Will the Outcome be “Democratic”?:
Delegate Selection and the 2020 Primaries

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IN “ON TO THE CONVENTION, AGAIN”, Caroline Monahan and Robert Shapiro remind us that when the major parties select their presidential candidate in state primaries and caucuses the rules matter. In the 2020 campaign, they matter in a way that could lead to no Democratic candidate receiving the votes of a majority of the committed delegates on the first ballot at the Party’s national convention. As they had done in past election cycles, the Democrats revised their rules after the 2016 convention for the purpose of making the process more “democratic.” Supporters of 2016 presidential candidate Bernie Sanders claimed that he was not fairly—not democratically—treated by the Party, including his being disadvantaged among “superdelegates.” Debate over this issue undermined Hillary Clinton’s support within the party and almost certainly contributed to the lower turnout of the Party’s base in 2016 than in 2012 and 2008, which hurt her in the general election. For this reason, the new rules enacted to move the process in a more democratic direction specified the exclusion of superdelegates on the first ballot unless a candidate wins a majority of all pledged and automatic delegates.


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So, at this stage, what are the prospects of no candidate winning a majority of delegates by the first ballot? And what can we say about the likelihood that the candidate selection process will produce a democratic consensus choice this time? To this end, heading into the election cycle, it is important to examine the specific rules and procedures for allocating pledged delegates; and, if there is no candidate with a majority of delegates by the first ballot, how the process plays out from there.

To start, at this writing (30 September) there are currently 19 Democratic presidential candidates vying for the 2020 nomination. This number is down from 26 total candidates who had been in the race at various points in time. The Democratic National Convention is set to take place 13–16 July 2020, giving the candidates ample time to compete for the top slot. With primaries and caucuses kicking off in Iowa on 3 February, more than five months before the Convention, it is likely that the field will narrow significantly before July. However, the 2020 Delegate Selection Rules combined with such a large field of candidates (with more than two sufficiently strong ones likely to remain in the race for the duration), make it possible that the nomination will not be determined by the first ballot of the Convention.

The Democratic National Committee (DNC) mandates that all states allocate delegates for the Convention using a proportional system. Once candidates reach the minimum 15 percent threshold in the primary or caucus, candidates are awarded delegates proportional to the percentage of the vote they received. Each state awards 75 percent of these committed or pledged delegates at the congressional district-level and 25 percent at-large (statewide). In addition to each state’s district-level and at-large delegates, the pledged delegate votes are rounded out by a 15 percent add-on of party leaders and elected officials, which are allocated based on the statewide primary results. These delegates would include big city mayors, statewide elected officials, state legislative leaders, state legislators, and other elected leaders.

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5 Democratic National Committee, “Delegate Selection Rules for the 2020 Democratic National Convention.”
officials and party leaders.\textsuperscript{6} Provided that the Convention does not enter a second round of balloting, the automatic, uncommitted superdelegates will not vote to nominate the 2020 Democratic candidate for President (again, unless, a candidate has already won a majority of the committed and automatic delegates).

At the time of this writing, the RealClearPolitics average shows former Vice President Joe Biden in the lead nationally with 28 percent of the vote, followed by Senator Elizabeth Warren with 21 percent and Senator Bernie Sanders with 18 percent. The latter two candidates have been exceeding the 15 percent threshold, and jointly exceeding Biden’s polling percentage. On average, all other Democratic candidates are falling roughly ten points below the 15 percent minimum (in national polls) needed to receive delegates.\textsuperscript{7} However, an exception to this is former Representative Beto O’Rourke polling at 17 percent in Texas, his home state.

With a long road of campaigning and debates ahead, support for other candidates will likely begin to rise, particularly as some candidates drop out of the race. As the candidates continue to share their platforms with the public through televised debates, media engagements, and rallies, support in the current political climate may change. As a general matter, the more candidates going into the primaries, the greater the possible spread of votes. In other words, with a greater number of options for voters to choose from, the fewer votes each candidate may get, keeping one candidate from becoming a clear front-runner.\textsuperscript{8}

As noted earlier, the DNC mandates that all delegates for the Convention be awarded proportionally based on the primary vote. Hypothetically, if only three candidates reach the 15 percent threshold, statewide and across all congressional districts, each with 20 percent of the vote, they would each

