.” *Id.* ¶ 2; *see also id.* at ¶¶ 42-43. Requiring voters to associate with the Party beforehand and through a process that does not reset every election cycle disincentivizes this type of gamesmanship that can—and likely has—altered elections and Party candidate messaging in Texas. *Id.* ¶¶ 44-64.

Plaintiffs’ claim accordingly falls easily within the ambit of *Jones* and *La Follette* because there, as here, a state law severely burdens a political party’s associational rights by requiring it to allow non-party members to participate in selecting the party’s nominees against its wishes. Indeed, a district court in Idaho, addressing a challenge to Idaho’s similar primary law, applied those cases to hold that the primary law violated the Idaho Republican Party’s associational rights. *See Ysursa*, 765 F. Supp. 2d at 1270. The Election Code is usurping the Party’s First Amendment

right to control its membership and instead “forc[ing] [it] to adulterate [its] candidate-selection process . . . by opening it up to persons” with whom the Party does not want to associate. *Jones*, 530 U.S. at 581. That “obviously” affects the Party’s ability to “determin[e] . . . [its] message.” *Clingman v. Beaver*, 544 U.S. 581, 600 (2005) (O’Connor, J., concurring in part). There is “no heavier burden on a political party’s associational freedom” than state laws that have the effect of “changing the parties’ message” or altering even a “single” primary election. *Jones*, 530 U.S. at 579, 582.

Attempting to downplay the severity of the First Amendment burden and to cast the open primary as a mere minor inconvenience, Secretary Nelson makes three arguments. None has merit.

1. Secretary Nelson first argues that Texas law does not burden the Party’s associational rights because it “does not open the Party’s primary election to voters who lack an ‘actual and express affiliation’ with the Party.” ECF 30-1 at 24. In her view, Texas law is not forcing the Party to associate with non-Republicans because anyone who votes in a Republican primary by law “affiliates” with the Party. *Id.*

But the Secretary does not get to choose who is a Republican—the Party does. And “a State, or a court, may not constitutionally substitute its own judgment for that of the Party.” *La Follette*, 450 U.S. at 123-24. “A political party’s choice among the various ways of determining the makeup of [its members] is protected by the Constitution. And as is true of all expressions of First Amendment freedoms, the courts may not interfere on the ground that they view a particular expression as unwise or irrational.” *Id.* at 124; *see Jones*, 530 U.S. at 574 (explaining that the First Amendment gives the Party the right “to identify the people who constitute the association”). New Jersey does not get to decide what kind of conduct is consistent with the Boy Scout oath. *See Boy Scouts of Am. v. Dale*, 530 U.S. 640, 651 (2000). The City of Boston does not get to decide which groups “merit[] celebration” at a private St. Patrick’s Day parade. *Hurley v. Irish-Am. Gay, Lesbian & Bisexual Grp. of Boston*, 515 U.S. 557, 574 (1995). And Texas does not get to decide the criteria for being a Republican. The Court should “give[] deference to the [Party’s] assertions regarding

the nature of its expression.” *Boy Scouts of Am.*, 530 U.S. at 641 (citing *La Follette*, 450 U.S. at 123-24).

None of the cases the Secretary relies upon are to the contrary. The Secretary cites *Tashjian* for the proposition that the Supreme Court “rejected the Party’s premise that Texas forces [the Party] to include ‘unaffiliated’ voters in its primary election.” ECF 30-1 at 26. But *Tashjian* merely noted in a footnote that Texas is one of among 16 States that “allow a voter previously unaffiliated with any party to vote in a primary if he affiliates with the party at the time of, or for the purpose of, voting in the primary.” *Tashjian*, 479 U.S. at 222 n.11. It did not opine—and certainly did not hold—that state-defined affiliation at the time of voting somehow allows Texas to override the Party’s judgment not to associate with voters who refuse to commit to the Party *before* entering the voting booth. *See id.* Quite the opposite. *Tashjian* made clear that a state burdens a political party’s associational rights when it substitutes its associational judgment for the party’s. *Id.* at 215. Of course, *Tashjian* involved a state law that sought to *limit* (not expand) the voters with whom a political party could associate for purposes of a primary election, but the principle is the same: When the state tries to dictate who a party must or must not associate with, it “infringe[s] upon the rights of the Party’s members under the First Amendment to organize with like-minded citizens in support of common political goals.” *Id.*

Secretary Nelson also cites *Clingman* for the proposition that the Supreme Court has “repeatedly affirmed that individuals can ‘join a political party merely by asking for the appropriate ballot at the appropriate time.’” ECF 30-1 at 27 (quoting *Clingman*, 544 U.S. at 590 (plurality opinion)). Not so. In *Clingman*, the Oklahoma Libertarian party challenged a state law prohibiting voters from voting in the Libertarian party primary if they were already affiliated with another party and refused to disaffiliate. *Clingman*, 544 U.S. at 585. The Court rejected this challenge, explaining that “a voter who is unwilling to disaffiliate from another party to vote in the [Libertarian party’s] primary forms little ‘association’ with the [Libertarian Party]—nor the [Libertarian Party] with him.” *Id.* at 589. And as part of that analysis, the Court explained that disaffiliating with one party and reaffiliating with another under Oklahoma law was easy because

a voter could affiliate with a party merely by asking for a ballot. *Id.* at 590. The Court did *not* hold that—or even address whether—a state’s decision to allow a voter to “affiliate” with a party by asking for a ballot could override a political party’s decision not to associate with such a voter.

Finally, the Secretary attempts to distinguish *Jones* because it involved a blanket primary with no affiliation requirements whereas Texas law requires “voters [to] affiliate with a party.” ECF 30-1 at 26. But while *Jones* itself addressed a blanket primary, its reasoning is substantially broader. *Jones*—following *La Follette*—made clear that political parties have the right to determine with whom they will associate to choose their nominees. *Jones*, 530 U.S. at 575-78. That is why courts have found *Jones* highly “instructive” in deciding disputes involving a conflict between party rules and state laws permitting open primaries, like that at issue here. *Yursa*, 765 F. Supp. 2d at 1271.

2. Secretary Nelson’s second argument is that Plaintiffs failed to “plausibly allege that the Election Code materially impairs its ability to shape its message and choose its standard bearers.” ECF 30-1 at 28. This is nonsense. Plaintiffs have pled that crossover voting infects the Party’s primaries and imposes a severe burden on the Party by changing its message. At this stage, a court must accept the Plaintiffs’ “allegations as true and draw all reasonable inferences in [their] favor.” *Boudreaux v. La. State Bar Ass’n*, 3 F.4th 748, 756 (5th Cir. 2021).

Plaintiffs plausibly allege that crossover voting infects Republican primaries in Texas. The Complaint defines crossover voting and provides academic and case law support for this “well-established strategic voting behavior.” Compl. at 10; *see id.* ¶¶ 28-43. The Complaint lays out how crossover voting is particularly prevalent in “one-party” States and districts, like those in Texas. *See id.* ¶ 39. The allegations go on to explain how the Election Code’s provisions combined with the political circumstances prevailing in Texas—including Republicans’ domination of “elections and state offices for the past several decades” as well as the contested nature of Party primaries in the State—create conditions ripe for crossover voting. *Id.* ¶ 52; *see id.* ¶¶ 44-56. The Complaint then details how crossover voting has been “rampant in Texas,” citing two examples from 2024, in which close vote margins and the candidates’ political stances demonstrate Democrats’ and

independents' effect on election outcomes. *Id.* ¶ 44, 47-48; *see also id.* ¶ 49 (alleging the Democratic party “encourage[s] Democrats to vote in Republican primaries”).

Faulting Plaintiffs for mentioning the results of only two recent elections, the Secretary argues that Plaintiffs must allege more to demonstrate that “those outcomes are representative of primary elections in Texas.” ECF 30-1 at 29. But the Supreme Court says otherwise. In *Jones*, it explained that even “a single election in which the party nominee is selected by nonparty members could be enough to destroy the party.” *Jones*, 530 U.S. at 579 (rejecting the court of appeals' conclusion that because a state law allowed crossover voting “in only a small number of races,” the burden imposed was “not severe”). Plaintiffs therefore only needed to allege sufficient facts to support the *possibility* that crossover voting *could* alter a single election in order to trigger strict scrutiny. Plaintiffs have done much more, alleging not only that crossover voting is likely to alter future elections, but that it has already dictated the results of past elections. *See* Compl. ¶¶ 47-48.<sup>3</sup>

Secretary Nelson's real disagreement with Plaintiffs' allegations seems to be that she just doesn't believe them. To her mind, Texas law already protects against crossover voting through provisions that bind voters temporarily to the Republican Party if they vote in the Republican primary. Specifically, she spends almost two pages of her brief explaining that individuals who vote in the Republican primary are publicly listed as having done so, may not vote in another party's primary during the same election cycle, and cannot participate in another political party's affairs that same election cycle. ECF 30-1 at 25-28 (citing, among other provisions, Tex. Election Code §§ 162.003-.008, 162.012, 162.014). But Plaintiffs have alleged that, despite these provisions, crossover voting by Democrats and independents is still “rampant.” Compl. ¶¶ 44-56. This is unsurprising, as the supposed protections Secretary Nelson identifies are exceedingly minor

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<sup>3</sup> That also distinguishes this case from *Democratic Party of Hawaii v. Nago*, where the party failed to allege that crossover voting had affected the outcome of any of its primary elections. *See generally* 833 F.3d 1119 (9th Cir. 2016). Indeed, the party there relied only on “an excerpt from its constitution” and allegations regarding the number of party members and asked the court to make leaping inferences that non-members were voting in its elections. *Id.* at 1124. Given Plaintiffs' specific allegations about crossover voting, including its effect on two recent elections, *Nago* is wholly different from this case.

and temporary. *See* ECF 30-1 at 24. The fact is, Secretary Nelson cannot and does not deny that, despite these asserted minimal protections, a Democrat who has “voted in every Democratic primary for the past five election cycles and who has not changed his political views may still vote in a Republican primary election simply by asking for a Republican ballot.” Compl. ¶ 29. Thus, even under the Secretary’s view, Texas’s primary system allows “voters in sympathy” with other parties to “designate themselves as” Republican voters “so as to influence or determine the results of the [Party’s] primary.” *La Follette*, 450 U.S. at 122 (cleaned up) (explaining the constitutionality of state laws that require voters to enroll in a party well in advance of the primary election).

The Secretary’s disbelief of Plaintiffs’ allegations is nowhere clearer than in her argument faulting Plaintiffs for having failed to provide more “evidence” supporting their crossover voting allegations. ECF 30-1 at 28-29. But at this stage, Plaintiffs have no obligation to present evidence and may rely solely on their well-pled allegations. *See Boudreaux*, 3 F.4th at 756.<sup>4</sup>

3. The Secretary’s final argument is that the Party has not demonstrated that closed primaries held pursuant to Rule 46 would eliminate these severe burdens. ECF 30-1 at 29-30. But that argument ignores Rule 46’s requirements, which require voters to register *with the Party*, and thus imposes a harder choice than simply showing up and voting in the Party’s primary on election day. *See supra* Part I.A. And the Secretary’s citation to *Tashjian* on this point is wholly inapposite. ECF 30-1 at 30. There, the *party* sought to allow a broader swath of voters to participate in its primaries—not just party members—and the Court found a state-law restricting voting to registered members was not a compelling interest permitting the law to satisfy strict scrutiny. *Tashjian*, 479 U.S. at 219. This case is the exact opposite.

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The Party has sufficiently alleged that the Election Code, as implemented and enforced by

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<sup>4</sup> That the Supreme Court relied on evidence regarding California voters in *Jones* makes sense because that case reached the Court after a bench trial in which the district court “heard testimony over four days and . . . received numerous exhibits, including the reports of various experts.” *Cal. Democratic Party v. Jones*, 984 F. Supp. 1288, 1292-93 (E.D. Cal. 1997).

Defendants, imposes a severe burden on its associational rights.<sup>5</sup> For that reason, the Election Code’s primary provisions are subject to strict scrutiny. *See Jones*, 530 U.S. at 582.

**B. The Texas Election Code Does Not Survive Strict Scrutiny**

The Texas Election Code provisions at issue here do not survive strict scrutiny because they are not narrowly tailored to a compelling state interest. Strict scrutiny is “the most demanding test known to constitutional law.” *Free Speech Coal., Inc. v. Paxton*, 606 U.S. 461, 484 (2025) (citation omitted). And the Supreme Court has “held only once” in the First Amendment context that “a law triggered but satisfied strict scrutiny.” *Id.* “That case involved an unusual application of strict scrutiny, since [the Court’s] analysis relied on the ‘deference’ due to the Executive’s ‘evaluation of the facts’ in the context of ‘national security and foreign affairs.’” *Id.* (citing *Holder v. Humanitarian Law Project*, 561 U.S. 1, 33–34 (2010)). No such deference is due here.

The Secretary first argues that the challenged provisions promote the State’s “interest in encouraging voter participation.” ECF 30-1 at 31 (citation omitted). But the Supreme Court rejected “voter participation” as a compelling interest in *Jones*, explaining that “produc[ing] more voters” by allowing non-members to participate in a party’s primary against its wishes is not a compelling interest and may not even be a “legitimate” interest. 530 U.S. at 584-85 (explaining that the voter participation interest “suffers from the same defect” as the State’s alleged interest in “affording voters greater choice”).<sup>6</sup> In any event, the Secretary provides no explanation as to *how* the current primary provisions advance the State’s interest in voter participation. *See* ECF 30-1 at

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<sup>5</sup> In any event, the cases on which the Secretary relies explain that “the severity of the burden that a primary system imposes on a party’s associational rights is a factual issue,” which the Court should not decide at this stage. *Nago*, 833 F.3d at 1123.

