The Consequences of Changing Primary Participation Laws

for Party Registration and Partisanship

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Most concerns over primary participation rules, such as open versus closed, speculate about their influence on the composition of the primary electorate. Political scientists, however, over a period of 60 years have demonstrated an alternative effect. Primary participation rules shape people's partisan identities. In the broadest sense, closed primary rules encourage individuals to think of themselves as partisans, while open primary rules encourage people to identity as independents. In this paper, we examine how changing primary participation rules affects patterns of party registration and party identification across the 50 states.

Classifying State Primary Participation Rules

The classification of primary participation rules begins with whether or not a state asks voters to state a party preference on the voter registration form. Thirty states do so. This

registering as partisans. The other format for states with party registration is that semi-closed

primary. In these states, registered partisans are confined to their own party's primary while

registered independents choose in which party's primary they wish to vote. Semi-closed

primary rules encourage people to register as independents. The format of the semi-closed

primary rules actually are quite varied. In some states, an independent who votes in a partisan

primary becomes a registered partisan. How long this new partisan registration lasts also varies

by state. In New Hampshire, voters simply change their enrollment back to independent as

they leave the polling place. In other states, voters would need to change their registration at a

later date. In some states, the independent registration is not altered by participating in a

partisan primary. A third type of semi-closed primary state is one that allows any voter to alter

their party registration on the poll on Election Day as they have Election Day voter registration.

States without party registration have two types of open primarie steegip Td[(c)-8 is} T (f o)12 (n)10 (D

any run-off primary of the other party (e.g. Georgia, Texas). The public declaration of support

for a party and other consequences result in more people viewing themselves as partisans in

these semi-open compared to the pure open primary states.

This four-

percent of self-identified independents in a state to primary participation rules, levels of

intraparty competition and organizational strengths of state parties. She finds that states with

primary participation rules that require a legal attachment to the parties in order to participate

(i.e., closed primaries) have fewer independents, while states that have no restrictions on

primary participation (i.e., open primaries) have more independents.   She also notes that

other variations of primary elections also influence partisan identities. For example, semi-

closed primaries, where independent may vote in either party's primaries, produce high

numbers of registered it

primary participation rules came from other scholars and organizations (Holbrook and La Raja 2008; McGhee and Krimm 2010; Rogowski and Langella 2015).[1]

States that changed their primaries laws between 1996 and 2016 did so for various reasons. Two Supreme Court cases shaped some of these recent changes. In *Tashjian v. Republican Party of Connecticut*, 479 U.S. 208 (1986) the Court rules that a political party has the First Amendment associational rights to determine who votes in their primary. In this case, the Court ruled that the Republican Party in Connecticut could allow registered independents to vote in its primary even though the state of Connecticut had closed primaries rules. *In California Democratic Party v. Jones*, 530 U.S. 567 (2000) the Court struck down the blanket primary. Once again, the Court reasoned that this primary format violated the political parties First Amendment freedom of association. The U.S. Supreme Court in a variety of cases from the late 20th and early 21st century ruled in favor of political parties based on their associational rights (e.g. *Eu v. San Francisco County Democratic Committee*, 489 US 214, 1989) Icetohj-5 (f)-9 (o(c)1 1 Tf 0.0

party Republicans continue to employ the closed format.[2]   Oregon is a traditional closed

primary but allows party leaders to notify the state 90 days prior to a primary on whether the

party wishes to allow independents to vote in its primary. Both parties in Oregon experimented

with the semi-closed format between 1998 and 2002, but since that time both have reverted to

the closed primary format. West Virginia also allows political parties to decide whether to

allow registered independents to participate in their primary, with Democrats allowing

independents to vote in their primaries throughout the 1996 – 2016 period while Republicans

held closed primaries from 1996 to 2006 but opened up the primary to independents in 2008.

Thus, when parties are given the option of being able to determine whether to hold closed or

semi-closed primaries, the format can vary across years and across the two parties.

The Supreme Court's 2000 ban on blanket primaries affected three states. Washington

State adopted the top-two format in 2004 with the passage of Initiative 872. The

implementation of the format was delayed by legal suits from the Democratic, Republican and

Libertarian parties. Lower courts overturned the top-two format, but the U.S. Supreme Court in

2008 overruled them and deemed the top-two format constitutional by a 7-2 vote. [3] The

Court's majority argued that the top-two format is not choosing candidates by party so it does

not violate the parties' First Amendment rights. Washington first used the top-two format in

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[2] South Dakota adopted a law for party option in 1996. https://rapidcityjournal.com/news/local/democrats-open-primary-to-independents/article_201d5b71-b0a7-5d89-8d15-279e466ea4a7.html
[3] *Washington State Grange v. Washington State Republican Party*, 552 US 442 (2008).

