



# *Moving Texas Forward*

## Texas Democratic Party

Boyd L. Richie, Chair

March 17, 2008

Lyn Utrecht  
General Counsel  
Hillary Clinton for President  
Ryan, Phillips, Utrecht & MacKinnon  
1133 Connecticut Avenue N.W., Suite 300  
Washington, D.C. 20036

**BY FAX: 202-293-3411**  
**AND BY E-MAIL**

Dear Ms. Utrecht:

The Texas Democratic Party ("TDP") received a letter from your campaign late Friday addressing questions concerning the upcoming County and Senate District Conventions and inquiring about challenge procedures. In particular, the letter referenced our discussions over the last two weeks regarding the review of sign-in lists from the precinct conventions to determine the eligibility of participants. The letter further restates your requests of last week seeking to have such a review performed by the TDP staff.

Suffice it to say, I do not believe your letter's claim that TDP ever agreed to perform such a review accurately reflected the statements I made during our conversations. I assume this was caused by the relaying of the conversation from one person to another within your campaign.

In any event, you should have also received by now the letter I sent late Friday denying the request for the TDP staff to conduct a review of the approximately one million names from the precinct conventions. I understand this response is consistent with the response you received from other state democratic parties to similar requests made by your campaign regarding their caucus procedures.

It is not appropriate, nor is it lawful, for the TDP staff to review these signatures and disqualify persons and/or re-calculate results. The Texas Election Code § 174.025(c) requires the precinct chair to determine the eligibility of participants. There is no statute, rule or directive that authorizes the TDP to comply with your request. Your campaign has been requested to provide any such authority and none has been provided.

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As stated in the letter I sent Friday, the TDP is preparing, at great expense, disks containing Excel spreadsheets, broken down by county and precinct, the names and contact information of all sign-in participants. Also on the disks will be scanned images of the actual documents returned by the precinct convention. The disks will be released, as they are prepared, over the course of this week. The first disks were available this weekend. The disks are also available to other interested persons who desire to review them in preparation for the upcoming conventions. The reason the TDP has taken these extraordinary and costly steps is to ensure that any Democrat can review the documents from the precinct conventions and prepare challenges for the appropriate credentials committee to review.

The TDP is committed to ensuring the results from the convention process fairly reflect the preferences of only eligible participants. All Texas Democrats are highly encouraged to review the materials from their precinct convention to ensure the documents reflect what occurred and to make certain only eligible persons were included in the process.

In the event the precinct chairs did not make the review for eligibility, or made errors in their review, these matters have always been appropriately handled by the credentials committee of the convention receiving those delegates. There is no indication these local, grass roots Democrats are incapable of handling these complaints fairly and accurately. It is for these reasons that the state Democratic Party, and the Democratic National Committee, have selected credentials committees that can handle challenges, in public, with committee members who are responsible to their local communities.

With regard to your campaign's request to push back the upcoming March 29, 2008 precinct conventions, this request also can not be accommodated. First, the Texas Election Code § 174.063(a) requires: "The county and senatorial district conventions shall be held on the third Saturday after general primary election day. 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 on the day following Good Friday." Therefore, the TDP could not move the dates of these conventions if it were inclined to do so, which it is not. Second, thousands of Texans were elected as delegates at the precinct conventions on the basis that they would be available March 29, 2008 to serve in that capacity. Moving the date, if it were lawful, would present an entirely new set of challenges including the unavailability of properly elected delegates and attempting to reschedule events, at great cost, at available facilities. Finally, because the process in place requires local credentials committees to deal with the challenges you propose, they have manageable geographic areas to review and sufficient time to do so.

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Finally, with regard to the list of precinct convention occurrences listed in your campaign's letter, a uniform and fair process is in place to deal with these complaints. The Texas Democratic Party Rules in Article V lay out this process. These rules were further clarified by the State Democratic Executive Committee ("SDEC") at their meeting this last Saturday to deal with the issues your campaign and others have raised. A copy of the SDEC's clarifications is included for your review, and I understand the TDP staff is briefing your campaign staff on these today. Where your campaign has actionable information concerning a rule violation, it should arrange for an eligible Democrat to file a challenge with appropriate credentials committee for resolution.

