

# **NYS Constitutional Convention** ***Delegate Selection***



*Article XIX of the NYS Constitution requires that should a majority of New York voters approve a convention to “revise or amend” our state constitution on November 7, 2017, fifteen delegates are to be elected state-wide and three delegates are to be elected in each of the state’s senate districts to attend the Albany convention.*

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- I. ***“...the electors of every senate district of the state...shall elect three delegates...”*** (Article XIX, NYS Constitution)

New York has 63 senate districts. With three elected per district, this provision allows for the election of 189 senate-wide convention delegates. These delegates will be referred to herein as “senate-wide delegates.”

- II. ***“...the electors of the state voting at the same election shall elect fifteen delegates-at-large...”*** (Article XIX, NYS Constitution)

These fifteen delegates—hereafter referred to as “state-wide delegates”—combined with the three delegates elected from each senate district (see Point I above) bring the total number of convention delegates to 204.

- III. ***“...at the next ensuing general election...”*** (Article XIX, NYS Constitution)

The date for delegates to be elected—the date of the general election following a 2017 affirmation of the ballot question for a convention—is November 6, 2018.

- IV. ***“The delegates so elected shall convene at the Capital on the first Tuesday of April next ensuing after their election...”***  
(Article XIX, NYS Constitution)

Following voter approval of the ballot question in Nov. 2017 and election of delegates in Nov. 2018, the Constitutional Convention would begin on April 2, 2019.

V. Party nomination requires party enrollment:

***“A petition...for the purpose of designating any person as a candidate for party nomination at a primary election shall be valid only if the person so designated is an enrolled member of the party referred to in said designating petition at the time of the filing of the petition.”*** (NYS Election Law, § 6-120)

VI. Party nomination for senate-wide delegates:

***“[P]etitions must be signed by not less than five per centum...of the then enrolled voters of the party residing within the...state senatorial district...and not more than...one thousand...signatures...”*** (NYS Election Law, § 6-136)

VII. Independent nomination of senate-wide delegates:

***“An independent nominating petition...must be signed by voters numbering five per centum of the total number of votes cast for governor at the last gubernatorial election in such unit...and not more than...three thousand...signatures...”***  
(NYS Election Law, § 6-142)

VIII. Party nomination of state-wide delegates:

***“Petitions for any office to be filled by the voters of the entire state must be signed by not less than fifteen thousand or five per centum, whichever is less, of the then enrolled voters of the party in the state (excluding voters in inactive status), of whom not less than one hundred or five per centum, whichever is less, of such enrolled voters shall reside in each of one-half of the congressional districts of the state.”*** (NYS Election Law, § 6-136)

Statewide delegates have the highest hurdle to gain ballot access to be the nominee of a party.

IX. Independent nomination of state-wide delegates:

***“An independent nominating petition for candidates to be voted for by all the voters of the state must be signed by at least fifteen thousand voters, of whom at least one hundred shall reside in each of one-half of the congressional districts of the State.”*** (NYS Election Law, § 6-142)

X. Restriction on independent petition:

***“The name of a person signing such a petition for an election for which voters are required to be registered shall not be counted if the name of a person who has signed such a petition appears upon another valid and effective petition designating or nominating the same or a different person for the same office.”*** (NYS Election Law, § 6-138)

This provision prohibits signatures being collected for independent candidates from those who had signed other petitions.

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Ballot access for those seeking to be a senate-wide delegate can be confusing. Analyzing rules and election law for candidates seeking this position in November 2018, we conclude:

- 1) Ballot access for either non-party/independent or party affiliated senate-wide delegates mandates petition signatures by each prospective candidate totaling five percent of the total voter participation in the most-recently held (2014) Gubernatorial election in the district the candidate is running. The number of signatures required, however, has a “ceiling” requirement capped at no more than (1) 1,000 signatures for party designation ; and (2) 3,000 for non-party/independent status. In comparing the five percent and ceiling requirement in each senate district, the lower of the two figures will be the required number of signatures to gain ballot access.
- 2) Each of NY’s state senate districts met the 1,000-vote margin to require that number of votes for those candidates seeking party affiliation on the ballot in November 2018. This means, in sum, that every candidate running as a delegate for party-affiliation ballot access is required to get 1,000 petition signatures from fellow party members in the district they are running to appear on the ballot in November 2018.
- 3) The higher ceiling numerical necessary for non-party/independent candidate ballot access (3,000) as opposed to party-affiliated ballot access (1,000) would appear at first glance to be an unfair hurdle in place to discourage non-party/independent candidates from seeking a delegate position. While this may prove to be true, this can be countered with the fact that party-affiliated candidates can only obtain signatures from fellow party members while non-party/independent candidates can obtain

signatures from any registered voter as long as they had not previously signed a petition for another candidate running for the same position.

- 4) Not all of the state senate districts in the 2014 Governor's race, however, met the 3,000-vote margin required for a candidate *not* seeking party affiliation (ie: running as an independent/non-party). Of the 63 senate districts in our state, 26 (or 41%) will require less than 3,000 signatures for a candidate to be on the ballot in November 2018.

The range of signatures in the 26 senate districts that fell below the ceiling requirement range from a necessity of 1,146 votes on the lowest scale (District #33 in Bronx County) to 2,943 on the highest scale (District #28 in New York County).

- 5) Every district in NYC's five boroughs fell below the threshold of voter participation in the 2014 Governor's race that would have required the 3,000-signature independent/non-party ballot-access petition except District #26, which makes up most of Richmond County. The only district outside of NYC to not reach the threshold was District #63, located in Erie County.
- 6) Districts not listed below require 3,000 petition signatures for non-party/independent candidates to appear on the ballot for the position of Convention Delegate.

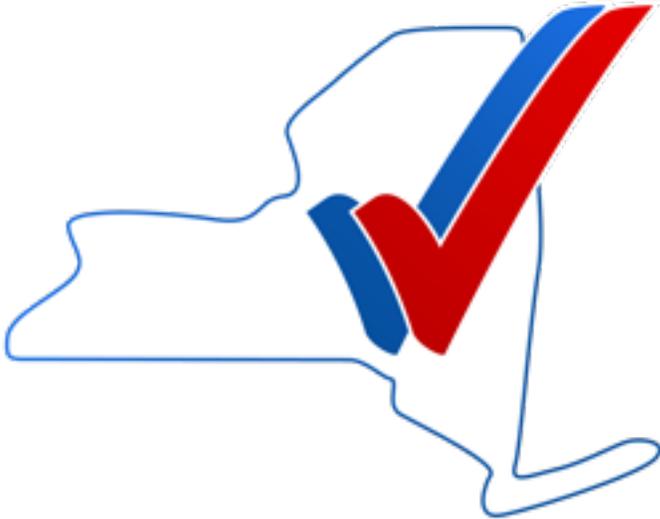
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*Districts/Number of signatures needed for non-party/independent candidate petitions*

District #10 (Queens County):	1,662
District #11 (Queens County):	2,241
<u>District #12 (Queens County):</u>	<u>1,607</u>
District #13 (Queens County):	1,214
District #14 (Queens County):	2,119
<u>District #15 (Queens County):</u>	<u>1,997</u>
District #16 (Queens County):	1,401
District #17 (Kings County):	1,755
<u>District #18 (Kings County):</u>	<u>1,480</u>
District #19 (Kings County):	1,959
District #20 (Kings County):	1,890
<u>District #21 (Kings County):</u>	<u>2,430</u>
District #22 (Kings County):	1,819
District #23 (Kings/Richmond Counties):	1,882

District #25 (Kings County):	2,436
District #26 (Kings/New York Counties):	2,000
District #27 (New York County):	2,884
District #28 (New York County):	2,943
District #29 (New York/Bronx Counties):	1,836
District #30 (New York County):	2,578
District #31 (New York County):	2,450
District #32 (Bronx County):	1,545
District #33 (Bronx County):	1,146
District #34 (Bronx/Westchester Counties):	2,158
District #36 (Bronx/Westchester Counties):	2,118
District #63 (Erie County):	2,955

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