\textsuperscript{8} A CBS News survey data analysis conducted earlier by YouGov, demonstrates that with the size of the current pool of candidates, the primary votes would be quite widespread. Similar to earlier RealClearPolitics averages, Biden has been leading the race in the early states with 25 percent of the vote, followed by Warren with 20 percent, Harris with 16 percent, and Sanders with 15 percent. Again, all other candidates fall below the 15 percent threshold. However, this analysis confirms that support for candidates is distributed among a multitude of candidates. Based on this, eight candidates received one percent of the vote. Additionally, three more candidates are polling between two and ten percent. The large pool of candidates is preventing just one from attaining a clear majority of the committed delegates according to these very early CBS/YouGov estimations. This is consistent with our less precise assessment and with another similar recent analysis. Early states include those expected to hold primary contests up to and including on Super Tuesday: AL, AR, CA, CO, IA, ME, MA, MN, NV, NH, NC, OK, SC, TN, TX, UT, VT, VA. See CBS News, “CBS News Battleground Tracker,” 21 July 2019, accessed at https://drive.google.com/file/d/0ByVu4fDHYJgVSHIRQWtlanA5MFFNdldVQnR6T2VPWhfRmndr/view, 29 July 2019.
be granted one-third of the delegates. This assumption applies to both the district-level and statewide-level primary votes. Furthermore, if only two candidates meet the 15 percent minimum, Candidate A with 20 percent and Candidate B with 30 percent, Candidate A would receive 40 percent of the delegates (0.2/0.5) and Candidate B would receive 60 percent of the delegates (0.3/0.5). Both of these hypothetical scenarios and the proposed outcomes can be reasonably assumed based on the DNC’s Delegate Selection Rules. However, what would happen if only one candidate reaches the 15 percent threshold in all districts and statewide? This candidate, based on the rules, would receive all of the committed delegates—even if one candidate had only 16 percent and all others fell below 15 percent! More plausibly, this could possibly be a candidate in the current campaign with close to 30 percent of the vote. Many would hesitate to call this outcome “democratic,” even if it is within the rules carefully crafted by the Democratic Party.

According to DNC rules, the only figure that matters is the 15 percent minimum. Once a candidate passes that threshold, they are awarded delegates. That is the extent to which the DNC Delegate Selection Rules discusses the issue at hand. Rule 14.D states:

District-level delegates and alternates shall be allocated according to the following procedures:

Step 1: Tabulate the percentage of the vote that each presidential preference (including uncommitted status) receives in the congressional district to three decimals.

Step 2: Retabulate the percentage of the vote to three decimals, received by each presidential preference excluding the votes of presidential preferences whose percentage in Step 1 falls below 15%.

Step 3: Multiply the number of delegates to be allocated by the percentage received by each presidential preference.

Step 4: Delegates shall be allocated to each presidential preference based on the whole numbers which result from the multiplication in Step 3.

Step 5: Remaining delegates, if any, shall be awarded in order of the highest fractional remainder in Step 3.

Based on these DNC rules, there is no additional guideline for how states are to handle the aforementioned situation of a single candidate being awarded all of the delegates, despite receiving a low percentage of the vote.10

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10 Although unlikely, the DNC does specify that if no candidate reaches the minimum threshold, the threshold is to be lowered to half of the percentage of the vote received at each level of the delegate selection process by
This would allow a candidate not overwhelmingly supported by the electorate to be overrepresented by delegates (that is, receiving a much larger proportion of delegates than the percentage of votes the candidate received) when it comes time for the Convention. This could lead to questions about the democratic-ness of the results.

While it can be argued that the Democratic Party’s blanket rule of proportional delegate allocation is more democratic than the Republican Party’s use of both proportional and winner-take-all systems (depending on what states decide better meets their interests), it is not a flawless system. As posited above, it is possible for a candidate who receives only a modest percentage of the vote to be overrepresented by delegates at the Convention. But, in the abstract, these would seem to be reasonable and defensible rules that would allow a candidate who wins a large plurality of the vote to get just over 50 percent of the pledged delegates. The Democratic Party may have had this scenario most in mind and may have thought other peculiar scenarios unlikely, given past elections. However, 2019–2020 is different from the past and perhaps from the previous ways in which one candidate would gain the “momentum” to win.11

If the field of candidates were initially large, which there was good reason to expect for 2020—since just like 2016 for the Republican candidates, 2020 appeared to be a good year to run against a president and party that seemed vulnerable—it could be expected that the field would winnow down as a couple of strong candidates emerged. At the time when Delegate Selection Rules were adopted by the DNC (25 August 2018), only two of the current Democratic candidates had filed to run for president.12

Despite the DNC adopting these rules that apply to all Democratic State Parties back in August 2018, State Parties were not required to submit their Delegate Selection Plans until 3 May 2019.13 By the end of March 2019, 14 Democratic candidates had announced their presidential campaigns. A total of 18 candidates had announced by the end of April.14 Thus, State Parties understood how crowded the 2020 Democratic field would be before submitting their Delegate Selection Plans. With such a large field of candidates,

14 “Timeline of announcements in the presidential election, 2020.”
State Parties could have asked the DNC for more specific and more relevant guidelines to the situation at hand.