2008. The state used open primaries in the period between the ban on blanket primaries and

the judicial support of top-two primaries.[4]

California changed it primary format several times during this time period. California

traditionally held closed primaries. California switched to a blanket primary after approving

Proposition 198 in 1996. After the Supreme Court overturn blanket primaries in 2000,

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Libertarian Party, and Green Party).[5] Voters registered with any of these parties received a

consolidated primary ballot, and the candidate from each party receiving the most votes is

nominated. The parties on the combined ballot allowed registered independent to

participation, and in most years these parties allowed any registered voter to participate.

Another change in primary format is coming in the future. Alaska voters in 2020 adopted a top-

convention that candidate can become the nominee without holding a primary.   With a split

vote at the convention, only the top two candidate names are forwarded to the primary. A

independents, while semi-closed and open primaries are linked to larger numbers of

independents (Norrander 1989). Thus, for states that maintain consistent primary participation

laws we expect consistent patterns that fit with those expectations. For states that altered

their primary participation laws we expect more changes in independent voter registration and

party identification.

To demonstrate the effect of primary participation laws on party registration and party

identification, we set up statistical models to measure the amount of linear change in

independent registration and independent identification from 1996 to 2016 for each of the 50

states. Independent registration figures came from each state's official election website,

constant for the regressi

(b = .71). Connecticut and Delaware show a slight decline in independent identification.

Nevada is a state with a growing population, and these new residents can add to the number of self-identified independents. Nevada also is a state with a changing partisan pattern moving toward the Democratic Party in recent elections. These changes show up in the party identification trends, as new voters and voters changing partisan preferences may gravitate to the independent identification. However, to be able to vote in Nevada's closed primary, these voters will need to register as partisans, leading to the lower rate of change for Nevada's percent of registered independents. Florida and New Mexico also saw a relatively high increase in the number of self-identified independents to match their growth in the number of registered independents. New Mexico appears to be mimicking a broader national pattern of an increasing urban – rural divide and an increase in independent voters (Metzer 2020). Florida's increase in independent identification can be linked to people moving in from other

number of independent identifiers, with a median value of 27.80 percent, and little over-time change, with the median value for the b coefficient of .22.

Semi-closed primary states with unusual registration patterns include New Hampshire and North Carolina which experienced steeper growths in registered independents while New Jersey experienced a decline in registered independents. The details of a semi-closed primary may explain the different trends. In New Hampshire unaffiliated voters need to register as a partisan at the polls on Election Day, but they can unenroll in the party by filling out a form prior to leaving the polling location. This easy switch back to unaffiliated status allows the number of registered independents in New Hampshire to remain the same or increase over time. In addition, younger voters in New Hampshire are more likely than either long-term or new residents in the state to register as independents (Johnson, Scala and Smith 2016). In New Jersey, unaffiliated voters also can enroll in a party on primary election day, but they do not have the opportunity to change back registration at the polls. To return to unaffiliated status, voters in New Jersey need to file a party affiliate form with their county government. Having to file a subsequent registration form to return to unaffiliated status may lead to fewer voters doing so and could explain the decrease in independent (e.g. unaffiliated status) voters in New Jersey over time. Unaffiliated voters in North Carolina may choose to vote in either the Democratic or Republican Party primary and this does not change their unaffiliated registration status. Thus, the North Carolina rule allows individuals to remain registered as "independent" when voting in a partisan primary and incentivizes them to do so. These nuanced primary participation rules, however, do not explain all the patterns for the semi-closed primary states. Rhode Island has the same rules as New Hampshire but experienced a decline in independent

closed or semi-closed states. Three states in particular had larger increases: Arkansas,

Tennessee and Texas. Arkansas had a relatively late southern realignment from Democrat to

Republican. An increase in independent identification can accompany the split voting patterns

that may occur during a secular realignment.

Open primary states began the 20-year time period with a median value of 26.91

percent self-identified independents. This value nearly matches that of the semi-closed

primary states. Thus, these patterns confirm prior research which found the greatest number

of self-identified independents in the open and semi-closed primary states as both sets of rules

encourage independent identification (Norrander 1989). The median increase in independent

identification for open primary states (.255) is also most similar to that of the semi-closed

states. Montana and Vermont saw the highest growth in independent identification, but these

values are more modest than the increases in independent identification for the other three

types of primary laws. --

modest changes in their primary structures. Both had blanket primaries prior to the 2000

Supreme Court overturning this structure. Washington eventually adopted a top-two primary

while Alaska's two parties chose slightly different responses. Alaska Democrats tend to have

almost an open primary allowing any registered voter to participate in their primary held in

conjunction with Alaska's minor parties. The Alaska Republican Party tends to hold semi-closed

primaries. As such, Alaska experienced a very small increase in registered independents,

although it had a larger increase in self-identified independent identification. Washington State

does not have party registration and its switch from the blanket to the top two format did not

alter the ability o.94 -0 (d10 (S)4.1 (ta)14 (te)13 (dw -2.7 -da v)3)4 (nk)d003 Tw0 (h1 ( )1)10 8ntas an[(almo)-

format to mostly semi-closed primaries on the Democratic side and closed primaries for the Republican Party. Idaho, like Utah, does not have a sufficient number of years with party registration to assess a trend for those data. Among party identification the negative coefficient suggests a slight decline in independent identification with the adoption of party registration.