As you know, the TDP had more than eight thousand precinct conventions on March 4. Though it is true that 100% of these conventions did not convene without incident, the complaints you make were limited and manageable. For the first time in the nation, one million or more Democrats came out on one night to meet and further the ideals of our Party. By and large they did so respectfully, constructively and in compliance with the rules and laws that governed their behavior. In the few instances where problems arose, a comprehensive process is in place to deal with it. The TDP is committed to ensuring this process goes forward and that Texas Democrats are permitted to govern themselves.

Thank you for your campaign's inquiry and we are available to address other issues your campaign may have as they arise.

Very truly yours,



Chad W. Dunn  
General Counsel, Texas Democratic Party  
Brazil & Dunn  
4201 FM 1960 West, Suite 530  
Houston, Texas 77068  
Office: 281-580-6310  
Fax: 281-580-6362

CWD:kn  
Enclosures

**ADVISORY GUIDANCE TO THE CREDENTIALS COMMITTEES OF THE  
SENATORIAL DISTRICT/ COUNTY CONVENTIONS**

**PURPOSE:** This document is guidance and advisory opinions to attempt to suggest remedies to County/Senatorial District Convention Credentials Committees. Each Convention’s Credentials Committee is encouraged to use these guidelines. The purpose of these Clarifications is to ensure a fair and uniform set of procedures to handle delegate selection and credentialing challenges at Conventions. These Clarifications are in addition to the Rules of the Texas Democratic Party and the Texas Election Code. Application of these Clarifications shall be utilized to obtain a fair result, as reasonably ascertainable as possible, that reflects the will of eligible participants to earlier conventions. All matters not specifically addressed by the Rules of the Texas Democratic Party, the Texas Election Code or these Clarifications shall be resolved in compliance with Robert’s Rules of Order (Revised).

**A. ORGANIZATION**

- I. **Appointment of Committee.** The Senate District or County Executive Committee, as appropriate, elects all Convention Committees from delegates only, including the Chair of each Committee. It is the policy of the Texas Democratic Party that a Credentials Committee (“the Committee”) ought to be appointed by respecting the diversity of the Democratic Party including ethnicity, gender, age and sexual orientation, when reasonably possible. Members shall also be elected, insofar as possible, with the same number of seats granted to delegates with each of the major presidential preferences. State Democratic Executive Committee members cannot serve as members of any Committee unless they were elected as a Delegate at the Precinct Conventions, including conventions held under Chapter C herein. The most important characteristic of credential Committee members should be their commitment to a fair and open process. Members of all Committees must be able to set aside their political preferences in favor of their commitment to apply the rules and procedures uniformly, regardless of outcome.
  
- II. **Oath.** Immediately after the Committee is called to order the Pledge of Allegiance shall be stated, invocations offered, if desired, and the following oath stated by Committee members at the lead of the Chair:

**“I, \_\_\_\_\_, do solemnly swear (or affirm) that as a member of the \_\_\_\_\_ Senate District/County Convention Credentials Committee I will faithfully adhere to and apply all the rules and laws governing these proceedings, notwithstanding the outcome I may desire, and will hear and weigh the evidence to ensure a just result.”**
  
- III. **Committee Secretary.** The Committee shall appoint one of its members to serve as Secretary. Nominations for Secretary may be made by any

Committee member. The Secretary shall record the subject of any challenge presented, the identity of the Challenger, the identity of the person made subject of the Challenge, any other person permitted to speak on the Challenge, the disposition of the Challenge, the division of the vote and the existence and substance of any minority report adopted concerning the Challenge. The Secretary shall prepare the report the Committee Chair delivers to the Convention Chair or Secretary for floor consideration. The Secretary shall provide within four days a complete copy of the Committee's Minutes to the Texas Democratic Party.