If it had been prompted by State Parties, perhaps the DNC could have had the foresight to include an additional rule stating that should only one candidate reach the 15 percent threshold, that sole candidate must meet an additional benchmark to receive all of the delegates. For example, to be awarded all delegates, a candidate must receive at least $x$ percent of the vote—larger than 30 percent, more than twice the number of votes as the minimum threshold to be awarded delegates. While a specific rule like this could have been helpful to include in the Delegate Selection Rules from the outset, it is apparent that the DNC did not take this precaution. Simply put, expanding Rule 14.B of the Delegate Selection Rules, “Subject to section F. of this rule, no state shall have a threshold above or below fifteen percent (15%),” would clearly clarify what State Parties should do in this scenario.

Although there are no specific rules mandated by the DNC on the topic of a single, not-well-supported candidate receiving all of a district or state’s delegates, we wondered whether State Parties had any potential concerns in mind should this issue arise. As a part of our research, we made calls to each state’s Democratic Party, and asked a series of questions. To see how the rules were understood, we asked, “Suppose only one candidate reaches the 15 percent threshold, just barely, with say 16 percent of the vote, and all other candidates did not reach the 15 percent minimum. Does the one candidate with 16 percent of the vote receive all of the state’s delegates?” Of the 16 State Parties that responded to these inquiries, only a handful of states answered this question confidently.

Specifically, the contact from one state noted that, “it doesn’t really matter if it is 16 percent or 75 percent.” She explained that in her state, if only one candidate passed the 15 percent threshold, regardless of how minor the percentage of the vote they received, that candidate will be allocated all of the district-level or at-large delegates. This state’s Democratic Party is planning to follow the guidelines set forth by the DNC as they currently stand. That staff member simply reiterated DNC Delegate Selection Rule 14.D, suggesting that here and elsewhere the only figure that really matters across all 50 states is that 15 percent minimum.

However, we found that it was far more common that the contacts from various State Parties had not considered the possibility that this issue would arise. Contacts ranging from Communications Directors to Executive Directors generally responded by describing how this scenario had never come up

16 Interview with State A Democratic Party staff member, 28 June 2019.
before, but supposed that the single candidate would be awarded all the delegates if only one barely reached the 15 percent threshold. It is important to note that raising this particular question led some State Party staff members to realize that should this occur, they would need to have internal discussions or put additional thought into what steps to take.

Notable responses to this question included a State Party contact in another state expressing, “That has never happened before, and never been asked about before. I will need to discuss this with my team.” 17 Additionally, another State’s Party contact supposed that as it currently stands, the single candidate would be allocated all of the delegates, even though the contact did not agree with that result, “[Yes,] theoretically, by the rules. It is rare, near impossible. But in that case a major discussion would take place, and we would need to consult the DNC.” 18 Finally, yet another State Party’s contact noted that perhaps drafting supplementary documents that walk through different scenarios could be helpful. He also pointed out, “Questions like yours are important. They help us understand where we are not clear which ultimately will help us in the long run.” 19 While neither the DNC nor State Parties considered this particular situation when drafting their 2020 plans, this comment suggests that citizens’ constructive comments can catalyze additions or clarifications going forward.

Primary elections are still months away, allowing plenty of time for candidates to suspend their presidential campaigns. Should the field narrow by half prior to the first caucuses in Iowa, voters could still be left with ten Democratic candidates to choose from. With such a large pool of candidates ranging widely in ideology to choose from, the greater the spread of the votes will be. As we already see, only a few candidates appear likely to pass the 15 percent minimum threshold to be awarded delegates. In particular states, the leader might not break by much, if at all, even 30 percent of the vote. With the leading candidate being over awarded delegates in a primary race, there would be a large gap between the percent of the delegates and the percent of the vote, and this may raise questions about whether this outcome is a democratic one. If a candidate, however, emerged with a decisive majority of the committed delegates, based on 40 percent or more of the vote, then the result could be seen as democratic in close enough to a majoritarian sense.