<sup>6</sup> The Secretary contends that *Jones*’s holding “does not control here” because of “material differences between . . . the structure of the primary elections and . . . the nature of the state interest being asserted.” ECF 30-1 at 31 n.3. But as in *Jones*, Texas’s primary system permits voters not affiliated with the Party (pursuant to Rule 46) to “adulterate [its] candidate-selection process.” *Jones*, 530 U.S. at 581. There are therefore no “material differences” between *Jones* and this case. And the Secretary has provided no explanation how the “nature” of its voter-participation interest here is different from that asserted in *Jones*. There, California asserted its interest in producing more voters; Texas’s interest is indistinguishable.

31 (citing cases explaining general voting rights principles). That is not the stuff of narrow tailoring.

The Secretary also contends that the State has a compelling interest in allowing new voters to participate in the Party’s primary. ECF 30-1 at 31. But the Secretary provides no case law to support that this is a compelling interest. *See id.* And, in any event, the Texas Election Code is hardly “narrowly tailored” to that end. Texas does not, for example, limit its affiliation-by-voting approach to new voters.

The Secretary argues the State has a compelling interest in election integrity. ECF 30-1 at 32. The Secretary claims the primary provisions support that interest by “providing clear and administrable rules.” *Id.* And she contends that if those provisions are struck down, that would undermine election integrity because that would “leave no plan for future elections.” *Id.* The Secretary, however, ignores the as-applied nature of this challenge, meaning that the Election Code would remain enforceable against other parties in the State. More to the point, though, the Secretary makes no argument that the Texas Election Code is “narrowly tailored” to this alleged interest. *See id.* at 32. Nor could she, given that the registration procedures required by Rule 46 would provide just as clear guidance. Ex. A at 41. Further, the Secretary’s argument exhibits little faith in the legislature’s capability to pass new legislation implementing Rule 46. Indeed, after the court granted declaratory relief in *Ysursa*, the Idaho legislature promptly passed a new law complying with the party’s associational rights. Compl. ¶ 5 & n.2. Nor does the Secretary credit the Party’s allegations that it would implement its own system if the legislature failed to act. *See* Compl. ¶¶ 75-79.

Accordingly, the primary provisions of the Texas Election Code are unconstitutional as applied to the Party.

### CONCLUSION

This Court should deny Secretary Nelson’s motion to dismiss.

Dated: November 26, 2025

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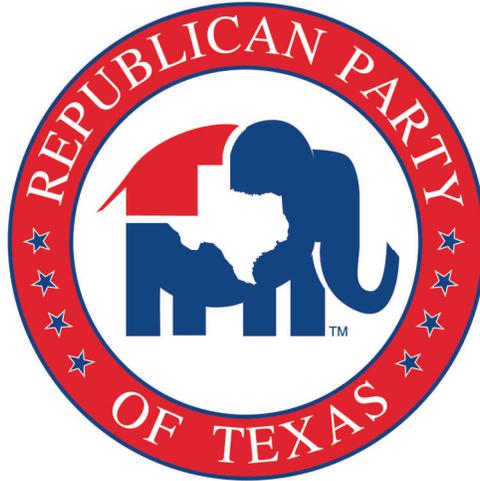
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**CERTIFICATE OF SERVICE**

I certify that a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) on November 26, 2025, and that all counsel of record were served by CM/ECF.

/s/ William T. Thompson  
William T. Thompson

# **EXHIBIT A**



# Rules of the Republican Party of Texas

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## GENERAL RULES FOR ALL CONVENTIONS AND MEETINGS

### **Rule No. 1 – Adoption and Amendment of Rules; Clarification**

These Rules, having been filed with the Secretary of State of Texas, together with the statutes, rules, and bylaws adopted by reference shall constitute the Rules of the Republican Party of Texas (“Rules”).

- a. Amendments – Amendments to Rules may be proposed by:
  1. Majority vote of the State Republican Executive Committee (“SREC”), at any meeting properly called and constituted, provided at least seven (7) days prior written notice of the full text proposed has been given in writing to each member thereof; or
  2. The Permanent Rules Committee of any State Convention.
- b. Adoption – These Rules, with the exception of Permanent State Executive Committee Rules required or authorized by state law, may be changed only by action of a State Convention, such action reflecting a majority of votes cast by delegates present and voting. When any change is made a certified copy of the changes shall be filed with the Secretary of State not later than thirty (30) days following their adoption.
- c. Temporary and Emergency Changes – The SREC in its best judgment, by a two-thirds (2/3) vote of those present and voting, provided prior written notice of the full text proposed has been given to each member thereof, may prescribe such temporary and emergency changes of these Rules so as to permit the orderly conduct of the affairs of the Republican Party of Texas in accordance with the intent and purpose of these Rules. Such temporary and emergency changes may be made when the conduct, operation, or implementation of these Rules will become frustrated or impracticable, or contrary to their intent and purpose, if by reason of:
  1. valid laws enacted by the Legislature of the State of Texas;
  2. any administrative or judicial action of any officer, or agency of the State of Texas or any county or political subdivision thereof, or of the Federal Government;
  3. any interpretation of these Rules as they relate to The Rules of the Republican Party (national) by any duly authorized official of the Republican National Committee; or
  4. technical inconsistencies or defects.Any such changes shall be valid only until such time, if any, as they are ratified or amended by the next subsequent State Convention, or until the adjournment of such State Convention, whichever shall occur first.
- d. Permanent State Executive Committee Rules – The SREC, by a two-thirds (2/3) vote of those present and voting, provided at least seven (7) days prior written notice of the full text proposed has been given to each member thereof, may prescribe Permanent State Executive Committee Rules that are not subject to amendment by action of a State Convention.
  1. These Permanent State Executive Committee Rules may be amended by the SREC by a two-thirds (2/3) vote of those present and voting at any meeting properly called and constituted, provided at least seven (7) days prior written notice of the full text proposed has been given in writing to each member thereof. Any Permanent State Executive Committee Rule shall be identified in these Rules by the notation “(Permanent State Executive Committee Rule).”

2. At the first meeting of each term the SREC may, by a vote of a majority of those present and voting, delegate temporary authority to amend a Permanent State Executive Committee Rule to a State Rules Committee of the subsequent State Convention, except for Rule No. 1, as the State Rules Committee determines and reports to the State Convention for consideration. Said temporary authority shall expire with the adjournment of the State Convention. Any Permanent State Executive Committee Rule delegated to the State Convention shall be identified in these Rules by the notation “(Permanent State Executive Committee Rule delegated to the State Convention).”
  - e. Any amendments made to these Rules and contained herein which govern or affect the Republican Party of Texas’ general or runoff primary elections, conventions, or nominees, are effective January 1 on the odd-numbered year following adoption.
  - f. Clarification – Any member of the Republican Party of Texas who discovers an ambiguity in these Rules may request in writing a clarification from the County Chairman or the State Chairman. Clarification from the State Chairman shall be binding on all members of the Republican Party of Texas until final clarification is made by majority vote of the SREC. Any clarification made shall be to maintain the intent and purpose of these Rules as originally adopted.
  - g. Definitions – When computing any period of days referred to in these Rules, the first (1st) day is excluded and the last day is included. Also, if the last day of any period of days is a Saturday, Sunday, or legal holiday, then the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday.
  - h. Titles in any rules or supplemental rules of this party or its conventions are non-substantive and for informational purposes only.

### **Rule No. 2 – Publication and Distribution of Rules**

In order to publicize these Rules throughout the state, the most recent version thereof shall be maintained on the Republican Party of Texas website and mailed or emailed to each County Chairman and each Senatorial District Convention Chairman with instructions to mail or email a copy to each Precinct Chairman and to each County or Senatorial District Convention Committee Chairman. Upon request, a copy shall be provided to any delegate or alternate to the State Convention and to any other interested person who shall request the same, and an adequate supply thereof shall be maintained at the Republican Party of Texas Headquarters to fill requests. A charge, which shall be no greater than the unit cost of printing and postage, may be made for requested copies of these Rules.

### **Rule No. 3 – Discrimination Prohibited**

Participation in any Republican convention or meeting including, but not limited to, any primary caucus, any meeting or convention held for the purposes of selecting delegates to a County, District, State, or National Convention shall in no way be abridged for reason of sex, age, race, religion, color, or national origin.

**Rule No. 4 – Adoption by Reference: Constitution of the United States and Constitution of the State of Texas**

The Constitution of the United States and the Constitution of the State of Texas, insofar as they may be applicable, are hereby adopted by reference and shall govern the conduct of all conventions and meetings of the Republican Party of Texas from the precinct level through the state level. Nothing in these rules shall be deemed to waive any rights of the Republican Party of Texas.

**Rule No. 5 – Parliamentary Authority**

Unless otherwise provided for by the Constitution of the United States, the Constitution of the State of Texas, or these Rules, the current edition of *Robert's Rules of Order Newly Revised*, which is hereby adopted by reference, shall be the parliamentary authority governing all conventions and meetings of the Republican Party of Texas from the precinct level through the state level, inclusive.

**Rule No. 6 – Proxies Prohibited**

The use of proxies or proxy voting is hereby prohibited in all Republican Party of Texas proceedings, from the precinct level through the state level, inclusive, except the SREC, which allows proxies in accordance with SREC bylaws provided that the proxy resides in the district for which he or she would serve. Additionally, a person may not hold more than one proxy at any meeting.

**Rule No. 7 – Casting Votes**

- a. At all conventions, executive committee meetings, and any other Party meetings, votes shall be cast and counted in the manner prescribed by the current edition of *Robert's Rules of Order Newly Revised*; and except as provided in this rule, the vote of each member shall have equal weight. In any convention, except a Precinct Convention or a State Convention when organized in Congressional District Caucuses, any delegation present, upon request, shall be permitted, during a roll call vote or a secret ballot vote, to cast the number of votes equal to the number of delegates to which it is entitled on any item of business.
- b. A roll call vote shall be taken:
  1. when ordered by majority vote of the delegates at any convention, caucus, or meeting, or
  2. when demanded by one-fifth (1/5) of the participants at a Precinct Convention, or
  3. when demanded in writing by at least one-fifth (1/5) of the delegations from the precincts represented at a County or Senatorial District Convention, or
  4. when demanded in writing by at least one-fifth (1/5) of the delegations from the districts represented at a State Convention, or
  5. when demanded in writing by one-fifth (1/5) of the members in the case of a committee meeting, Party caucus, or
  6. when ordered by a Convention Chairman, or
  7. for final adoption of any SREC bylaw or standing rule, any amendment to a Republican Party of Texas rule, any item in the report of the resolutions committee, or other motion presented in the form of a resolution in a meeting of the SREC, except that this requirement may be waived for any individual motion by unanimous consent. The SREC Secretary shall make the roll call vote available on

the public portion of the Republican Party of Texas website within ten (10) business days of the adjournment of the SREC meeting.

In the event of a roll call vote at a convention other than a precinct convention, each Delegation Chairman shall poll the delegation and shall announce the result when the delegation is reached. If any delegate doubts the correctness of the announcement, the Secretary of the meeting shall poll such delegation and announce the result.

**Rule No. 8 – State Executive Committee and County Executive Committee – Organization**

- a. Compliance Required – The SREC, each county executive committee, each district executive committee, and any committee or subcommittee created by any Bylaws or Rules adopted by same, shall comply with and be established in accordance with these Rules.
- b. Supplemental Rules Permitted – The SREC elected at the biennial State Convention or a county executive committee elected in a biennial primary election or a district executive committee created pursuant to the bylaws of any political subdivision within the Party, may adopt supplemental rules or bylaws, provided however that such rules or bylaws do not conflict with any rules or bylaws of a higher authority including, but not limited to, these Rules. All such rules and bylaws shall be filed with the SREC and with the Secretary of State and are hereby adopted by reference.
- c. Organizational Meeting and First Quarterly Meeting of the State Republican Executive Committee – The SREC shall hold its organizational meeting after the adjournment of the biennial State Convention. The agenda of the organizational meeting shall include, but not be limited to the adoption of Bylaws or Rules for the biennium. Upon the adoption of the SREC Bylaws or Rules by the SREC, at the SREC organizational meeting, the SREC Bylaws and Rules shall be amendable at this meeting and the first quarterly meeting by a majority of the entire membership.
- d. The SREC Bylaws may only be amendable by a two-thirds (2/3) vote of the full body for any SREC meeting following the first quarterly meeting subject only to adopted notice requirements.
- e. Organizational Meeting of a County Executive Committee (CEC) – A County Executive Committee shall hold its organizational meeting within forty-five (45) days after the term of office begins for the County Chairman and the Precinct Chairmen. (The term of office begins twenty (20) days after the Primary Runoff Election.) The County Chairman of the incoming term shall be responsible for calling the meeting; however, if the County Chairman does not call the meeting within the forty-five (45) days, then one-fourth (1/4) or fifty (50) of the Precinct Chairmen, whichever is fewer, may, by written demand, call an organizational meeting. Notice of the organizational meeting and a copy of any proposed Bylaws or Rules shall either be mailed via the USPS or emailed, but only if the precinct chair's email address is known, and be posted on the county party website, if available. The notice and any Bylaws or Rules may be sent prior to the end of the previous term. Delivery will be to the last known address of the members of the executive committee at least seven (7) days prior to the date of the meeting. Such notice shall state the time, date, and location of the meeting and the names(s) of the person(s) issuing the call. The agenda of the organizational meeting shall include, but not be limited to, the swearing in of the newly elected executive committee members and the adoption of Bylaws or Rules for the