- IV. **Committee Parliamentarian.** When possible, the State Chair will appoint a person to attend the Committee's proceedings and serve as its Parliamentarian upon request. In the event a Parliamentarian is not assigned, the Committee shall elect one of its members to serve in that capacity. The Parliamentarian shall give an opinion to the Committee Chair or any Committee member as to an issue of the rules, procedures, Clarifications and laws that apply to the proceedings. The Parliamentarian will also be provided with the telephone number to contact the Texas Democratic Party's staff and attorneys concerning any issue presented. At the conclusion of the Convention, the Convention Chair or Secretary shall provide the Parliamentarian a true and correct copy of the Convention's Minutes and list of Delegates and Alternates signed by the appropriate person.
  
- V. **Deadline to Convene.** The Committee shall convene at the convention site at least 24 hours before the time the Convention is to meet. In the event the convention site is unavailable for the meeting, the Committee shall recess and announce when and where the meeting will re-convene. The Committee can begin to review Challenges and other matters relevant to its work, at any time. The first meeting where the Committee will take official action shall be posted with the statutory posting of the Convention Time and Place. Any meeting of the Committee that takes place on the day of the Convention must occur at the Convention location.
  
- VI. **Quorum.** A quorum is established when half of the Committee's members are present, plus one. Once a quorum has been established, the Convention Chair shall replace any Committee Member who is absent without leave of a majority of the committee remaining. Any Committee member who does not arrive after fifteen minutes has elapsed since the start of the meeting shall be replaced by the Convention Chair, unless granted leave by all the Committee members present.

B. **PROCEDURE**

- I. **Deadline to File Challenges.** Challenges to Delegates, Alternates, Delegations or convention business must be filed with the County or Senatorial District Chair, as appropriate, at least 3 days before the Convention. However, Challenges that require the review of substantial data should be filed at least 5 days before the convention in order to permit the Committee and interested persons to undertake the necessary review. In the event a Challenge is filed within 5 days but more than 3 days out, the Committee may refuse the challenge because it requires a review not possible in the time allotted and the Challenger should have reasonably known the Challenge should have been filed earlier. Challenges are filed when actually received by the Committee Chair. This Clarification shall be posted with the statutory posting for the Time and Place of the Convention.
- II. **Contents of a Challenge:** Challenges must be filed with true and correct copies of all the appropriate information, records, and data in order for the Committee to undertake its review. Such copies should be requested from the County or Senatorial District Chair, as appropriate. Challengers must identify the person who is the Challenger, include their address and contact information, and provide sufficient detail in order to confirm the Challenger is eligible (registered voter who in fact voted in the 2008 Democratic Primary in the subject senate district or county, as appropriate). The Challenger must also request a remedy to address the contents of the Challenge. Challenges filed without required information will not be considered. Challenges filed by ineligible persons will not be considered. Challenges must contain the word "Challenge" in order to be considered. When possible, the Challenge must be served upon the person or persons subject to the Challenge. When any Challenge is required to be delivered, delivery is acceptable by United States mail or electronic mail and the delivery is deemed received the day it is actually received.
- III. **Order of Business.** After organization, the Committee shall first review the Challenges to determine if any pertain to the eligibility of any member of the Committee. Any that pertain to a member of the Committee shall be resolved, in accordance with these Clarifications, by those members present that are not subject to the Challenge. Should any Committee member lose their status as a Delegate as a result of the Committee's review, the Convention Chair shall immediately name a replacement. Next, the Committee shall review the Challenges to determine, when such a determination can be made on the face of the Challenge, those Challenges the Committee will require convening a convention, pursuant to Chapter C. Next, the Committee shall review those Challenges that could require the convening of a convention pursuant to Chapter C after a full review. Finally, the Committee shall review the remaining Challenges in the order they were received. Challenges to Delegates shall be resolved before Challenges to Alternates. The Committee shall, to the extent possible, schedule as many conventions pursuant to Chapter C on or before 11:00AM the day of the scheduled convention.

