

Giving voice to third-party hopefuls: Front & Center



Change the Rule: Give third-party candidates a shot in presidential debates

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Presidential debates can be circuses. Usually, though, they feature only two animals: donkeys and pachyderms. That's because the Commission on Presidential Debates adopted a rule setting a floor on election polling results that effectively shuts out anyone not anointed by America's two major parties.

That's a reality the bipartisan Change the Rule group looks to alter for the 2016 election cycle. Alexandra Shapiro, a former federal prosecutor and key player with the group, recently discussed by email with the Editorial Board the Change the Rule effort.

Q: Polls show Americans would support an independent for president, yet third-partyers fare poorly. Is there really an appetite for this?

A: Current debate access rules deter many potentially excellent candidates from running for president as independents. The rule effectively forces independents to run through the Democratic or Republican primary in order to gain the media coverage necessary to build national name recognition. But in today's polarized politics, where the primaries are often dominated by the extremes of both parties, there are many people who would make great presidents but would never run through a party primary. If a qualified candidate is allowed to participate in the general election presidential debates — with the vast media exposure and legitimacy they confer — more qualified independent candidates will consider running for president.

Q: Given the current setup, how likely is it that even a deep-pocketed third-party candidate seize the presidency?

A: Given the record numbers of Americans who identify as independents, the time is ripe for a serious independent candidacy for president. We won't know what great Americans will step forward until we enact the kind of reforms that we have proposed — and if we don't act soon we will blow a critical opportunity to shake up our presidential debates, and the substance of the campaign, during this election cycle. Ross Perot energized the 1992 elections and — 27 percent more of the American population watched the three-person 1992 debates than watched the Romney-Obama debates in 2012. Perot also put critical issues like the debt on the national agenda and showed there were many Americans whose concerns were not being addressed by the two major parties.

Q: How does the rule created by the Commission for Presidential Debates hinder the White House prospects of third-party hopefuls?

A: Since televised debates began in 1960, no independent candidate who had not run in a Democratic or Republican primary — including Ross Perot — could have satisfied the current rule, which requires a candidate to poll at 15 percent or more just several weeks ahead of Election Day. Expert analysis shows that it is impossible for anyone who has not run in the primaries to meet this requirement. In order to poll at 15 percent, a candidate has to have at least 60 percent — and more likely 80 percent — national name recognition. An independent candidate would have to spend approximately \$270 million to achieve that level of name recognition. With current campaign finance rules it is impossible for an independent to raise this enormous amount.

Also, as recent elections in the U.S. and the U.K. demonstrate, polling is often highly inaccurate, and even more unreliable in three-way races.

Q: How would Change the Rule expand access?

A: We are proposing a new rule that would create a competition for a third spot in the debates. The winner of the competition would be announced on April 30, to ensure that there is enough time for the person to garner the free media coverage that would follow once they are known to be in the debates. That way, they can become known to the American people well in advance of the election. We have suggested one type of competition, between the independent candidates who achieve ballot access in enough states to achieve 270 or more Electoral College votes. The candidate who obtains the most signatures through that process would be the winner and qualify for the debates.

Q: How could a free-for-all could be avoided?

A: We believe that the best way to ensure meaningful debates that give the American people the opportunity to hear from an independent candidate is to limit the

number of participants in the debates to three. The independent who wins the competition will necessarily have demonstrated that he or she has a significant level of support and is a viable candidate for president.

Q: What positive impact would reforms have on the process?

A: The level of discontent with our government is at its highest point since World War II and interest in the elections is at a record low. Our political system has become more polarized and dysfunctional and the public, rightly, believes that the two-party system is failing them. A record 43 percent of Americans identify as independents, and 62 percent say that they would vote for an independent in 2016. Our reforms would break the two party duopoly that has been perpetuated by the CPD since 1987, and give the American people what they are so clearly asking for: a real opportunity to vote for a candidate who addresses the issues the American people care about, and who can break the partisan gridlock that has prevented our leaders from working together to address the challenges facing this country.

Q: Why should Floridians back this effort?

A: Having greater competition in our elections is important for all Americans. In Florida, as in other states, the number of voters who identify as independents is higher than ever, and Floridians, like other Americans, want to hear from independent voices. And because Florida is an early primary state and a "swing" state that draws significant attention from the candidates in the general election, its voters are especially engaged in the process. They deserve the opportunity to hear from a credible independent candidate for president.

Alexandra Shapiro serves as counsel for Level the Playing Field, a nonpartisan, nonprofit organization which is spearheading the Change the Rule campaign. Shapiro is a partner and litigator at the Shapiro Arato law firm; she served as a federal prosecutor in Manhattan, and is a former U.S. Supreme Court clerk.