- biennium. Failure to adopt Bylaws or Rules for the current biennium by a majority of those present and voting shall enact the previous biennium's Bylaws or Rules.
- f. Limitations on County Executive Committee (CEC) Meetings – No County Executive Committee meeting shall be held two (2) days prior, during, or two (2) days after the week of the biennial State Convention or during any calendar week in which committee meetings or general sessions of the quadrennial National Convention are scheduled. Once a County Executive Committee meeting has been properly noticed in accordance with these Rules and the Rules or Bylaws of the County Executive Committee, no other County Executive Committee meeting of any type, other than for statutory business, shall be held during the period that runs from two (2) days prior to two (2) days after the scheduled County Executive Committee meeting.
  - g. Open Meetings and Right to Testify – All meetings of any State or County Executive Committee (CEC) or its committees, subcommittees, or ad hoc committees shall be open to any member of that executive committee, and they shall have the right to appear before any such committee, subcommittee, or ad hoc committee and make recommendations for the committee's consideration or testify concerning any item under purview of the committee and to record or livestream with electronic devices the proceedings of any meeting not held in executive session. The committee may adopt reasonable rules including time limits for such presentations and may establish a reasonable limit of time for these presentations. This Rule does not preclude the committee from going into executive session; however, such executive session(s) shall be open to any member of the executive committee including ex-officio members.
  - h. The County Chairman shall maintain a current list of the name, mailing address, phone number, email address (if available), and precinct number of every Republican Precinct Chair who was elected in the Primary, the Primary Runoff, or was appointed by the County Executive Committee (CEC) to fill a Precinct Chair vacancy. The list shall be updated within seven (7) business days of an election changing the status of the list and shall be made available at reproduction costs or by email to any Republican Precinct Chair, Republican Party Official, Republican Elected Officeholder, or Republican Candidate for Elective Office of the county requesting such.
  - i. Filling Vacancies on a County Executive Committee (Permanent State Executive Committee Rule) – A County Executive Committee (CEC) shall, by majority vote at its organizational meeting, adopt a Bylaw or Rule for filling vacancies on the County Executive Committee.
  - j. Permit Electronic Executive Committee Meetings – In the event of a stated emergency, as declared by the Chairman, an Executive Committee Meeting may be conducted through use of electronic meeting services designated by the Chairman. In the event an Executive Committee Meeting is held electronically, the electronic meeting must allow for the real-time sharing and viewing of committee documents, including the current motion, any amendments to that motion, and any reports that the Committee considers.
  - k. Removal of County Chairman for Abandonment of Office or Ineligibility – If the County Executive Committee (CEC), by a majority vote of the full body, finds that a County Chairman has failed to perform his or her duties or is no longer eligible for office, the CEC shall send a resolution and supporting documentation to the SREC Officials Committee to

begin an official review for remedy. Nothing in this rule prohibits any person affiliated with the Republican Party of Texas from causing a resolution to be considered by the State Republican Executive Committee. The County Chairman being reviewed must be notified at least seven (7) days in advance of any meeting concerning his or her removal and must be offered the opportunity to present his or her own defense before a vote on removal is taken.

- l. No member of a State Executive Committee, County Executive Committee (CEC), or State Convention Committee may vote on any issue for which the member is a registered lobbyist or has a substantial interest, as defined by the Local Government Code Title 5, Subtitle C, Section 171.002, with respect to the issue to be voted upon.
- m. SREC Officials Committee Mediation of Disputes – County Chairmen or County Executive Committees may elect to submit disputes between them to the SREC Officials Committee for mediation in lieu of litigation. The SREC Officials Committee may elect to accept or decline the role of mediator on a case-by-case basis.
- n. Elected Party Officials’ Misconduct in Office – A Precinct Chair, County Chairman, or SREC member may be deemed to be derelict in the execution of his or her responsibilities in office, by:
  1. Failing to perform statutory duties; or
  2. Failing to attend two (2) consecutive statutory Executive Committee Meetings; or
  3. Embezzling County Executive Committee funds; or
  4. Being convicted of election fraud; or
  5. At least three other documented instances of sufficiently egregious conduct that the Republican Party in that county or Senatorial District is subjected to public disgrace.

The Elected Party Official being reviewed must be notified at least seven (7) days in advance of any meeting concerning his or her sanction and must be offered the opportunity to present his or her own defense before a vote on sanction is taken.

Regarding a Precinct or County Chairman, a written complaint signed by at least sixty percent (60%) of the voting membership of the County Executive Committee, or regarding an SREC member, a written complaint signed by at least sixty percent (60%) of the voting membership of the District Executive Committee, shall be forwarded to the Officials Committee of the SREC. If the Officials Committee finds the complaint has merit, the Officials Committee shall conduct a hearing on the conduct of the Precinct or County Chairman, or SREC member, and shall forward a recommendation to the State Chairman to pursue appropriate remedy.

- o. All proposed disciplinary (including censure) actions by a County Executive Committee (CEC) that have continuing effect under these rules shall be in writing and shall be included by the Chairman on the agenda of the notice of meeting posted in compliance with the rules of the County Executive Committee. Upon receipt of a resolution regarding censure from a County Executive Committee, the Chairman of the Republican Party of Texas shall cause consideration of the resolution to be included on the agenda at the next scheduled meeting of the State Republican Executive Committee (SREC). Both bodies shall send the subject of the disciplinary action (including censure) notice by certified mail at the same time as the notice of meeting is posted.

- p. The voting members of the County Executive Committee (CEC) are the County Chairman and Precinct Chairmen. An SREC member is a non-voting ex-officio member of the CEC of every county with territory in his or her district, without the right to make motions. This rule shall not remove the SREC member's right to vote or make motions in his or her home county if the SREC member is a precinct or county chairman in that county.
- q. The County Executive Committee (CEC) shall have the authority, upon a majority vote, to require that the County Chairman include in writing in the regular committee reports of the CEC meeting specific information about the daily operation of the county party including, but not limited to, the details related to financial balances and expenditures from the county party's general fund.
- r. Every County Chairman in a county with a population over 20,000 shall call a County Executive Committee (CEC) meeting at least every quarter. Every County Chairman in a county with a population under 20,000 shall call a CEC meeting at least twice a year (i.e., at least once in both the first half and the second half of the year).

**Rule No. 8A – Petition Required for County Chairmen in Certain Counties**

(Permanent State Executive Committee Rule) – Persons filing for the office of County Chairman in a county with a minimum of eight (8) incumbent precinct chairmen shall include a nominating petition containing the signatures of at least 10 percent of the incumbent precinct chairs serving on the County Executive Committee, or two (2) – whichever is greater, using a form of promulgated by the Republican Party of Texas. The nominating petition shall contain the candidate's sworn oath that each of the signatures thereon is of an incumbent Precinct Chair and was signed in the presence of the candidate. Any county executive committee of a county with a population of fewer than 300,000 may, by majority vote, opt out of this requirement.

**Rule No. 9 – Executive Committee Quorum**

- a. Non-Statutory Business and Filling Vacancies – At County or District Executive Committee meetings, one-fourth (1/4) of the membership, excluding vacancies, shall constitute a quorum for conduct of non-statutory business. The SREC has designated one-fourth (1/4) of the membership, excluding vacancies, or such greater percentage, not to exceed a majority of the membership, as may be specified in County Executive Committee (CEC) Bylaws or Rules as the quorum for filling vacancies on County Executive Committees (Permanent State Executive Committee Rule). At SREC meetings, the quorum for conduct of non-statutory business shall be in accordance with the SREC Bylaws. If the quorum provided above is not present at any executive committee meeting, then only statutory business may be transacted at the meeting.
- b. Statutory Business – At SREC, County, or District Executive Committee meetings, a quorum for conduct of statutory business shall consist of those members present.

## GENERAL RULES FOR ALL CONVENTIONS

### Rule No. 10 – Supplementary Convention Rules

- a. Any convention may adopt temporary or permanent rules which supplement these Rules, as long as such supplemental rules do not conflict herewith.
- b. Any convention committee may adopt supplemental rules related to its proceedings provided that such rules do not conflict with these rules or any supplemental rules adopted by the convention.

### Rule No. 11 – Convention Officials Listed – Challenge

- a. Convention Officials – The officers of any convention, whether it be in temporary or permanent organization, shall consist of a Chairman, a Secretary, a Sergeant-at-Arms, and such other officers as the Chairman may deem necessary. The Secretary and the Sergeant-at-Arms shall have the power to appoint assistants. The permanent officers, except parliamentarian, shall be elected or appointed from among the convention delegates.
- b. Challenge – Any officer or committee chairman of any convention, whether it be in temporary or permanent organization, who intentionally violates the Rules of the Republican Party of Texas shall be subject to a challenge filed under the provisions of Rule No. 27; and if such challenge is upheld by the Convention which hears the challenge, that officer or committee chairman shall be removed from serving as a delegate or alternate to any convention of the Party at any level for the rest of the year.

### Rule No. 12 – Resolutions Authorized – No Unit Rule

Any convention may express its sense on an issue by adopting a resolution on that issue; however, the use of the unit rule (whereby the entire delegation votes as a unit not recognizing the minority votes within the delegation) or the practice of giving binding instructions to the delegates shall not be permitted at any level of the convention process.

### Rule No. 13 – Convention Quorum – Adjournment

- a. Precinct Convention – There shall be no quorum to convene or continue a Precinct Convention.
- b. County or Senatorial District Convention – A quorum to convene a County or Senatorial District Convention shall consist of a majority of the delegates registered as attending. Thereafter, a quorum shall be considered present as long as:
  1. The number of votes represented by delegates in attendance comprises more than fifty percent (50%) of the total voting strength of the Convention;
  2. A majority of the seated precincts are present; and
  3. One-third (1/3) of the seated delegates are present.
- c. State Convention – A quorum to convene the State Convention shall consist of a majority of the delegates registered as attending. Thereafter, a quorum shall be considered present as long as:
  1. The number of votes represented by delegates in attendance comprises more than fifty percent (50%) of the total voting strength of the Convention;
  2. A majority of the seated districts are present; and

3. One-third (1/3) of the seated delegates are present.
- d. Adjournment – In order to adjourn a convention for lack of a quorum, the Chair shall verify the absence of a quorum, using the aforementioned criteria, and such verification shall be made part of the convention minutes.
- e. No quorum shall be required for consideration of the report of a nominations committee or for the election of delegates and alternates.
- f. A convention by majority vote may adopt rules to utilize an electronic system for determining which delegates and alternates are present.

**Rule No. 14 – Open Meeting and Right to Testify**

- a. All meetings of any convention, committee, or subcommittee, whether it be in temporary or permanent organization, shall be open to any delegate or alternate to that convention, any State or County Republican Party Officer, any elected Republican Public Officeholder, or any Republican Candidate. All the foregoing shall have the right to record or livestream the proceedings with digital devices, except the proceedings of any Nominations Committee. These same people shall have the right to appear before any convention committee or subcommittee and make recommendations for the committee’s consideration or testify concerning any item under purview of the committee. The committee may adopt reasonable rules including time limits for such presentations and may establish a reasonable limit of time for these presentations. This privilege shall include delegates and alternates under challenge at any convention pursuant to Rule No. 35. Nothing in this Rule shall be construed as to prohibit individual committee members, whether they be in temporary or permanent organization, from communicating with one another about business to come before their committee, in any manner they choose, prior to the convening of their first committee meeting or at any other time outside of their official committee meeting or meetings. Notice of any meetings of any temporary committee or subcommittee of any County or Senatorial District Convention shall be posted on the preferred digital platform(s), if any, as decided by the County Executive Committee (CEC), at least twenty-four (24) hours prior to the date of the meeting. If the notice is not posted as prescribed, the committee can only convene on the day of the convention. No executive session shall be held by any convention, convention committee, or convention subcommittee.
- b. An official video recording or livestream may be made of all general sessions and any meetings of any committee of the State Convention, whether it be in temporary or permanent organization.

**Rule No. 15 – Identification Required**

Any persons present at any convention must identify themselves when requested to do so by any Sergeant-at-Arms or any other officer of the convention. Because the Republican Party is a family-friendly Party, minor children in good behavior are always welcome to all Party meetings and conventions and exempt from registration and identification requirements.

**Rule No. 15A – Distribution of Literature**

Literature may be freely distributed in any State or County/Senatorial District Convention or Caucus, provided that the items being distributed display the name of the person or organization that paid for the literature. Any such literature distributed without the name of the person or organization that paid for the literature shall be removed.

**Rule No. 16 – Previous Question**

- a. Previous Question – At any convention, when the previous question has been moved and seconded and is sustained by a two-thirds (2/3) vote, the question shall be deemed to have been called and a vote shall occur upon the pending question, except as provided in Section b of this Rule.
- b. Exception – At any convention, a motion to move the previous question or to close nomination concerning any election, including the election of delegates and alternates, shall not be in order until there has been reasonable opportunity for additional nominations, debate, or amendment, as appropriate.
- c. State Convention Committees – Any State Convention committee or subcommittee may by a two-thirds (2/3) vote adopt a rule allowing the motion for the previous question.