- IV. **Required Speakers on a Challenge.** Challengers who fulfill the requirements of Chapter B.II. shall be permitted to orally present their Challenge to the Credentials Committee within the time limits prescribed by the Committee in order to facilitate the consideration of all Credential Committee business within one day, leaving enough time for the business of the entire Convention. Challengers may appoint one person to serve as their spokesperson before the Committee, in lieu of a personal presentation. In the event a particular person is made subject to a Challenge, they shall be permitted to speak before the Committee. In the event numerous persons are made subject to a Challenge, it shall be at the discretion of the Committee Chair who shall be recognized. Should the delegations present be unable to appoint a spokesperson to be heard on a given Challenge, the Committee Chair shall select at random from the names of those who wish to be heard, one person from each delegation that could not appoint a spokesperson.
- V. **Additional Speakers.** The Committee may allow additional speakers on a given Challenge in order to facilitate their decision-making and only if time permits, provided that additional speakers must have actually attended the event giving rise to the Challenge.
- VI. **Eligible Speakers.** Except for the person who filed the Challenge, all speakers on a given Challenge must be Democrats eligible to participate in the event giving rise to the Challenge.
- VII. **Calling the Question.** After the presentation of 10 speakers – including the Challenger, the person made subject of the Challenge, and others – the Committee Chair, in his or her sole discretion, can cut off debate and require a vote, unless overridden by a 2/3 vote of the Committee. However, the Committee can call the question at any time by a 2/3 vote.
- VIII. **Public Voting.** All votes shall be before the public and taken in such a manner that permits observers to ascertain how Committee members voted.
- IX. **Minority Report.** In the event 20% or more of the Committee Membership desires to prepare and file a report with an alternative finding than the majority, the minority, with regard to that issue, shall appoint from among its members a Minority Secretary to draw up the report and submit it to the Convention Chair or Secretary for floor consideration.
- X. **Recesses.** The Committee Chair may call a recess at any time in order to consider data, documents, or information relevant to a Challenge or to consult a representative of the Texas Democratic Party to inquire about the rules and procedures governing their business.

- XI. **Evidence.** In making its determinations, the Committee shall consider only the evidence. Evidence is documents or data that can reasonably be ascertained as true and correct. Oral presentations are also evidence insofar as they describe first-hand, actual events relevant to the Challenge. Each Committee member shall determine for themselves what constitutes evidence.
- XII. **Standard of Proof.** All factual determinations shall be made based upon a “preponderance of the evidence.” The term “preponderance of the evidence” means the greater weight and degree of credible evidence (i.e. balancing scales).
- XIII. **Majority Required.** All determinations of the Committee shall be made by majority vote, unless specifically stated herein. All votes required to be taken by the Committee shall be of those present. The Committee Chair only votes in the event of a tie.
- XIV. **Proxy Voting.** No proxy voting is permitted.
- XV. **Subcommittees.** Nothing herein prohibits a Credentials Committee from dividing itself into subcommittees to allow the Credentials Committee to complete its business in a timely and efficient manner.
- XVI. **Committee Report.** The Committee shall report the results of its work separately for each Challenge so that the Convention can vote separately on the Committee’s Report for each Challenge. The Convention shall vote on the Credentials Committee’s Report on each Challenge separately.