But what would happen if no candidate has a majority of the committed delegates by the first ballot? Surely the candidate with the most delegates, especially if she or he had a large plurality (for example, over 40 percent), would claim that the superdelegates and all other delegates should rally

17 Interview with State B Democratic Party staff member, 28 June 2019.
18 Interview with State C Democratic Party staff member, 3 July 2019.
19 Email message to author, 9 July 2019.
around the candidate to defeat President Donald Trump, to work to take back the Senate, and to maintain the Party’s majority in the House of Representatives. If it were as simple as this, the results could be seen as “democratic.” However, what if the candidate has only a small plurality of delegates and votes and was not widely supported? We could imagine that the candidate with the plurality of delegates might be one whom a majority of primary and caucus voters opposed, based on opinion polls, and possibly even Convention delegates opposed as well (which we would have less way of knowing). Based on current polls, a not-implausible outcome is that the combined support of any two of the three leading candidates could prevent the third from reaching a majority of committed delegates on the first ballot. The leading candidate in this case would not have gained sufficient momentum along the way. This would lead to a return to the spirit of the old smoke-filled—now smokeless—back rooms in which the party leaders and delegates, consulting the presidential candidates as they saw fit, would have to negotiate a consensus choice and persuade enough delegates in enough states.

According to Rule C.7.e of the Procedural Rules of the 2020 Democratic National Convention, the delegates could also consider any Democratic Party or other leaders who had thought of or might consider running for president (Sherrod Brown? Oprah Winfrey? Michelle Obama?). But how in the twenty-first century might a consensus choice be negotiated? The last time a Democratic or Republican Party candidate was not chosen on the first ballot was Adlai Stevenson in 1952. While the chances of a brokered convention may be slim, both the DNC and Democratic candidates’ campaigns have at least minimally considered this possibility. The DNC invited candidates to address the DNC members at their summer meeting at the end of August. This provided candidates with the opportunity to try to win over members who could be voting as delegates at the convention if a nominee is not determined ahead of time.

Or, in order to reach a democratic outcome, should the Democratic Party try to avoid any negotiation process involving plurality voting, but resort to having delegates use some alternative voting procedure to produce a consensus choice? The need for a consensus is clear given the ideological divide in the party between its moderate and left wings. The worst outcome would

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be selecting a candidate who would alienate a significant enough portion of
Democratic Party identifiers who might consequently not vote for president,
or instead vote for a third party candidate or the Republican candidate. Al-
ternative voting methods that could avoid such a choice, assuming the
choices of delegates would come close to reflecting the choices of primary
and caucus voters, include approval voting or ranked choice voting, among
others. Or perhaps better still, such alternative voting methods should be
considered going forward in the primaries and caucuses themselves.22

Approval voting would allow delegates to cast votes for as many candi-
dates as they desire.23 Through this system, the delegates can vote for all the
candidates that they “approve” of and considered as acceptable choices. This
would legitimately allow a candidate to be chosen by a majority of votes, as
the winning candidate has the broadest overall support.24 Alternatively, by
using a ranked choice method, delegates would rank the candidates from
first to last. The candidate that receives more than half of the first-choice
votes would become the nominee. If this is not immediately the case, the
candidate with the least number of first-choice votes is eliminated. That can-
didate’s next-choice votes are then treated as first-choice votes for the re-
main ing candidates. This process repeats until a candidate has greater than
half of the new total of first-choice votes.25 This system takes into account
intensity of support, which allows a candidate to emerge as the consensus
choice. Implementing one of these two voting systems would certainly be
more democratic than back room negotiations.

The upcoming 2020 Democratic Primaries and National Convention
are not simple or straightforward. Though still a long way off and with the
election polls still changing, there is the possibility that the Democratic
Party could be facing the first brokered convention since 1952. There are
potential scenarios that could lead the nomination results to be perceived as
undemocratic. We have a fluid electoral situation, and an important one
that voters should pay close attention to throughout the 2019–2020 presi-
dential selection process.

22 Bill Theobald, “Maine first to approve ranked-choice voting for presidential general election,” The Fulcrum,
9 September 2019, accessed at https://thefulcrum.us/voting/ranked-choice-voting-maine, 30 September
2019.
23 “Electoral System Glossary,” The Center for Election Science, accessed at https://www.election-
science.org/learn/electoral-system-glossary/#approval_voting, 19 August 2019.
25 “Electoral System Glossary.”