**Rule No. 17 – Debate**

- a. Main Motions – No delegate shall speak more than five (5) minutes on a main motion without the general consent of the Convention, nor shall a delegate speak more than once on the same motion without general consent.
- b. Amendments and Secondary Motions – No delegate shall speak more than three (3) minutes on any amendment or debatable motion subsequently made while a main motion is pending without the general consent of the Convention; nor shall a delegate speak more than once on the same motion without general consent.
- c. Committee Reports – The delegate making the committee report and the delegate making the minority report of any convention committee may speak on such report for up to ten (10) minutes, not including the time required to read the report, and may then answer legitimate questions asked by any delegate relating to such report.
- d. Limiting Debate – Any Convention, by majority vote, may limit or extend equally the time and the number of speakers for each side of a debatable motion.

**Rule No. 18 – Voting Strength – Number of Delegates**

Except in Presidential Election years in the case of Congressional District Caucuses and National Party business, the Convention will continue to enjoy its full strength in the cases of preceding Conventions not electing all delegates to which it is entitled. No Convention shall elect fractional delegates; i.e., no Convention shall elect more delegates or alternates than the number to which it is entitled.

**Rule No. 18A – No Amendments after Adjournment**

The minutes of any precinct, county, or senatorial district convention may not be amended to add any delegate or alternate, or strike any elected delegate or alternate after adjournment of that convention.

## GENERAL RULES FOR PRECINCT CONVENTIONS

### **Rule No. 19 – Date, Time, and Place for Precinct Conventions (Permanent State Executive Committee Rule)**

On or after the first Tuesday in March for each even numbered year, Precinct Conventions shall be held for each precinct at the date, time, and place designated by the County Executive Committee (CEC) or, in its failure to act, the County Chairman; provided that the place of such convention shall be large enough to accommodate the expected number of participants and must meet the same requirements for access by the elderly and persons with physical disabilities as a polling place. If a County Executive Committee fails to allocate its precinct delegates or to send the precinct redistricting data to Republican Party of Texas five (5) days prior to the precinct convention, then the chair of each precinct convention shall call the convention to order, recess to the call of the chair, and immediately notify the Republican Party of Texas for further instructions.

### **Rule No. 20 – Qualifications for Participation**

The only qualifications for participation in a Precinct Convention, being an officer of such convention or being elected a delegate to the County, Senatorial District, or State Conventions shall be that the person must be a registered voter of that precinct or a resident of that precinct who is eligible to vote a limited ballot and shall have established Party affiliation. Party affiliation is established by Rule No. 46, provided the person has not been disqualified under this Rule or Rule No. 11. A person who wishes to serve as a delegate or alternate must have fulfilled the requirement of Party affiliation at the time of election, which occurs when a Convention approves delegates to the next higher-level convention from that Precinct, Senatorial District, or County. For the purposes of participation in a convention, a person's residence as indicated by his or her current voter registration certificate or electronic records provided by his or her county voter registrar, is determinative. A person's residence for the purpose of conventions in a particular year is fixed as of the date of the General Primary Election, even if the person subsequently moves to a different precinct or district. A Precinct Chairman, or person acting in the absence of the Precinct Chairman, who convenes the Precinct Convention earlier than the hour determined by the County Executive Committee (CEC) shall be subject to challenge by any Republican General Primary voter in the precinct through the method outlined in Rule No. 27; and if the challenge is upheld by the County or Senatorial District Convention, such person shall be removed from serving as a delegate or alternate to any convention at any level throughout the remainder of the year. Children whose parents or guardians are participants in a Precinct Convention may attend the convention if space permits, but may not participate or disrupt. If there was no Convention held at the Precinct, Senatorial District, or County level, no Delegates or Alternates are qualified to participate in the next higher-level convention from that Precinct, Senatorial District, or County.

### **Rule No. 21 – Agenda for Precinct Conventions**

The agenda for each Precinct Convention shall include the following order of business:

- a. Call to order at the appointed hour by the Precinct Chairman or other participant if the Precinct Chairman is not present.
- b. Preparation of a list of and announcement of number of qualified participants present.
- c. Announcement of agenda and basic rules of procedure.
- d. Election of the permanent officers of the convention by majority vote.

- e. Announcement of County or District Convention and of temporary committee meetings, if known.
- f. Election of delegates and alternates to County or Senatorial District Convention, as the case may be, by majority vote, and certification of eligibility of each delegate and alternate by the Precinct Convention Secretary, where the primary voters list is available.
- g. Resolutions.
- h. Other business.
- i. Adjourn.

**Rule No. 22 – Chairman’s Responsibilities**

- a. Written or Electronic Records – The Permanent Chairman of the Precinct Convention shall be responsible for seeing that an accurate written or electronic record is prepared of all convention proceedings, including:
  - 1. The minutes of the Precinct Convention.
  - 2. The list of participants and their residence addresses and towns.
  - 3. The list of delegates and alternates elected to the County or Senatorial District Convention with residence addresses and towns.
  - 4. All resolutions, whether adopted or not adopted.
- b. Inspection of Records – The written record shall be signed by the Permanent Chairman of the Precinct Convention and made available for inspection and additional copying by any participant in the convention for a period of thirty (30) minutes immediately following adjournment of the convention. Upon request, the Permanent Chairman shall certify any correct copy with his or her signature.
- c. Transmittal of Records – The Permanent Chairman of the Precinct Convention shall safely transmit to the County Chairman the written or electronic record of all convention proceedings, and one (1) copy of the same. Transmittal may be:
  - 1. Electronic, delivered to the County Chairman’s electronic mail address or other website designated by the County Chairman for this purpose, not later than the third (3rd) day after the date of the Precinct Convention if not held on the same day or day immediately preceding the County or Senatorial District Convention. If the Precinct Convention is held on the same day or the day immediately preceding the County or Senatorial District Convention, the Permanent Chairman shall deliver the record not later than thirty (30) minutes prior to the start of the County Convention.
  - 2. By mail, deposited in the mail not later than the second (2nd) day after the date of the Precinct Convention if not held on the same day or day immediately preceding the County or Senatorial District Convention, or
  - 3. In person, delivered not later than the third (3rd) day after the date of the Precinct Convention if not held on the same day or day immediately preceding the County or Senatorial District Convention. If the Precinct Convention is held on the same day or the day immediately preceding the County or Senatorial District Convention, the Permanent Chairman shall deliver the record not later than thirty (30) minutes prior to the start of the County Convention.

In counties that do not hold Precinct Conventions on the same day of, or the day immediately preceding, the County or Senatorial District Convention, and contain multiple

Senatorial Districts, the County Chairman shall deliver the original records of each Precinct Convention to the Temporary Chairmen of the Senatorial District Conventions not later than the sixth (6th) day after the date of the Precinct Convention. The County Chairman shall deliver any records subsequently received from a Precinct Convention within two (2) business days after receipt.

- d. Preservation of Records – The Permanent Chairman of the Precinct Convention shall preserve a copy of the written or electronic record, which is not a public record, until the end of the voting year.

The County Chairman shall preserve a paper or electronic copy of the written records of each Precinct Convention until the end of the voting year. The copies are a public record, and shall be available for inspection. The County Chairman shall schedule a reasonable time and place for review of the records to occur within seven (7) days of receipt of a written request.

## GENERAL RULES FOR COUNTY, SENATORIAL DISTRICT, AND STATE CONVENTIONS

### Rule No. 23 – Convention Resolutions

- a. At County Conventions or Senatorial District Conventions, all resolutions including those offered by delegates for consideration by the Convention shall be filed with the Secretary of the Convention not later than thirty (30) minutes after the permanent committees are appointed (or elected, if applicable). The Secretary of the Convention shall automatically and without debate cause the resolutions to be referred to the appropriate permanent committees.
- b. At a State Convention, all resolutions including those offered by delegates for consideration by the Convention shall be filed with the Secretary of the Convention not later than thirty (30) minutes prior to the first meetings of the permanent committees. The Secretary of the Convention shall automatically and without debate cause the resolutions to be referred to the appropriate permanent committees.
- c. The Secretary of the Convention, or his or her designee, shall remain available in a publicly announced location easily accessible from the convention floor during the period in which such resolutions can be filed.
- d. All resolutions adopted by the next lower-level convention shall be considered by the committee appropriate to the subject of the next higher-level convention.
- e. A Temporary or Permanent Committee may originate resolutions.
- f. Only a voter properly elected as a delegate or alternate by his or her Precinct Convention is qualified to participate in a County or Senatorial District Convention.
- g. Only a properly elected delegate or alternate from a County or Senatorial District Convention is qualified to participate in the State Convention.

### Rule No. 23A – Delegate Allocations and Entitlements

- a. The delegate and alternate entitlements to the County or Senatorial District and State Conventions shall be based on the number of votes cast for the Party’s gubernatorial candidate in the most recent gubernatorial general election.
  1. Each Precinct Convention shall be entitled to elect one delegate and one alternate to the County or Senatorial District Convention based on a ratio of one (1) for each twenty-five (25) votes and major fraction thereof within the boundaries of the voting precinct and further shown in more detail on the following table, provided that any Precinct Convention shall be entitled to elect at least one (1) delegate and one (1) alternate:

Votes	Delegates	Alternates
0-37	1	1
38-62	2	2
63-87	3	3
88-112	4	4
113-137	5	5
etc.	etc.	etc.

2. Each County or Senatorial District Convention shall be entitled to elect one (1) delegate and one (1) alternate to the State Convention based on a ratio of one (1) for each 300 votes and major fraction thereof within the boundaries of the County or Senatorial District and further shown in more detail on the following table, provided that any County or Senatorial District Convention shall be entitled to elect at least two (2) delegates and two (2) alternates:

Votes	Delegates	Alternates
0-750	2	2
751-1050	3	3
1051-1350	4	4
1351-1650	5	5
etc.	etc.	etc.

3. Each Precinct and County or Senatorial District Convention delegate and alternate delegate entitlement to the State Convention shall be increased or decreased proportionately among all delegations to achieve a State Convention potential delegate and alternate delegate roll of no less than 7,500 delegates and 7,500 alternate delegates and no more than 9,000 delegates and 9,000 alternate delegates to the State Convention.
  - b. At the option of the local County Executive Committee (in counties containing only one senatorial district), Senatorial District Executive Committee (in a district comprising only a part of a single county), or the precinct chairs of the precincts residing in a particular senatorial district (for a county that is only partly situated in a senatorial district) by a two-thirds (2/3) vote of said committee, held not later than the date specified for the required drawing for a place on the general primary ballot, the delegate entitlement may be changed to a ratio of one (1) to forty (40) and major fraction thereof, or any ratio in between one (1) to twenty-five (25) and one (1) to forty (40), for that year only if said committee can justify among its peers that it is impractical due to size or availability of space to use the formula permitting the maximum number.
  - c. The delegate and alternate entitlement in a presidential election year for a County or Senatorial District Convention which includes more than one (1) Congressional District shall be apportioned among the Congressional Districts in the same manner they are apportioned to the County or Senatorial Districts, provided that the total delegate and alternate entitlement from the County or Senatorial District does not exceed that provided for in this Rule. If the calculation of delegate and alternate entitlements by Congressional District are different from the calculation of delegate and alternate entitlements by County or Senatorial District, the following guidelines shall be used in adjusting the total delegate/alternate entitlements:
    1. The delegate and alternate totals shall not be greater than the delegate/alternate calculation for the County or Senatorial District except that any Congressional District shall be entitled to elect at least one (1) delegate and one (1) alternate which may cause the delegate/alternate entitlement for a County or Senatorial District to exceed the total entitlement for the County or Senatorial District by the number of delegates and alternates from one (1) or more Congressional Districts

- with less than enough votes to get an entitlement of greater than one (1) pursuant to Section a of this Rule, in a presidential election year;
2. Except as provided in Subsection 1 above, if the calculation for delegates and alternates by Congressional District should exceed the number of delegates and alternates by Senatorial District, then the delegate and alternate entitlement to the Congressional District shall be reduced beginning with the smallest fraction, then continuing to the next higher fraction until the calculations are equal;
  3. If the calculation for delegates and alternates by Senatorial District should exceed the number of delegates and alternates by Congressional District, then the delegate and alternate entitlement to the Congressional District shall be increased beginning with the highest fraction, then continuing to the next lower fraction until the calculations are equal;
  4. In a presidential election year, each delegate and each alternate shall have credentials for both the Senatorial District and the Congressional District Caucuses and if a delegate or alternate is not credentialed for both, the delegate or alternate shall not be credentialed for either.
- d. In the event of boundary changes among precincts or districts, or the creation or deletion of precincts or districts since the most recent gubernatorial election, the following rules shall govern the allocation of gubernatorial votes to the changed or newly created precincts or districts.
1. The apportionment of gubernatorial votes to the newly created or changed precincts or districts shall be made using any fair and equitable method for making such determination.
  2. The County Executive Committee shall apportion to each precinct the number of votes to be used in allocating the number of delegates and alternates which may be elected by such precincts using any fair and equitable method for making the determination.
  3. When the boundaries of a Senatorial District or Congressional District have changed or a new district formed causing a boundary change in an election precinct, the apportionment of gubernatorial votes to each precinct shall be used in allocating the number of delegates to be elected in each affected district.
  4. If the County Executive Committee fails to act before the last day of candidate filing for a place on the General Primary ballot for public office, the SREC shall make such apportionment of the gubernatorial vote to precincts.
- e. The Permanent Convention Chair of the County Convention or Senatorial District Convention shall send Notice of Election to every Delegate and Alternate to the State Convention. If the Delegate or Alternate provided his or her email address on the Convention roster, Notice of Election may be by email, but if no email address was provided, the Notice of Election must be mailed to the address on the Delegate or Alternate Exhibit List.