## C. RESOLUTION OF CHALLENGES

- I. **Challenges Considered.** The Committee shall only consider Challenges that comply with the above. The Committee shall seat all eligible, elected Delegates, unless presented with a Challenge affirmed by the Committee.
- II. **Timeliness of Records.** Failure to timely return convention records or lists to the County and/or State Democratic Parties shall not be an independent ground for a Challenge unless the Committee determines the late delivery of the information compromised the integrity of the information. Materials not received timely must be considered so long as they are substantially in order.
- III. **Challenges based upon failure to adhere to Robert's Rules of Order.** Failure to adhere to Robert's Rules of Order shall not be an independent ground for a Challenge unless the Committee determines the failure to adhere to Robert's Rules of Order prevents the Committee from determining whether the results of such convention are consistent with the desires of the eligible participants who attended. Should the Committee make such a determination, that precinct's delegation shall be resolved pursuant to Chapter C.V.
- IV. **Seating of Delegates from Precincts that did not conduct a Convention or failed to return their Convention Materials.** The Committee shall not seat Delegates from precinct conventions that did not occur due to a lack of attendance by eligible persons. In the event a Challenge is received regarding the failure of a precinct to hold a convention or return convention materials that also requests the seating of Delegates from that precinct, the Committee shall determine the reason for the failure to hold a convention or return materials – whether it be weather, lack of facilities, lack of convention materials, obstruction by a campaign or person, or some other reason – and have the Secretary record the finding in the minutes. The Committee shall seat Delegates from a precinct where they find eligible persons attempted to participate. The Committee shall permit the eligible participants present from the precinct to convene a new precinct convention on the convention day at a designated time selected by the Committee. The procedure for convening the precinct conventions shall be as described herein. In the event there are not enough eligible persons present to serve as Delegates for one of the presidential preferences as required by the new convention, no Delegates shall be seated for the open positions. In the event too many eligible persons are present, the delegation from that precinct with the same presidential preference shall select among themselves the Delegates. If they are unable to do so, the Committee Chair shall make the selection by a draw.
- V. **Seating of Delegates from Precincts that Returned Inaccurate or Incomplete Materials or held their Convention not in conformity with the Rules.** In the event the Committee is presented with a Challenge and finds that (1) a precinct held a convention not substantially in compliance with the rules, or (2) the reported results and/or elected Delegates do not reflect the presidential preferences of those eligible and who attended, and the Committee also finds that it cannot be determined what the division of presidential preferences should be to fairly and reasonably represent the presidential preferences of the eligible participants present at the earlier convention, the Committee shall permit the eligible participants present from that

precinct to convene a new precinct convention on the convention day at a designated time selected by the Committee. The procedure for convening the precinct conventions shall be as described herein. In the event there are not enough eligible persons present to serve as Delegates for one of the presidential preferences as required by the new convention, no Delegates shall be seated for the open positions. In the event too many eligible persons are present, the delegation from that precinct with the same presidential preference shall select among themselves the Delegates. If they are unable to do so, the Committee Chair shall make the selection by a draw.

- VI. **Seating Delegates from Precincts that were chaired by an ineligible person.** In the event the Committee is presented with a Challenge and finds that a precinct convention was chaired by an ineligible person and (1) the results of the convention were likely compromised by the ineligible person, or (2) the public at large and the eligible Democratic voters in that precinct are likely to justifiably question the integrity of the delegate selection process if not remedied, the Committee shall seat Delegates pursuant to Chapter C.V. above.
- VII. **Seating Delegates from Precincts where not enough persons remained to fill one or more of the delegations of a presidential preference.** In the event the Committee is presented with a Challenge that a convention delegation did not fill all of its delegate seats because not enough persons were remaining at the convention when the election of delegates was held, and the Committee determines the cause for the shortage of delegates was that a person who reasonably appeared to have authority encouraged eligible persons to leave, with the specific intent to cause not enough eligible persons with a particular presidential preference to remain present to serve as a Delegate, the Committee shall permit the delegation with the appropriate presidential preference present from that precinct to elect eligible persons present to serve as the remaining Delegates only if the evidence shows that a sufficient number of persons were present at sign-in for the earlier convention. In the event there are not enough persons present at the subsequent convention who are eligible to serve as Delegates for one of the presidential preferences, no Delegates shall be seated for the open positions.
- VIII. **Reducing the number of delegates when a convention has elected too many.** In the event the Committee learns that a precinct has appointed too many persons to serve as Delegates in proportion to the delegation that precinct is allotted, the appropriate presidential preference delegation from that precinct shall reduce the number of delegates appointed as the Committee directs. In the event some or all of a delegation are unable to agree on the elimination of Delegates, the Committee Chair shall make the selection by eliminating the persons lowest on the election sheet provided by the precinct convention. In the event the Committee Chair determines it necessary, the Committee may require the elimination of persons elected as Delegates by a draw.
- IX. **Election of a delegate for one presidential preference when they signed in at the convention with a different presidential preference.** A person may not be seated as a delegate to a later convention if they were elected as a delegate with one presidential preference at a precinct convention and they signed in as a participant to the precinct convention from which they were elected with a different presidential preference. The vacancy created by such persons may be filled by eligible persons present who can demonstrate they signed in at that earlier convention with the presidential preference

required. In the event the delegation cannot select the person(s), the Committee Chair may do so by draw.

