
MEMORANDUM

TO: ESSEX COUNTY DEMOCRATIC COMMITTEE
PASSAIC COUNTY DEMOCRATIC COMMITTEE
FROM: Rajiv D. Parikh
DATE: August 23, 2023
RE: Legislative District 27 Vacancy Meeting Rules (Proposed)
C: Sarah Jones, Esq., Michael Cerone, Esq., Michael Parlavecchio, Esq.

I. OVERVIEW OF VACANCY LAW/BACKGROUND

As you know, Title 19 articulates specific processes that must be undertaken to fill vacancies created by the withdrawal of candidates nominated at the primary election to serve as Democratic Party candidates for specific elections. The requirements change dependent on the candidacy that is vacant – e.g. whether it is Statewide position, one within a single County, or a position which represents parts of two or more Counties.

As is relevant here, N.J.S.A. 19:13-20, as recently amended by P.L. 2023, c. 124, sets forth requirements for vacancies in candidacies for positions in the State Legislature. As you know, a vacancy was created on August 14, 2023 due to the withdrawal of the Hon. Richard J. Codey as Democratic candidate for Senator for the 27th Legislative District in the November 2023 General Election. Pursuant to N.J.S.A. 19:13-20 and because Legislative District 27 consists of parts of both Essex and Passaic Counties, the vacancy must be filled at a joint meeting of the members of the County Committees of Essex County and Passaic County of only the municipalities that comprise the 27th legislative district. See N.J.S.A. 19:13-20(a)(3). Vacancies in other State legislative candidacies (e.g. Assembly) are subject to identical requirements under 19:13-20. The law as recently amended by P.L. 2023, c. 124, requires for this year that any such vacancies be filled no later than August 31, 2023.

Here, notice was provided on August 21, 2023 by the Chairs of the relevant county parties to County Committee members advising of a meeting to be held on August 24, 2023. Given the significant time constraints imposed by Title 19, and the potential that one or more vacancies can be created in LD27, the notice advised Committee members that the August 24, 2023 joint meeting could include nomination and selection of one or more candidates for General Assembly should there be vacancies in those positions.

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Accordingly, this memorandum sets forth proposed Rules for consideration and adoption by Committee Members related to filling one or more of the aforementioned vacancies.

II. CREDENTIALING AND QUORUM

To conduct any business, a majority of those individuals eligible to vote must be present at the meeting. N.J.S.A. 19:13-20(a)(4). Only those county committee members who were eligible to vote seven (7) days before the date of the meeting are qualified to vote. Id.

To confirm their credentials and eligibility, county committee members will (a) be checked in and (b) sign a voter log to confirm and record their presence. Voters will thereafter (c) receive a bracelet and be granted access to the meeting room. Only credentialed voters will be permitted in the voting room¹. Proxy voting is not permitted.

For this meeting, the relevant County Clerks have provided certified lists of County Committee members as of August 17, 2023 which establishes the requisite quorum for this meeting with the presence of at least 146 eligible county committee voters.

III. NOMINATION AND ELECTION RULES

a. APPOINTMENT OF CHAIR and ADOPTION OF RULES

- i. At the start of the meeting the Voting Members shall select a chair or chairs to lead the meeting. Such selection shall be made by simple majority vote of those present. N.J.S.A. 19:13-20(a).
- ii. The meeting chair(s) shall not have the ability to vote unless otherwise authorized.

¹ The Essex and Passaic County Democratic Committee Chairs, staff, counsel and elected officials shall also be permitted access to the meeting room. The Chairs will have discretion to permit credentialed press to attend the meeting.

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- iii. Thereafter the Chair shall present these proposed Rules for adoption by the Voting Members. The proposed rules and any amendments may be passed by simple majority vote.

b. NOMINATIONS

- i. Nominations for filling the vacancy for Democratic Candidate for State Senator for the 27th Legislative District for the November 2023 General Election may be made from the floor.
- ii. Nominations may be made by any qualified voting member and must be seconded by another qualified voting member. For purposes of this section, a “qualified voting member” means a person who is credentialed as a duly seated member of the County Committee of a municipality in the 27th Legislative District as of August 17, 2023
 - 1. There is no limit on the number of nominations or seconds a qualified voting member may make.
- iii. Once there are no additional nominations, the Chair(s) may call for a motion for nominations to be closed.
- iv. Following voting for the Senate candidate vacancy, the Chair(s) may seek nominations for any other vacancies that may occur, including any vacancy for other State Legislative offices such as member of the General Assembly. These Rules shall apply to any such vacancies created during the course of the meeting.

c. CANDIDATE STATEMENTS

- i. Each candidate for a vacancy shall be permitted to address the membership.
- ii. A time limit of three (3) minutes shall apply to candidate statements.
- iii. The order of presentation by candidates shall be determined by lot by the Chair(s).

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d. VOTING

- i. In the event there is only a single candidate for a vacancy, the Chair may seek, by a simple majority, to vote for or against the candidate by voice vote.
- ii. In the event there are two or more candidates for a vacancy, voting must occur by confidential ballot in a manner to protect the anonymity of the voter. See N.J.S.A. 19:13-20.
 1. Confidential voting shall require a voting member to walk to the balloting table. Voting members shall sign a voting authority sheet where their name and district number shall be printed.
 2. The bracelet provided at check-in shall be cut from the voting member's wrist, and the voter shall be provided with another color bracelet at that time.
 3. The voter will be provided with a ballot that is of the same color as the bracelet that was cut from the voter's wrist.
 4. The voter will cast their ballot by marking the name of the single candidate of their choice for the vacant position.
 5. The voter will cast their ballot by depositing same in a confidential ballot box.
 6. Once a vote is deposited in the ballot box by the voter, it cannot be changed.
 7. Each county committee member shall only be entitled to one (1) vote for any vacancy.
 8. Voting members may choose to abstain from voting.
- iii. Tabulation of Ballots
 1. Ballots will be tabulated by hand by staff using one or more tally sheets.
 2. Candidates may be permitted to have one observer per tally sheet observe the tabulation of ballots in addition to themselves.
 3. A ballot cast for more than one candidate shall be considered void.
 4. A ballot cast without any candidate name shall be considered an abstention.
 5. Any write-in votes shall be considered an abstention.

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6. Misspelling of a candidate name shall not be grounds for disqualification of a vote provided that a voter's intent can be determined from the ballot.
 7. If the vote count between the candidate receiving the highest numbers of votes and the second highest number of votes is less than 10% of the number of credentialed voters, then either of those two candidates may request confirmation of the total ballot count against voter sign in sheets and/or bracelets. In the event of a discrepancy in count among ballots, sign-in sheets or bracelets, any candidate may request a re-tally of ballots. The ability for any candidate to request a re-tally shall cease upon two re-tallies, unless otherwise directed by the Chair or if the vote difference between the highest receiver of votes and second highest receiver of votes is less than 4 votes.
 8. All tally sheets and other voting materials shall be retained for fourteen (14) days.
- iv. The Chair(s) are not permitted to vote as set forth in N.J.S.A. 19:13-20, unless otherwise credentialed as a Voting Member.
 - v. The candidate receiving the highest number of votes cast, shall be considered the individual who is selected to by the Voting Members as the candidate to fill that vacancy. There are no run-offs.
 - vi. In the event of a tie vote, the Chair(s) – within their discretion - may allow for a short break, debate among the members and/or additional speeches from the candidates, provided such timing is equal.
- e. **MEETING PROCEDURES**
- i. Any conflicts or clarifications regarding the meeting procedure shall be determined by the Chair(s) pursuant to Title 19 and/or Roberts' Rules of Order in consultation with Counsel.