#### **Rule No. 24 – Minority Reports of Committees**

At any convention other than a Precinct Convention, a minority report of a committee, shall be presented to the Convention, if a committee member has notified the committee chairman of the intent to file a

minority report before the committee adjourns, and if it has been reduced to writing and signed by not less than two (2) or twenty percent (20%) of the members of such committee, whichever is greater, and presented to the chairman of the committee or the Secretary of the Convention not later than thirty (30) minutes after the committee adjourns. The committee members signing the minority report shall designate the member to present the minority report to the convention and the convention chairman shall permit that member to present the minority report to the convention and that member shall be permitted to move the implementing motion. In a state convention, if a committee chairman has been notified of a potential minority report before adjournment, and does not remain in the committee room for 30 minutes following adjournment, then the minority report may be presented to the Secretary of the Convention during the convention, but before the presentation of the Rules Committee report.

**Rule No. 25 – Persons Admitted and Who May Address**

- a. Admittance – At any convention other than a Precinct Convention, there shall be admitted to the convention floor only delegates whose names are listed on the Temporary Roll during the temporary organization or on the Permanent Roll when adopted by the Convention, alternates seated for absent delegates in accordance with Rule No. 26, past State Chairmen and Vice Chairmen, the present members of the SREC, its officers and employees, the National Committeeman and Committeewoman, past National Committeemen and Committeewomen, properly accredited members of the media, babies of nursing mothers who are delegates, Republican public Officeholders, Republican candidates for public office, and persons assisting delegates that have physical disabilities.
- b. Badges – The Secretary of the Convention is instructed to issue identification badges in accordance with the above, and the Sergeants-at-Arms shall admit only authorized persons to the convention floor. Seating shall be provided for alternates in the section(s) designated for guests.
- c. Addressing Convention – At any convention other than a Precinct Convention, no person other than a Republican Party of Texas official, member of the SREC, delegate, or an alternate seated for an absent delegate in accordance with Rule No. 26, shall address the Convention or Caucus of the Convention without the permission of the Chairman or the general consent of the Convention or Caucus of the Convention.
- d. At any convention, registration and credentialing shall continue through adjournment.

**Rule No. 26 – Seating of Alternates at Any Convention Other Than a Precinct Convention**

- a. Order of Seating Alternates – Alternates shall be seated for absent delegates in the order listed in the minutes of the convention electing them; however, if instructions are provided by the Convention electing such alternates, said instructions shall be followed in the seating of alternates.
- b. Voting in Caucuses – Alternates shall be admitted to all district or precinct caucuses; however, any alternate shall not vote or be provided any privileges of a delegate unless seated for an absent delegate.
- c. Limitations on Using Alternates – Alternates shall replace delegates absent from the voting floor only from the same convention electing such alternates.

- d. Timing of Seating – Alternates may be seated to replace absent delegates at any time in a convention by the chairman of a delegation, and seated alternates shall relinquish their seats upon the return to the floor by the delegate except that:
  1. Alternates shall be seated to replace delegates absent from the voting floor prior to the beginning of any vote and shall not be seated or unseated during any vote.
  2. In caucuses, alternates shall be seated to replace delegates absent from the voting floor prior to roll call of the caucus or delegation of the caucus and shall not be seated or unseated during the roll call of the caucus or delegation of the caucus.
  3. Alternates under challenge pursuant to Rule No. 27 shall not be seated until the challenge is resolved.

**Rule No. 27 – Challenges to Credentials of Delegates**

- a. County or Senatorial District Conventions – The credentials of any delegate or alternate to a County or Senatorial District Convention may be challenged by any person who voted in the Republican General Primary and who resides in the same precinct as the challenged delegate by mailing to the County or District Convention Chairman a written challenge specifying the grounds for the challenge and detailing the specific Rule or Rules alleged to have been violated. The challenge shall be sent via certified or registered mail at least three (3) days before the date of the convention. A copy of this challenge shall be sent by certified or registered mail by the person initiating the challenge to the challenged delegate(s) or alternate(s). The County or District Convention Chairman shall send all challenges to the chairman of the Temporary Committee on Credentials of the convention in question.
- b. State Convention
  1. Filing of Challenge – The credentials of any delegate or alternate to the State Convention may be challenged by any person who voted in the Republican General Primary and who resides in the same County and Senatorial District as the challenged delegate or alternate by sending to the State Chairman and to each challenged delegate or alternate a written challenge specifying the grounds for the challenge and detailing the specific Rule or Rules alleged to have been violated. A challenge must include the number of the rule alleged to have been violated and the specific facts supporting the challenge based on a violation of that rule. A challenge must also identify any allegations of fact and identify those alleged facts not personally known to the complainant. A challenge should use simple, concise, and direct statements. The challenge shall be sent via certified return receipt or registered mail not later than thirty (30) days following the date of the County or Senatorial District Convention. The State Chairman shall deliver all such challenges to the Officials Committee of the SREC (as constituted in the bylaws of the SREC, Article VII, Section 8). The names of the members of the SREC Officials Committee shall be posted on the website of the Republican Party of Texas.
  2. Officials Committee – Without attempting to assess merit or lack of merit, the Officials Committee shall in open session without taking testimony conduct a preliminary review of each challenge in order to establish whether the basis for the

challenge is valid under the Rules of the Republican Party of Texas. Both the person filing a challenge and the delegate or alternate challenged shall be notified of the date and time of the Officials Committee meeting in which the challenge is heard. The Officials Committee shall forward to the Temporary Committee on Credentials all challenges meeting the requirements of Party Rules with regard to form, content, and procedure. Any challenge not meeting these requirements shall not be forwarded to the Temporary Committee on Credentials, and the principal(s) who brought such challenge and the principal(s) against whom the challenge was brought shall be promptly notified by certified return receipt or registered mail. The Credentials Committee shall not hear a late challenge of a delegate or alternate.

3. Appeal – A decision of the Officials Committee may be appealed by either party to the Temporary Committee on Credentials by mailing notice of appeal via certified return receipt or registered mail to the Credentials Committee Chairman and to the principal(s) named in the challenge not later than ten (10) days prior to the date that the State Convention holds its first (1st) general session.
  - c. Status of Challenged Delegate – No delegate whose credentials are challenged shall lose the eligibility to serve on a temporary committee, although the challenged delegate may not vote in the Credentials Committee on his or her own challenge.
  - d. Committee on Credentials Procedure – At any convention other than a Precinct Convention, the Temporary Committee on Credentials, when it convenes, shall hear both sides of the challenge and shall report to the Convention the name of each delegate or alternate it believes to be entitled to participate in the convention. The Convention shall vote on the report of the Committee on Credentials on each challenge that is made. Challenged delegates shall be listed on the Temporary Roll, but may not vote on their own respective challenges. Furthermore, delegates from delegations that are being challenged may not be seated until the challenge is resolved.

**Rule No. 27A – Date, Time, and Place for County and Senatorial District Conventions (Permanent State Executive Committee Rule)**

County and Senatorial District Conventions shall be held on the fourth Saturday in March. However, if that date occurs during Passover or on the day following Good Friday, the conventions shall be held on the next Saturday that does not occur during Passover or is not the day following Good Friday. The County Executive Committee in each county shall set the hour and place for convening County and Senatorial District Conventions in that county.

**Rule No. 28 – Conventions in County with Multiple Senatorial Districts**

If a county is situated in more than one state Senatorial District, instead of a County Convention, a Senatorial District Convention shall be held in each part of the county that is situated in a different Senatorial District, provided, however, that shared facilities may be utilized for separate Senatorial District Conventions that may be held outside the geographical boundaries of the Senatorial District, if party interests and public accessibility will be served as determined by a caucus of precinct chairmen in each affected Senatorial District within the county not later than the date on which drawing for a position on the primary ballot is conducted. A meeting for this purpose shall have been called by written notice to

each precinct chairman in each respective Senatorial District within the county from the County Chairman not later than ten (10) days prior to the meeting.

**Rule No. 29 – County or Senatorial District Convention Committees**

- a. The County Chairman is the Temporary Chairman of a County Convention. If a Senatorial district is situated in more than one county or the Senatorial District is completely within but does not include the entire county, the Temporary Chairman shall be elected by the caucus of the Senatorial District Executive Committee at a properly called County Executive Committee (CEC) Meeting. The list of County Executive Committee members that will be caucusing with their Senatorial District for selection of Temporary Senatorial District Convention Chair shall be updated within seven (7) business days before this meeting and enforced by the County Sergeant-of-Arms.
- b. Prior to each County or Senatorial District Convention, the Temporary Chairman shall appoint the following committees and name the chairmen and members thereof before the temporary committees convene, provided that all members shall be delegates, and if the convention has more than fifty (50) delegates each such committee shall be composed of at least five (5) and not more than fifteen (15) delegates. If the convention has more than twenty-five (25) but less than fifty (50) delegates, then each committee must be composed of at least three (3) delegates. The list of committee members shall be published in a manner accessible to delegates and once published shall not increase in number unless it falls below the minimum in which case it shall be brought back to no more than the minimum. The committees and their duties shall be as follows:
  1. Credentials: This committee shall hear any contest concerning delegates and shall recommend the Permanent Roll of the Convention.
  2. Rules: This committee shall recommend the Supplemental Rules for the Convention.
  3. Permanent Organization: This committee shall recommend permanent officers of the convention from among the delegates present.
  4. Resolutions: This committee shall conduct preliminary deliberations for the purpose of making recommendations to the Permanent Resolutions Committee.
  5. Nominations: This committee shall conduct preliminary deliberations for the purpose of making recommendations to the Permanent Nominations Committee.
  6. Legislative Priorities: This committee shall conduct preliminary deliberations for the purpose of making recommendations to the Permanent Legislative Priorities Committee.
- c. The Temporary Convention Chairman shall make available at the Chairman's podium, at the start of the convention, no fewer than five (5) copies of the Temporary Rules Committee report, no fewer than five (5) copies of the Temporary Resolutions Committee report, and no fewer than five (5) copies of the Legislative Priorities Committee report and shall announce they may be inspected by any delegate or alternate to the convention.
- d. Immediately upon the election of the Permanent Convention Chairman, the permanent committees shall be chosen according to the convention supplementary rules or appointed by the Permanent Convention Chairman if the rules do not specify any method. The committee members shall be from among the delegates, whose duties shall be as stated

below, and the chairmen thereof, provided that if the convention has more than fifty (50) delegates, each such committee shall be composed of at least five (5) and not more than fifteen (15) delegates. If the convention has more than twenty-five (25) but less than fifty (50) delegates, then each committee must be composed of at least three (3) delegates. The committees and their duties shall be as follows:

1. Nominations: This committee shall present nominations for delegates and alternates to the State Convention, after considering the recommendations of the Temporary Nominations Committee.
2. Resolutions: This committee shall recommend resolutions to the Convention, after considering the recommendations of the Temporary Resolutions Committee.
3. Legislative Priorities: This committee shall make recommendations of no less than one (1) and no more than fifteen (15) Legislative Priorities to the Convention, after considering the recommendations from the Temporary Legislative Priorities Committee.

**Rule No. 30 – County or Senatorial District Convention Agenda**

The agenda for each County or Senatorial District Convention shall include the following order of business.

- a. Call to order by the Temporary Chairman.
- b. Roll call of Temporary Roll of delegates. (Roll call may be taken by name or by Precinct Delegation count. The delegate registration list may be used at the start of the convention to establish the Temporary Roll and a quorum for the convention, when approved by a majority voice vote of the delegates present. Delegates must provide proper identification upon registration to obtain their credentials, if this method is to be used.) At the conclusion of roll call the Secretary shall announce:
  1. the number of delegations present;
  2. the combined voting strength of those delegations; and
  3. the number of attending delegates at the start of convention.
- c. Report of the Credentials Committee (this report shall be acted on prior to any further business).
- d. Report of the Rules Committee; adoption of supplemental rules.
- e. Report of the Permanent Organization Committee; election of permanent officers from among the delegates.
- f. Appointment of (or election, if applicable) Permanent Nominations and Permanent Resolutions Committees.
- g. Precinct Caucuses, if applicable.
- h. Report of the Legislative Priorities Committee; adoption of the report.
- i. Report of the Resolutions Committee; adoption of the report.
- j. Report of the Nominations Committee; adoption of the report.
- k. Other business.
- l. Adjourn.

Provided, however, that such order of business, following item (c) may be changed by affirmative vote of a majority of the delegates present and voting.

**Rule No. 31 – Report of Nominations Committee**

At a County or Senatorial District Convention, the Committee on Nominations shall present a report including a list of delegates and alternates for election to the State Convention. The manner in which alternates shall replace absent delegates may be adopted in the supplemental convention rules, or if none are adopted shall be designated by the Nominations Committee report. That report may be amended by the Convention by the process of adding, or by striking and inserting, or by substitution. Supplemental rules regarding the manner in which alternates shall replace absent delegates can be amended by simple majority vote. The Convention shall then elect the delegates and alternates to the State Convention by adopting the report, or the report as amended, of the Nominations Committee. The Convention may provide in its supplemental rules a method for nominating some or all delegates and alternates in precinct caucuses of the Convention. Delegates and alternates nominated by precinct caucuses shall be reported to the Committee on Nominations to include in its report, and unless provided otherwise in the Convention supplemental rules, these nominations shall not be subject to amendment by the Committee, except to move an alternate to a delegate. In the absence of provisions for nomination of some or all delegates or alternates in precinct caucuses in the supplemental rules, all delegates and alternates will be elected at large.