The change in primary format in South Dakota occurred only for the Democratic primaries. Beginning in 2010 the Democratic primary switched from closed to semi-closed. However, the Republican Party maintained the closed format throughout this time period. The registration trends for South Dakota show a middling increase of .50 while the change in independent identification was more modest. West Virginia also saw a difference in primary formats for the Democratic versus Republican parties. The Republican Party consistently held semi-closed primaries throughout the 20 year period, while the Democratic Party switched from closed primaries to semi-closed primaries in 2008. The more consistent semi-closed primary format after 2008 may account for the somewhat larger increases in both independent registration and identification in West Virginia. West Virginia, too, had a relatively late southern realignment.

Arizona and California both switched away from closed primaries in the late 1990s. Arizona's proposition passed in 1998, with 2000 being the first use of the semi-closed primary. Arizona had the largest increases in registered independents (b = 1.21) and self-identified independents (b = 1.23) of any of the 50 states across these 20 years. The switch to a semi-closed primary incentivized

identities. California's experiment of moving away from closed primaries and eventually ending up with the top-two format also increased independent registration and self-identification, although not at the magnitude as happened in Arizona. However, both states are similar in that under closed primary rules they had low rates of independent registration (Arizona at 14 percent and California at 11 percent in 1996) and self-identification (Arizona at 16 percent and California at 16 in 2016). While twenty years later under different primary rules both had higher levels of independent registration rates of 23 percent (California) and 35 percent (Arizona) and independent self-identification at 30 percent (California) and 40 percent (Arizona). Changing primary rules changes rates of party registration and partisan self-identification.

Moving Beyond Partisan versus Independent Categories

Party registration figures only allow a classification of partisan or independent. Likewise, the state exit poll data on party identification only include a partisan or independent selection. However, the more typical party identification scale used by social scientists provides a more nuanced look at party identification with partisans divided into strong versus weak and independents into leaning and pure independents. Prior research also tended not to investigate the patterns of primary participation rules on these more nuanced categories of party identification. In this paper, we take a first look at the overall pattern between primary participation rules and the four intensity categories for party identification. To do so, we need

survey data from the 50 states. We turned to the CCES cumulative file using respondents from

2016 and 2018 surveys.[9]

Table 4 looks at the proportion of respondents within each of the four partisan intensity

categories by the different formats of primaries. In this analysis, we include Oregon as closed

and Arizona as semi-closed as these were the formats in place during the 2016-2018 time

Table 1: Trends in Independent Registration and Independent Identification by Primary

Type between 1996 and 2016 for Closed and Semi-Closed Primary States.

State	Independent registration			Independent identification		
	b	constant	R2	b	constant	R2

Table 2: Trends in Independent Identification by Primary Type between 1996 and 2016 for Open and Semi-Open Primary States.

| | Independent Identification | | |
	b	constant	R2
SEMI-OPEN			
Alabama	0.02	18.72	0.00
Arkansas	0.64	24.79	0.56
Georgia	0.47	18.99	0.63
Illinois	-0.04	25.75	0.02
Indiana	0.41	18.9	0.52
Mississippi	0.26	12.74	0.30
Ohio	0.44	21.57	0.68
South Carolina	0.05	21.69	0.03
Tennessee	0.91	19.51	0.82
Texas	0.67	20.63	0.59
Virginia	0.15	23.28	0.30
median	0.41	20.63	0.52
OPEN			
Hawaii	0.34	29.02	0.12
Michigan	0.29	23.7	0.65
Minnesota	-0.03	26.68	0.00
Missouri	0.22	22.9	0.21
Montana	0.49	27.14	0.30
North Dakota	-0.16	31.74	0.12
Vermont	0.44	32.49	0.29
Wisconsin	0.18	24.82	0.21
median	0.255	26.91	0.21

Table 4: Using proportions to test for statistical significance when clustered by state

	Closed	Semi-Closed	Semi-Open	Open	Other
Strong Partisan	.50^{bde}	.46^{ac}	.50^{b}	.46^{ae}	.45^{ac}
Weak Partisan	.24^{bcd}	.19^{ae}	.20^{ae}	.20^{ae}	.24^{bcd}
Leaner	.17^{bcde}	.22^{ac}	.20^{abd}	.23^{ac}	.21^{a}
Pure indep	.09^{bc}	.12^{a}	.10^{a}	.11	.10
Total %	1.00	.99	1.00	1.00	1.00
N. of Cases	10,650	6,041	12,466	4,520	5,624

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