- X. **Treatment of earlier Convention participants who are challenged for ineligibility.** A precinct participant is an eligible participant if they were registered to vote in that precinct and they voted in the 2008 Democratic Primary in that precinct. In compliance with state law, the person remains eligible even if they no longer live in the precinct but as of the earlier convention, had not changed their voter registration. Persons who participated who were ineligible and were included in the division of Delegates by presidential preference shall be omitted, and the Committee shall re-calculate the division. The Delegates elected shall continue to serve. In the event one delegation from a precinct lacks delegates to fill a newly-assigned seat and the delegation had previously filled all the seats allotted to it, the delegation shall select an eligible person(s) present to serve as the missing Delegate(s). If there are not enough persons present to fill the newly-created seats, only those that are filled with eligible persons who are present shall be seated. In the event a delegation is unable to make the selection, the Committee Chair shall make the selection by draw. In the event a delegation has elected too many delegates, the delegation shall select those Delegates that will serve in the newly-allotted seats. In the event they are unable to do so, the Committee Chair shall make the selection by a draw.
- XI. **Seating of Delegates from conventions with provisional participants.** In the event the Committee is presented with a Challenge that specific provisional voters were incorrectly included or not included in the division of Delegates by presidential preference, the Committee shall decide the challenge and, if it has merit, the Committee shall re-calculate the division and fill the delegate seats in conformity with Chapter C.X.
- XII. **Procedure for Holding a Precinct Convention at a Subsequent Convention.** In the event the Committee permits a precinct convention to occur at a later convention, the Parliamentarian of the Committee shall serve as the Committee Chair for the later precinct convention. The Parliamentarian shall appoint a Secretary for the later convention. The Parliamentarian will require the eligible participants to sign in on sheets provided. The Parliamentarian will appoint one person from each group of presidential preferences to collectively review the list of sign-in names against the list of eligible participants. The Parliamentarian shall decide any controversy concerning the eligibility of participants. Once the list of eligible participants is finalized, the Secretary will calculate the division of Delegates in the same manner as if the convention was properly held earlier, and the Parliamentarian shall review the calculation for fairness and accuracy. The Parliamentarian will announce the division of Delegates and the eligible participants shall divide into caucuses by presidential preference to choose among themselves the identities of the allotted Delegates. In the event a caucus is unable to agree on the identities of their Delegates, the Parliamentarian shall make the assignments by a draw. The Parliamentarian may assign any part of these duties to any person who is committed to a fair and just process without regard to result if the efficient use of time requires it. The Secretary shall complete the provided Precinct Convention Minutes form and give it to the Parliamentarian for review. If the Parliamentarian deems it in order, the Minutes shall be delivered to the Committee. The Committee Secretary shall announce the results to the Committee at the earliest occasion. Any eligible person may file a Challenge concerning a later precinct convention but same shall only be heard by the Committee after all earlier filed Challenges have been disposed of and with the agreement of 2/3 of the Committee.

#### D. GENERAL PROVISIONS

- I. **Procedure for Adopting Additional Clarifications.** A three person sub-committee formed of members of the Texas Democratic Party's Permanent Rules Committee shall be appointed by the State Chair, which is hereby vested with the authority to make additional Clarifications governing the County and Senatorial Conventions of 2008 at any meeting, held by telephone or in person, on the Friday, Saturday, and Sunday of the those conventions.
- II. **Resolution of Delegate seats not filled.** Any Delegate or Alternate seat assigned to precincts that are not filled by the Committee are lost and shall not be filled.
- III. **Resolution of Alternate Seats.** Resolution of the Alternate seats shall be in conformity with these Clarifications for Delegates.