**Rule No. 32 – Convention Records**

All lists of delegates and alternates are exclusively for the business of the Republican Party of Texas and may not be disclosed to anyone outside of the Republican Party of Texas (to include Party staff, State Republican Executive Committee members, State Convention Temporary and Permanent Caucus Chairmen, and State Convention Temporary and Permanent Committee Chairmen). The Permanent Chairman of a County or Senatorial District Convention shall be responsible for making a certified list of the delegates and alternates chosen, with residence addresses including towns shown thereon, phone number (if available), and email address (if available), together with a copy of all resolutions adopted by the Convention, and shall sign the same, the Permanent Secretary of such convention attesting the signature of the Permanent Chairman; and within five (5) days after the convention shall forward such certified lists and resolutions to the State Chairman at the Republican Party of Texas State Headquarters. Items from the Report of the Permanent Resolutions Committee and the Report of the Permanent Legislative Priorities Committee shall be submitted to the State Chairman and respective State Convention temporary committees via an electronic method to be determined by the SREC and administered by the Republican Party of Texas. If an electronic method is not available due to an emergency, then a paper submittal is permissible. The SREC may specify a standard format and method of submission for the lists, resolutions, and other records.

## GENERAL RULES FOR STATE CONVENTIONS

### Rule No. 33 – Temporary Organization

- a. Date, Time, Place, and Call. The SREC shall select the date, time, and place of the State Convention, and the State Chairman shall include this information along with the date and place of temporary committee meetings in the call to the convention, which shall be posted on the website of the Republican Party of Texas (<http://www.texasgop.org>) at least thirty (30) days prior to the Convention. The State Chairman shall send the call via electronic mail twenty-five (25) days prior to the convention to each delegate and alternate on the Temporary Roll who has a valid email address on file with the Republican Party of Texas. All delegates and alternates who do not have a valid email address on file shall be mailed a copy of the call not less than fifteen (15) days prior to the convention. The State Chairman shall recommend the temporary convention agenda and order of business to the SREC.
- b. Temporary Committees. Within twenty (20) days following the County/Senatorial District Conventions, the two (2) SREC members representing each Senatorial District, either separately or jointly, shall recommend to the State Chairman one (1) representative from among their district's delegates to each of the State Convention temporary committees. The State Chairman shall appoint one (1) delegate from each Senatorial District to each of these committees from among these recommendations timely submitted, or of the State Chairman's own choosing if no names were submitted, or none were eligible or willing to serve. In addition to these members, the State Chairman shall appoint the Chairman for each temporary committee. These lists of members and Chairmen, including contact information, shall be posted on the Republican Party of Texas' website within thirty (30) days following the County or Senatorial District Conventions. The lists will be updated as new or corrected information is obtained. The temporary committees are:
  1. Credentials: This committee shall hear any contests concerning delegates and alternates and shall recommend the resolution of such contests, plus the Temporary Roll about which there is no contest, to the SREC. Contests shall include any issue, not filed as a challenge under Rule No. 27, related to the validity of a delegate's election to a State Convention or the delegate's qualifications under Rule No. 20. Additionally, this committee shall hear all challenges forwarded to it by the State Officials Committee, plus any challenge under appeal, and shall recommend the resolution thereof to the State Convention. Upon resolution by the State Convention of any challenges under this appeal process, this committee shall recommend the Permanent Roll to the State Convention.
  2. Organization: This committee shall recommend the temporary organization of the convention to the SREC. The State Chairman shall be the Temporary Chairman of the biennial State Convention. The officers of each State Convention shall include a registered parliamentarian appointed by the State Chairman. This committee, while still under temporary organization, shall also recommend the permanent organization to the State Convention for consideration after the State Convention's adoption of the Permanent Roll. The election of a Permanent Convention Chairman shall not be in order until a majority of those delegates elected at County or Senatorial District Conventions have registered in attendance at the State

- Convention. For the purposes of this section, alternates seated as delegates shall be counted as delegates.
3. Rules: This committee shall recommend the Supplementary Rules for the Convention to the SREC and may recommend changes in these General Rules to the Permanent Committee on Rules.
  4. Legislative Priorities: This committee shall conduct the preliminary deliberations for the purpose of making recommendations to the Permanent Committee on Legislative Priorities.
  5. Platform and Resolutions: This committee shall conduct the preliminary deliberations for the purpose of making recommendations to the Permanent Committee on the Platform and Resolutions. The Platform and Resolutions Committee shall begin deliberations preparing the platform of the state convention by starting with the most recent state convention platform. The Committee shall review submitted resolutions and platform planks sent from the various County and Senatorial District Conventions to eliminate duplicates, consolidate similarly worded submissions, and check for existing planks of a substantially similar nature. The Committee shall only construct or diminish the previous platform through plank-by-plank votes. The report to the Permanent Platform and Resolutions Committee shall clearly make visible all insertions, modifications, and deletions.
- c. SREC Pre-convention Meeting. Prior to the convention, the SREC shall approve the following:
1. The Temporary Roll of the Convention, excluding those challenges, if any, to be resolved by the Convention as provided in Rule No. 27.
  2. The temporary Supplemental Rules of the Convention, which together with these General Rules shall be the Temporary Rules of the Convention.
  3. The temporary agenda and order of business of the convention.
  4. The temporary organization of the convention.
- d. Temporary Caucus Chairmen. Prior to each State Convention in Presidential election years the State Chairman shall appoint the Temporary Chairman of each Congressional District Caucus. Prior to each State Convention, the two (2) members from each Senatorial District of the SREC shall appoint one (1) representative from among their Senatorial District's delegates to be the Temporary Chairman in each Senatorial District Caucus. If the two (2) SREC members cannot agree on a selection, then each shall submit a name to the State Chairman, who will select one (1) of the names submitted. If any appointed delegate is unable to serve, the State Chairman may appoint a replacement.

#### **Rule No. 34 – Permanent Committees and Composition**

At each biennial State Convention, the membership of each permanent committee listed below shall be composed of one (1) delegate from each Senatorial District, to be elected by caucus of the delegates in each such district, plus the Chairman thereof, to be appointed by the Permanent Convention Chairman. If there is a temporary committee specified in these Rules corresponding to a permanent committee in this Rule, the scope of the permanent committee is not limited to what was considered by, voted upon, or recommended by the temporary committee counterpart. Such permanent committees shall be as follows:

- a. Credentials: This committee shall continue to add registered delegates and alternates to the Permanent Roll throughout the convention. This committee shall also address contests and challenges until the Permanent Credentials Committee has adjourned sine die.
- b. Rules and Order of Business: This committee shall recommend to the Convention the Supplementary Rules of the Convention, any amendments to these General Rules, and the Order of Business.
- c. Legislative Priorities: This committee shall recommend to the Convention proposed legislative priorities and related resolutions. The Legislative Priorities Committee of the biennial State Convention shall prepare a list of no more than fifteen (15) resolutions defining legislative priorities for the Republican Party of Texas State Convention to consider for the session of the Texas Legislature following the Convention. The State Convention will vote “Yes”, “No”, or “Abstain” for each of the fifteen (15). The top half, rounded up, shall become the Republican Party of Texas Legislative Priorities for the session of the Texas Legislature following the Convention. Legislative Priorities shall be for specific changes, additions to or deletions from the law that directly support the Platform and the core values of the Republican Party of Texas. The SREC shall expend reasonable Party resources to promote passage of legislation crafted in support of these priorities. No one may add to or edit the Legislative Priorities after State Convention adjourns sine die.
- d. Platform and Resolutions: This committee shall recommend to the Convention the platform and resolutions.
- e. State Nominations: This committee shall report to the Convention nominations for the state positions to be filled by the Convention.
- f. State Grammar, Spelling, Formatting, and Punctuation Committee: The Permanent Convention Chair shall appoint a Grammar, Spelling, Formatting, and Punctuation Committee of qualified delegates who shall meet during the consideration of the Reports on the floor of the Convention for the purpose of reviewing non-substantive grammar, spelling, formatting, and punctuation of the language included in the Reports and shall incorporate the necessary corrections. Upon completion of its work, the committee will report back to the chair with their revisions for vote by the convention.

**Rule No. 34A – National Nominations Committee**

At the biennial State Convention in presidential election years, there shall also be a National Nominations Committee composed of one (1) delegate from each Congressional District, to be elected by caucus of the delegates in each such district, plus the chairman thereof, to be appointed by the State Chairman. The Chairman of the National Nominations Committee shall convene the meeting of the committee two (2) hours after the start of the Congressional Caucus with a quorum being present. This committee shall report to the Convention nominations for National Delegates and Alternates, Presidential Electors, and National Committeeman and National Committeewoman, which nominations have previously been made in accordance with Rule Nos. 39 and 40, and Sections 6 and 7 of Rule No. 38. National and Statewide elected officials, with the exception of the Governor, Lieutenant Governor, and State Party Vice Chairman, are ineligible to be Delegates to the Republican National Convention, but may be elected as Alternates.

**Rule No. 35 – Temporary Committee on Credentials – Contest**

At a State Convention, any delegate or alternate who has filed a challenge or who has been challenged including delegates and alternates whose names are not listed on the Temporary Roll of the Convention, but are listed on County or Senatorial District Convention Minutes and Returns filed with the State Chairman shall be allowed admittance to the room in which the Temporary Committee on Credentials holds its meetings for the purpose of presenting a contest and may speak to the merits of his or her case within the time limits established by the committee. The contestants from only one (1) County or Senatorial District shall be admitted at one (1) time. Any contest will be reported by the Credentials Committee to the SREC, with a recommendation as to its resolution, and the decision of the SREC will be final in determining its effect on the Temporary Roll of the Convention. If the contest is filed as a challenge, in accordance with provisions of Rule No. 27, the issue will be presented by the Credentials Committee with a recommendation for its resolution, to the full Convention for final determination.

**Rule No. 36 – Seating and Voting**

Seating and voting at the biennial State Convention shall be by Congressional District or Senatorial District as appropriate. Minor children of delegates must be accompanied by their parents and may sit with their parents while in good behavior but may not displace delegates.

**Rule No. 37 – State Convention Exhibition Hall**

Applications for booths and displays at the Exhibition Hall venue at the State Republican Convention shall be reviewed for approval by the SREC Officials Committee in accordance with the Preamble and Principles of the Platform. The denial of an application may be appealed by the applicant and the approval may be appealed by a member of the Officials Committee to the full body of the SREC which shall consider the application at its next meeting. A two-thirds (2/3) vote of the SREC shall be required to approve the appeal of the application. The ruling of the SREC Officials Committee shall be final if there is no scheduled meeting before the State Republican Convention. All such votes of appeals shall be by roll call vote.

**Rule No. 38 – National Convention Delegates and Alternates**

*Section 1. Presidential Primary, Application of Rule*

- a. Presidential Primary: A Presidential Primary election shall be conducted by the Republican Party in the year 1980 and every fourth year thereafter in conjunction with the Party's General Primary Election for the purpose of permitting the qualified voters of Texas to express their respective preferences as to the nominee of the Republican Party to the office of President of the United States.
- b. Application of Rule: Such Presidential Primary shall be held, and the delegates and alternates to the National Convention for that year shall be selected and elected, in the manner and at the times set forth in this Rule.

*Section 2. Method of Qualifying as Presidential Candidate*

- a. Filing: Any person eligible to hold the office of President of the United States may qualify to participate as a Presidential candidate in the presidential primary by filing with the State Chairman, not later than the date and time specified for the General Primary Election ballot filing deadline, a signed and acknowledged application for his or her name to be placed on

- the Presidential Primary ballot, accompanied by a supporting petition signed by a minimum of 300 registered voters of the state from each of a minimum of fifteen (15) Congressional Districts, or the payment of a filing fee of \$5,000.
- b. **Signing Petition:** A voter may sign only one (1) petition supporting one (1) candidate for President and may sign that petition only one (1) time. The name of any voter violating this provision shall be stricken from all petitions signed by that voter and shall not be counted for any purpose.
  - c. **Form of Petition:** The SREC shall prescribe the form of all applications and petitions which are to be filed pursuant to this section and may by resolution provide for a method of verification of the petitions required here.
  - d. **Withdrawal or Death of Candidate:** A Presidential candidate may withdraw from participation in the Presidential Primary at any time by filing with the Secretary of the SREC a signed and acknowledged request to that effect. If a Presidential candidate dies or withdraws before the seventy-ninth (79th) day prior to Election Day, the name of the candidate shall not appear on the ballot. If a candidate dies or withdraws during the seventy-nine (79) days before Primary Election Day, the votes cast for that candidate shall be counted and the delegate and alternates, if any, allocable to that candidate under this Rule shall be elected by the appropriate Congressional District Caucus from any qualified persons and they shall be uncommitted delegates and alternates.
  - e. **Replacement of Delegates of Withdrawn or Deceased Candidate:** If a Presidential candidate withdraws or dies during the time between Primary Election Day and the convening of the State Convention, then any delegates and alternates to which such Presidential candidate would otherwise be entitled under this Rule shall lapse and the appropriate Congressional District Caucuses at the State Convention shall elect qualified delegates and alternates as uncommitted delegates and alternates in replacement of the delegates and alternates of such withdrawn or deceased candidate. For the purpose of this section, withdrawal shall be accomplished only by the candidate filing a signed and acknowledged request to that effect with the Secretary of the SREC.

**Challenge to Petition:** In the event of a challenge to a petition, the State Chairman shall follow the procedure for verification of signatures by means of statistical sampling. If signatures on a petition that is required to contain more than 1,000 signatures are to be verified by the authority with whom the candidate's application is required to be filed, the authority may use as the basis for the verification any reasonable statistical sampling method that ensures an accuracy rate of at least 95 percent.

