

## COVID-19 Causes 2020 Primary Season Disruptions, Changes to Filing Deadlines

March 20, 2020

As the COVID-19 pandemic continues to alter the daily lives of Americans, several states have faced the difficult decisions of whether or not to reschedule their 2020 primary elections. With the recent Centers for Disease Control and Prevention (CDC) recommendation to halt gatherings of more than 50 people for the next eight weeks, more states will have to decide how to proceed with their presidential and congressional primaries. Currently, ten states have made the decision to postpone either their presidential primary, congressional primary or both.

Because of the rapidly changing primary election calendar, the Federal Election Commission (FEC) **announced this week** that they are updating the reporting dates and deadlines associated with those elections. Specifically, pre-election reports (including 48-Hour Notices for candidate committees), as well as the coordinated communications, electioneering communications and independent expenditure periods for primary elections will be adjusted. The FEC has also advised that if a state postpones its election after the deadline for the applicable pre-election report, participating committees must file an additional pre-election report due 12 days before the new election date.

Despite the changes to reporting deadlines tied to pre-election or post-election timeframes, periodic monthly and quarterly FEC deadlines will not be extended. The FEC **confirmed this week** that the agency does not have statutory authority to extend those filing deadlines, but does have the discretion to decline to pursue administrative fines against committees prevented from filing due to reasonably unforeseen circumstances beyond their control. It is unclear whether missed filings because of COVID-19 illnesses will be excused. Committees should be aware of upcoming deadlines that remain unchanged; specifically the reports for monthly filers will continue to be due on the 20th of each month and the first quarter report due on April 15.

Individuals and political action committees (PACs) seeking to make additional contributions to candidates in any of the affected elections may do so. The FEC has also confirmed that campaigns may accept contributions subject to separate limits for the primary and general elections up until the date of the rescheduled election.

### Contact Information

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As of March 20th the following states have postponed their primaries:

## Alabama

Gov. Kay Ivey announced that the state would postpone its Republican primary runoff election for U.S. Senate, originally scheduled for March 31 to July 14.

## Connecticut

Connecticut Gov. Ned Lamont announced the postponement of the presidential primary from April 28 to June 2.

## Georgia

Secretary of State Brad Raffensperger announced the state would delay their presidential primary from March 24 to May 19—the same date that is already scheduled for Georgia’s congressional primary election. The more than 275,000 ballots that have already been cast through early voting in the presidential primary will still count with those voters who participated in early voting for the presidential primary having the option to cast a ballot in May that includes all races except the presidential race.

## Indiana

Indiana announced the postponement of Indiana’s presidential and congressional primary election, originally scheduled for May 5, 2020, to June, 2, 2020.

## Kentucky

Kentucky announced on Monday that it would postpone its primary for both president and down-ballot offices originally scheduled for May 19 to June 23. This date conflicts with the rules put forth by the Democratic National Committee (DNC) which set the last possible date for a primary election as June 9. The DNC said in a statement that they would continue to work with states as they adjust their delegate selection plans around COVID-19, however, they have not ruled out penalties, which could include states losing delegates.

## Louisiana

Louisiana was the first state to delay its primary, originally scheduled for April 4. Louisiana will now hold their presidential primary on June 20, also in violation of the DNC rules.

## Maryland

Gov. Larry Hogan has announced that Maryland’s presidential primary has been moved from April 28 to June 2. Under the state’s current state of emergency, the governor has the power to postpone elections without legislative approval. The special election to replace the late Rep. Elijah E. Cummings will not be rescheduled from April 28, but voters are encouraged to vote by mail.

## Mississippi

Gov. Tate Reeves announced that the Republican primary runoff election for the 2nd Congressional District will be rescheduled to June 23, 2020. The runoff election was originally set for March 31, 2020.

## North Carolina

The Executive director of the North Carolina State Board of Ethics announced that the Republican primary runoff for North Carolina's 11th Congressional District would be postponed to June 23, 2020.

## Ohio

In an unprecedented turn of events, Ohio Gov. Mike DeWine postponed the presidential primary scheduled for the next day by declaring a public health emergency. The primary is now scheduled for June 2.

We will continue to monitor developments to keep clients informed. If we can be of assistance in other ways, please let us know. Our team is available to assist with filings or other issues that may arise because of the COVID-19 pandemic. Wishing everyone continued good health.

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