### *Section 3. The Presidential Primary Ballot*

- a. **Listing on Ballot:** The names of the qualifying Presidential candidates shall be printed on the ballot as a separate race (and as the first race if not prohibited by law) on the Party's Official Ballot for the General Primary. The names of the candidates shall be listed in a vertical column under the heading "Preference for Presidential Nominee." The order of appearance on the ballot in each county shall be determined by lot in each county at a meeting of the County Executive Committee (CEC).
- b. **Uncommitted:** In addition to the ballot listing of the names of the qualifying Presidential candidates, there shall appear at the bottom of such listing of candidates on said ballot a place designated "Uncommitted" in accordance with Section 4 of this Rule.

- c. Adjustment of Ballot for Various Methods of Voting: Appropriate changes shall be made in ballots for voting machines and electronic voting systems; consistent with the method of voting used.
- d. Style of Names: The type for all names of qualifying Presidential candidates shall be uniform and of the same size and the SREC shall prescribe a sample ballot and the State Chairman shall furnish a copy of the sample ballot to each County Chairman in time for appearance on the ballot.
- e. Write-in Prohibited: Write-in voting for presidential candidates shall not be permitted, and any write-in votes shall not be counted for any purpose.

#### *Section 4. Uncommitted Delegates and Alternates*

In addition to the foregoing, uncommitted delegates and alternates may be elected as follows:

- a. District Delegates: In those Congressional Districts entitled to uncommitted delegates and alternates under this Rule, the Congressional District Caucus convened at the State Convention shall elect and submit to the Convention for confirmation, in like manner with other delegates and alternates, the name(s) and appropriate number of qualified voters who reside in the district and who voted in the Republican Presidential Primary and who sign a pledge declaring themselves uncommitted at the time of their election as uncommitted district delegates and alternates to the National Convention, and such persons shall be confirmed by the Convention as uncommitted district delegates and alternates.
- b. Delegate Entitlement: For the purpose of determining entitlements under Sections 8 and 9 of this Rule, votes cast for "Uncommitted" on the ballot shall be considered as having been voted for a separate candidate.
- c. At-Large Delegates: In the event a canvass of the Republican Presidential Primary vote on a statewide basis demonstrates that the voters are entitled to one or more uncommitted delegates and alternates at-large under this Rule, the National Nominations Committee, as provided for under Rule No. 34A, shall nominate and include in its report to the Convention under Section 7, Subsection c, the appropriate number of qualified voters of the State who voted in the Republican Presidential Primary and who sign a pledge declaring themselves uncommitted at the time of their election, as at-large and uncommitted delegates and alternates to the National Convention.

#### *Section 5. Canvass of Returns*

For the purpose of selecting district delegates and alternates, the returns of votes cast for Presidential candidates in the Republican Presidential Primary shall be canvassed by the SREC at the same time as the returns for other offices and shall be canvassed and recorded by Congressional District. For the purpose of selecting at-large delegates and alternates, the returns shall be canvassed and counted on a statewide basis.

#### *Section 6. Election of District Delegates and Alternates at State Convention*

- a. Number of District Delegates and Alternates: Three (3) district delegates from each Congressional District and three (3) alternates shall be elected at the State Convention in accordance with this section and the entitlements set forth in Sections 8 and 9 hereof.
- b. At the State Convention, each Congressional District shall meet and shall elect those district delegates and alternates to which a candidate is entitled under Section 8. Elections

for a candidate's committed delegates and alternates shall be from persons nominated from the floor at the said meeting, provided however, that said nominees agree to adhere to the pledge to the candidate required under Section 10 hereof. Nominations for uncommitted delegates, if there is such an entitlement, shall be provided under Section 4. Elections shall be by majority vote, one at a time, with all delegates being elected first and then all alternates. Those delegates and alternates elected by the Congressional District shall be submitted to the Convention, which shall confirm, and not amend, those district delegates and alternates who shall be the district delegates and alternates from Texas to the National Convention of the Republican Party, and shall be so certified in accordance with The Rules of the Republican Party.

*Section 7. Election of At-Large Delegates and Alternates at State Convention*

- a. As provided for in Rule No. 34A, each Congressional District Caucus shall meet at the State Convention, and elect one (1) person to serve as a member of the National Nominations Committee from persons nominated from the floor at the said meeting. Election to this committee shall be by majority vote. In the same manner, each Congressional District Caucus may recommend the name of one (1) member for consideration by the National Nominations Committee as a National Convention delegate or alternate, but the National Nominations Committee is not required to accept such recommendation, in accordance with The Rules of the Republican Party.
- b. At the State Convention, the National Nominations Committee shall meet to select nominees for all at-large delegates and alternate delegates, and consider the recommended names of members of the Congressional District Caucuses for possible selection as National Convention Delegates and Alternates. Those elected federal officeholders who have access to the floor of the National Convention by virtue of their office shall be prohibited for selection as an at-large national delegate or alternate, by the National Nominations Committee.
- c. Those at-large delegate and alternate nominees selected by the National Nominations committee shall be reported to the State Convention. This report shall not be amendable by the State Convention, but shall either be confirmed or rejected by the State Convention. If the report is rejected, it shall be immediately returned to the Committee for revision and then resubmitted to the State Convention, until the report is confirmed by the Convention. The at-large delegates and alternates shall also be bound by the pledge provisions of Section 10 of this Rule. At-large delegates and alternates nominated and elected from Texas in accordance with this Rule shall be certified as the delegates and alternates from Texas in accordance with The Rules of the Republican Party for the National Convention.

*Section 8. District Delegate and Alternate Entitlements*

For the purpose of determining the entitlement to district delegates and alternates by candidates, the provisions of this section shall apply as follows:

- a. **More than Fifty Percent (50%) of Vote Received by Candidate:** A candidate receiving more than fifty percent (50%) of the votes in any Congressional District shall be entitled to three (3) delegates and alternates from that Congressional District.

- b. No Candidate Receives Majority of Vote: If no candidate receives a majority of the votes in any Congressional District the plurality winner is entitled to two (2) delegates and alternates from that district and the candidate receiving the next highest number of votes receives one (1) delegate and alternate; provided, however, that if no candidate receives a majority vote in a Congressional District, and only one (1) candidate receives more than 20% of the Congressional District vote, such candidate shall be entitled to two (2) delegates and alternates. The remaining Congressional District delegate and alternate shall be awarded to the second (2nd) place candidate.
- c. No Candidate Receives Twenty Percent (20%) of Vote: If no candidate receives more than twenty percent (20%), each of the three (3) candidates receiving the highest number of votes shall receive one (1) delegate and alternate.

*Section 9. At-Large Delegate and Alternate Entitlements*

For the purpose of determining the entitlement to at-large delegates and alternates by candidates, the provisions of this section shall apply, as follows:

- a. At-Large Delegates and Alternates Allocated by State Convention Caucus: The delegates elected to participate in the State Convention shall caucus by secret ballot and select a presidential candidate by plurality vote to receive the entitlement of a number of at-large delegates and alternates that will represent twenty-five percent (25%) (rounded down) of the total number of Texas delegates and alternates to the Republican National Convention. The State Republican Executive Committee shall prescribe the process for each state convention delegate to cast their vote for their presidential preference by electronic or paper ballot. The National Nominations Committee shall canvass the vote and allocate the State Convention Caucus selection from among the at-large delegates prior to allocating the remaining at-large delegates as follows:
- b. At-Large Delegates and Alternates Allocated by Presidential Primary:
  - 1. More than Fifty Percent (50%) of Vote Received by Candidate: A candidate receiving more than fifty percent (50%) of the votes cast in the Presidential Primary canvassed on a statewide basis shall be entitled to all remaining at-large delegates and alternates allocated to Texas under The Rules of the Republican Party.
  - 2. No Candidate Receives Majority of Vote: If no candidate receives a majority of the votes cast statewide in the Presidential Primary, then the remaining at-large delegates and alternates shall be apportioned among the candidates receiving more than twenty percent (20%) of the statewide vote in the ratio which the number of votes received by each such candidate who received more than twenty percent (20%) of the statewide vote, bears to the total of all such candidates receiving more than twenty percent (20%) of the statewide vote, rounding fractional delegates and alternates upward to the next whole number beginning with the candidate receiving the largest number of votes. However, if no candidate receives a majority of the votes cast statewide in the Presidential Primary and only one candidate receives twenty percent (20%) or more of the statewide vote, then the remaining at-large delegates and alternates shall be apportioned between the candidate receiving more than twenty percent (20%) of the statewide vote and the candidate receiving the second highest number of votes, in the ratio which the number of votes received by

- each such candidate bears to the total votes for both such candidates, rounding fractional delegates and alternates upward to the next whole number beginning with the candidate receiving the largest number of votes.
3. No Candidate Receives Twenty Percent (20%) of Vote: If no candidate receives more than twenty percent (20%) of the votes cast statewide in the Presidential Primary, the remaining at-large delegates and alternates shall be apportioned among all candidates, beginning with the candidate receiving the highest number of votes and rounding fractional delegates and alternates upward to the next whole number, and then awarding delegates and alternates to the second highest candidate in the same manner, and so forth until the remaining at-large delegates and alternates to be apportioned have been fully awarded.
  - c. If, pursuant to The Rules of the Republican Party Rule No. 17, either the chairman of the Republican National Committee or the Republican National Committee Standing Committee on Rules, determines that subsection (a) of this section is in violation of The Rules of the Republican Party, all At-Large Delegates and Alternates will be allocated in accordance with subsection (b) of this section.

*Section 10. Pledge of Delegates and Alternates.*

- a. Commitment to Candidate: By assenting to nomination on a Presidential candidate's slate, each delegate and alternate representing a Presidential candidate becomes pledged to the Presidential candidate on whose slate the delegate and alternate is nominated in accordance with subsection (b) of this section.
- b. Length of Commitment: A person who is elected as a delegate or alternate to the National Convention on the slate of a Presidential candidate by the State Convention to represent that particular Presidential candidate at the National Convention and who does not resign from the position is pledged to support that Presidential candidate at the National Convention until the candidate is nominated or until the delegate or alternate is released from the pledges as follows:
  1. First Nomination Convention Ballot: A delegate or alternate shall be released from the pledge only in the event of death, withdrawal, or by decision of the candidate. For the first ballot taken at the National Convention to determine the nominee of the Republican Party for the office of President of the United States, the totals of the votes of the members of the Texas delegation shall be announced as assigned in accordance with these Rules. No poll of the members of the delegation, except those delegates who are uncommitted, shall be taken for the announcement of the vote.
  2. Second Nominating Convention Ballot: A delegate or alternate shall be released from the pledge if the candidate has failed to receive twenty percent (20%) or more of the total vote cast on the preceding ballot; or by the decision of the candidate;
  3. Third and Subsequent Nominating Convention Ballots: All delegates and alternates are released from any pledge.
- c. Uncommitted Delegates: Uncommitted delegates and alternates may vote as they choose on all questions and candidates presented at the National Convention.

*Section 11. Delegate/Alternate Resignation*

- a. **Written Notice:** Any delegate or alternate may resign by giving written notice to the Delegation Chairman and the State Chairman at any time before the date of the National Convention.
- b. **Filling Vacancy:** Should a vacancy occur in the at-large delegation after the date of the State Convention but prior to the convening of the National Convention, the Chairman of the National Nomination Committee of the State Convention shall fill such vacancy by appointing, in writing, any at-large alternate to fill any at-large delegate position. To fill the vacancy of an at-large alternate, the said Chairman may select any person eligible under this Rule to hold said position, inasmuch as possible under The Rules of the Republican Party. In the case of a vacancy in a district delegate position, the paired alternate shall be moved over, and the presidential candidate or his or her designated representative shall appoint a new alternate, with the condition that the person so appointed shall reside in the same Congressional District at the time of appointment as the Congressional District in which the vacancy occurred. In the case of a vacancy in a district alternate position, the presidential candidate or his or her designated representative shall appoint a new alternate, with the condition that the person so appointed shall reside in the same Congressional District at the time of appointment as the Congressional District in which the vacancy occurred. All appointments shall be made from those nominated at the convention, if possible. If no potential nominee exists, then the presidential candidate or his or her designated representative shall appoint as a new alternate anyone eligible under this Rule to hold said position, provided that said nominee(s) agree to adhere to pledge to the candidate required under Section 10 hereof.

*Section 12. Delegate/Alternate Qualifications*

Each nominee for delegate and alternate must have voted in the Republican Presidential Primary, and must be qualified to be a delegate or alternate under The Rules of the Republican Party.

**Rule No. 39 – Presidential Electors**

At the Biennial State Convention in presidential election years, the delegates from each Congressional District shall nominate one (1) Presidential Elector and such nomination shall be presented to the National Nominations Committee; additionally, the National Nominations Committee shall select additional nominees to bring to total number of nominees to the number allowed by law. Each such nominee for Presidential Elector, prior to the report of the National Nominations Committee, shall file with the Chairman of the National Nominations Committee an affidavit in writing as to the nominee's commitment to vote for the Republican Party's nominees for President and Vice President. The report of the National Nominations Committee shall include only nominees who have so filed such affidavit. The report of the National Nominations Committee must include the nominees from the Congressional District who have so filed affidavits. The Convention shall then elect the Presidential Electors. Any vacancy among the Presidential Electors shall be filled by majority vote of the SREC, with the conditions that: (1) the person elected to fill the vacancy shall have already filed with the State Chairman an affidavit in writing as to his or her commitment to vote for the Republican Party's nominees for President and Vice President and (2) if the vacancy occurs for a person who had been nominated by his or her Congressional District Caucus at the biennial State Convention then the SREC shall elect a person who has filed such an affidavit, has made an affiliation with the Republican Party of Texas, and resides in that same congressional district at the time he or she is elected by the SREC to be a replacement Presidential Elector.

**Rule No. 40 – National Committeeman and Committeewoman**

At the biennial State Convention held in presidential election years, each Congressional District shall caucus and recommend a man for Republican National Committeeman from Texas and a woman for Republican National Committeewoman from Texas. These recommendations shall be forwarded to the National Nominations Committee by the district's member to the committee, who shall support them on at least the first (1st) round of voting. The National Nominations Committee shall select one (1) man and one (1) woman from these recommendations to be submitted to the Convention as nominees for these positions. Nominations from the floor shall be allowed only for candidates recommended by at least three (3) districts, or by petition signed by delegates equal in number to at least twenty percent (20%) of the convention voting strength. In the event of a vacancy in the office of National Committeeman or Committeewoman the vacancy shall be filled by a majority vote of the State Republican Executive Committee.

**Rule No. 41 – State Party Chairman and Vice Chairman**

At the biennial State Convention, each Senatorial District shall caucus and recommend a man and woman for State Chairman and Vice Chairman. These recommendations shall be forwarded to the State Nominations Committee by the district's member to the committee, who shall support them on at least the first (1st) round of voting. The State Nominations Committee shall select one (1) man and one (1) woman from these recommendations to be submitted to the Convention as nominees for these positions. Nominations from the floor shall be allowed only for candidates recommended by at least three (3) districts, or by petition signed by delegates equal in number to at least twenty percent (20%) of the convention voting strength. No person shall be eligible to be elected Chairman or Vice Chairman for more than four (4) consecutive two-year terms to the same office. To be eligible, candidates for the office of State Chairman or Vice Chairman shall be required to file a statement of intent to run with the SREC Secretary at least ten (10) days prior to the first General Session of the State Convention.

**Rule No. 42 – State Republican Executive Committee (SREC)**

At the biennial State Convention, each Senatorial District shall caucus and recommend two (2) nominees to represent that Senatorial District on the SREC as Committeeman and Committeewoman. The results shall be forwarded to the State Nominations Committee by the district's member to the committee, and the committee shall include the results in its report to the Convention. Those members selected to represent a particular Senatorial District must be those recommended by the convention delegates representing that Senatorial District. For the purposes of election to, and service on, the SREC a person must be a resident of the district he or she represents as indicated by his or her current voter registration. No person shall be eligible to be elected State Republican Executive Committee man or woman for more than four consecutive two-year terms. No member of the SREC may hold any elective federal, state or county office. All SREC candidates shall disclose to their respective caucuses prior to their election the source of any campaign contributions and whether or not they are employed by any elected official, registered lobbyist, or political action committee. All SREC members shall disclose to the SREC whether or not they receive compensation from any elected official, registered lobbyist, or political action committee and, if so, the member shall disclose the source(s). The SREC shall be authorized to approve the minutes of the State Convention.

## GENERAL RULES FOR CANDIDATES

### **Rule No. 43 – Candidate Platform and Legislative Priorities Review**

The Republican Party of Texas shall make an electronic copy of the most recent Platform and Legislative Priorities available on its website. The County or State Chairman shall distribute either an electronic or a paper copy of the Platform and Legislative Priorities to each candidate along with all other candidate application papers. The County or State Chairman shall request each candidate to indicate whether the candidate agrees, disagrees, or is undecided for each bullet point item of the Party Principles included in the Preamble of the Platform and may include comments if desired. The County or State Chairman shall also request that each candidate read the entire Platform and Legislative Priorities and indicate at least ten (10) line items from the Platform that the candidate strongly supports. All candidates for offices should file the completed Platform and Legislative Priorities Review containing the candidate's responses at the time of filing for office. Candidates' responses shall be collected and recorded by the filing entity and may be published on the filing entity's website prior to the primary. If the filing entity has no website, a copy of the candidate's responses may be received from the filing entity. At the discretion of the Executive Committee of the filing entity, a candidate's response may be excluded from posting to the website of the filing entity. This rule shall not apply to judicial candidates.

### **Rule No. 43A – Platform and Principles**

The Platform Committee of the biennial State Convention shall prepare a list of no less than ten (10) and no more than twenty (20) principles included in the Preamble of the Platform of the Republican Party of Texas which clearly defines the Party's values, with the knowledge and purpose that they be used to identify candidate values as stated in Rule No. 43. A candidate must return the candidate's completed Platform Review and the completed Candidate Resource Committee (CRC) funding application to be eligible to receive funds from the CRC of the SREC.

### **Rule No. 44 – Censure Process and Penalties**

a. Process:

A County or District Executive Committee may, after no less than seven (7) days' notice and invitation to the Officeholder to appear and be provided time to speak before a County or District Executive Committee, by a two-thirds (2/3) vote of those constituent Executive Committee Precinct Chairs present and voting, but in no case by less than a majority of constituent Precinct Chairs of the County Executive Committee (CEC) in full, adopt a resolution censuring a Republican public Officeholder representing all or a portion of that County or District for three (3) or more actions taken during the Officeholder's current term in opposition to the core principles of the Republican Party of Texas defined in the Preamble of the Party Platform as described in Rule No. 43A or to the Legislative Priorities adopted at the most recent State Convention as described in Rule No. 34(c). Any resolution of censure that does not meet those criteria shall be subject to challenge by a point of order.

Resolution Content:

Such a resolution may include a request to impose the penalties below to the SREC. The SREC must confirm or deny penalties prior to early voting of the Republican Primary Election in which the Officeholder is seeking election.

Penalties:

If such a request is included, after not less than fourteen (14) days' notice and opportunity to the Officeholder to appear and be provided time to speak before the SREC in response to the request. The SREC, by a three-fifths (3/5) vote of the full membership, may vote to concur with the resolution of censure and impose one or more of the following penalties:

Penalty 1: Declare that no Rule or Bylaw enacted by any division of the Party at any level that demands the Party be neutral in intraparty contests shall be observed with respect to the named Officeholder, and no financial or other support shall be provided to the Officeholder's campaign by the Party except that which is required by law. If the Officeholder files an application to run for any public office in the Republican Party Primary Election following the censure resolution's passage, the SREC shall be authorized to spend up to twelve percent (12%) of the Party's general fund on voter education in the Officeholder's district, by republishing the original censure resolution verbatim, using a media format determined by the SREC.

Penalty 2: Declare that the named Officeholder is discouraged from participating in the Republican Party Primary Election following the censure passage.

Penalty 3: Authorize and direct the State Chairman or any County Chairman to refuse to accept any application for a place on the ballot of a Republican Primary Election for a period of twenty-four (24) months following adoption of the censure and imposition of said remedy.

- b. Any County Chairman who applies the provisions of Rule No. 44 and thereby becomes the subject of a lawsuit for doing so shall be indemnified by the Republican Party of Texas, who shall provide counsel to the County Chairman or pay for any expenses incurred related to any suit. The State Chairman shall defend in court any suit against the Party arising from the application of Rule No. 44.
- c. The biennial State Convention may censure statewide elected officials. Resolutions for censure shall originate at a County or Senatorial District Convention. County or Senatorial District Convention resolutions for censure shall be delivered to the State Chairman, who shall deliver the censure to the Chairman of the Temporary Platform and Resolutions Committee and shall provide notice of censure and invitation to the censured Officeholder to appear. The Platform and Resolutions Committee shall determine whether or not to send the censure to the Convention for a vote. Rule No. 24 shall apply to any minority report. Any elected Officeholder censured at the State Convention held after the Primary Election in which that Officeholder is on the General Election ballot may not incur penalties in this rule. Potential penalties listed in Section a above apply to this Section c.
- d. Any above penalty imposed shall expire on the day following the date of the Primary Runoff Election in which the Officeholder would be up for reelection. The term "Officeholder" as used in this rule shall mean a holder of public office. Nothing within this

Rule shall be construed to authorize the removal of a public Officeholder; and likewise, nothing within this rule shall serve to limit the removal of any public Officeholder under other rule or law.

- e. A candidate wishing to file with a State or County Chairman for a position on a Republican Primary ballot shall include the following statement on his or her application: “I swear or affirm, under penalty of perjury, that I have not been censured under Rule No. 44 of the Republican Party of Texas by the SREC, or a state convention in the preceding twenty-four (24) months prior to this application.” A State or County Chairman shall declare any application without this statement as incomplete and refuse to accept said application, and follow the prescribed process to notify the candidate for a chance to cure the defect, when applicable. If no timely correction is made, the applicable chairman shall reject the application.

Any County Executive Committee (CEC), County Convention, or Senatorial District Convention may originate a censure resolution against the Speaker of the Texas House.

**Rule No. 45** – Is intentionally left blank

## GENERAL RULES FOR CONDUCTING PRIMARY ELECTIONS

### **Rule No. 46 – Closed Primaries**

In Primary Elections and Primary Runoff Elections conducted by the Republican Party of Texas, only United States Citizens eligible to vote in Texas who qualify to vote as Republicans in accordance with this rule may cast ballots in those elections. A United States citizen eligible to vote in Texas qualifies to cast a vote in a Republican Primary Election or Primary Runoff Election only if that individual has not affiliated with another party (by voting in that party's primary or by taking an oath of affiliation) in the current year, and meets one of the following:

- a. The individual voted in the Republican Primary Election or the Republican Primary Runoff Election in the previous biennium as shown in the records maintained by the Republican Party of Texas; or
- b. The individual is registered as a Republican with the Republican Party of Texas; or
- c. The individual completes and submits a written certificate of affiliation with the Republican Party of Texas no later than the first day on which a candidate may file for a place on the General Primary Election ballot for the General Primary Election; or
- d. The individual is voting in his or her first primary election and is under the age of 21.

The written certification of affiliation form will be created and approved by the State Republican Executive Committee. It will be made available for download on the Republican Party of Texas website and provided in printed form by the Republican Party of Texas to any voter who requests it. All certifications of affiliation must be signed in wet ink by the individual and physically returned to the Republican Party of Texas. No other qualifications to vote in a Republican primary election are required or permitted. This rule supersedes any other rule or law of the State of Texas.

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**PROVISO: Except for rules on electoral affairs, which take effect on January 1 of the odd-numbered year following the biennial Republican Party of Texas State Convention, amendments to these rules take effect: (1) upon adjournment sine die of each biennial Republican Party of Texas State Convention, or (2) immediately, when amended by the State Republican Executive Committee.**

**Republican Party of Texas 512-477-9821 (Telephone)**

These rules were originally adopted by the State Executive Committee on March 13, 1972 in Austin, Texas and amended by the:

State Convention on September 19, 1972 in Dallas, Texas;  
State Convention on September 17, 1974 in Houston, Texas;  
State Convention on June 19, 1976 in Fort Worth, Texas;  
State Convention on September 11, 1976 in Austin, Texas;  
State Convention on September 9, 1978 in Dallas, Texas;  
State Convention on June 21, 1980 in Houston, Texas;  
State Convention on September 6, 1980 in San Antonio, Texas;  
State Convention on September 11, 1982 in Austin, Texas;  
State Convention on September 22, 1984 in Corpus Christi, Texas;  
State Executive Committee on November 23, 1985 in Austin, Texas;  
State Convention on June 28, 1986 in Dallas, Texas;  
State Executive Committee on May 30, 1987 in Austin, Texas;  
State Executive Committee on November 21, 1987 in Copperas Cove, Texas;  
State Convention on June 10, 1988 in Houston, Texas;  
State Convention on June 30, 1990 in Fort Worth, Texas;  
State Convention on June 20, 1992 in Dallas, Texas;  
State Convention on June 11, 1994 in Fort Worth, Texas;  
State Convention on June 13, 1998 in Fort Worth, Texas;  
State Convention on June 16, 2000 in Houston, Texas;  
State Convention on June 8, 2002 in Dallas, Texas;  
State Convention on June 4, 2004 in San Antonio, Texas;  
State Convention on June 3, 2006 in San Antonio, Texas;  
State Convention on June 13, 2008 in Houston, Texas;  
State Convention on June 12, 2010 in Dallas, Texas;  
State Executive Committee on October 1, 2011 in Austin, Texas;  
State Executive Committee on February 29, 2012 in Austin, Texas;  
State Convention meeting on June 8, 2012 in Fort Worth, Texas;  
State Executive Committee on December 7, 2013 in Austin, Texas;  
State Convention on June 6, 2014 in Fort Worth, Texas;  
State Executive Committee on March 7, 2015 in Austin, Texas;  
State Executive Committee on September 12, 2015 in Austin, Texas;  
State Convention on May 13, 2016 in Dallas, Texas;  
State Executive Committee on March 4, 2017 in Austin, Texas;  
State Executive Committee meeting on April 7, 2018 in Austin, Texas;  
State Convention on June 16, 2018 in San Antonio, Texas;  
State Executive Committee on September 14, 2019 in Austin, Texas;  
State Convention on October 6, 2020 by electronic vote;  
State Executive Committee on August 28, 2021 in Lubbock, Texas [amended Rule Nos. 1(e), 19, and 27A];  
State Executive Committee on February 12, 2022 in Austin, Texas [amended Rule Nos. 19 and 23A];  
State Convention on June 18, 2022 in Houston, Texas; and  
State Executive Committee on September 24, 2022 in Austin, Texas [amended Rule No. 44(b) and proviso language];  
State Executive Committee on March 4, 2023 in Austin, Texas [amended Rule No. 8(f)];  
State Convention on May 24, 2024 in San Antonio, Texas; and  
State Executive Committee on March 22, 2025 in Austin, Texas [amended Rule No. 44(a)].