

Top-Four Ranked Choice Voting and Vote Dilution

August 19, 2024

States considering a move to a blanket primary with ranked choice voting should carefully consider how such a switch could dilute the power of minority communities in certain districts. Likewise, before supporting these measures in a particular state, voting rights advocates should assess whether the reforms have the potential to undermine voting strength for communities of color in the state.

- This fall, a number of states are considering a shift to a top-four (or top-five) blanket primary, with ranked choice voting (RCV) in the general election, including Nevada, Arizona, Idaho, and Colorado.
- In this top-four RCV system, all candidates run in the same primary, regardless of party, without voters ranking candidates. The top four candidates in the primary advance to the general election, which uses ranked choice voting.
- In certain districts, this system can undermine a traditional path to power for communities of color and their candidates of choice.
- Consider a Democratic-leaning district where a community of color is not the majority of the district's eligible voter population, but constitutes a clear majority of the Democratic primary electorate.
- In such a district, a candidate representing the community of color can generally win the Democratic primary election and then win the general election due to the district's overall partisanship. Such "crossover" or "opportunity" in state legislatures, where communities of color represent a large, but non-majority, share of the electorate, are a long-standing pathway to minority power.¹
- This can be a common situation. In the Nevada Senate alone, 18 of the 42 districts are ones where the Black, Latino, or Asian community constitutes between 25-40% of the district's citizen voting age population. These are all Democratic-held districts where a community of color likely has control of the primary, and elects their candidate of choice, even though they do not constitute a majority of the district's eligible voter population.
- Top-Four RCV has the potential to undermine existing minority community power in these districts. In a blanket primary where four candidates advance, the minority candidate of choice would likely advance to the general election, but so will at least one other Democratic or Democratic-leaning candidate.²
- In the general election, the outcome will be highly uncertain as voters can mass behind candidates other than the minority candidate of choice over multiple rounds of tabulation. The minority candidate of choice could no longer rely on a victory in the Democratic primary as a springboard to a general election win.
- In some cases, the RCV structure will result in the minority candidate of choice losing the general election. Republicans, Independents, and non-minority Democrats may coalesce behind a different candidate as tabulation proceeds in rounds, defeating the minority candidate of choice.

¹ See, e.g. Richard H. Pildes, *Is Voting-Rights Law Now at War with Itself?: Social Science and Voting Rights in the 2000s*, 80 N.C. L. Rev. 1517, 1534 (2002) ("[I]f black voters have effective control-of-the-primary election, those voters will determine who represents the district, even if black voters are not a majority of the district overall.")

² Cf. Luke McLaughlin, *Gingles in Limbo: Coalitional Districts, Party Primaries and Manageable Vote Dilution Claims*, 80 N.Y.U. L. Rev. 312, 341 (2005) ("Were Democratic primaries for state legislative races switched from a closed-primary to an open-primary system, Republicans and Independents could vote in the Democratic Primary, likely diluting the clout of the minority bloc (which had heretofore constituted a majority of the Democratic Party in the district)").

- Even if the community of color unifies behind their candidate, that community will still be unable to overcome a situation where the non-minority community's votes are reallocated through the RCV process to support a different candidate. In an RCV election where one seat is at stake, a majority community can consistently outvote a racial group that makes up a minority of the population.
- This risk is heightened as some evidence indicates RCV can increase voter confusion and reduce voter turnout for communities of color.³ Such voter confusion and reduced turnout can further undermine paths to power for minority candidates of choice.

While top-four RCV may be a positive reform in certain contexts, given these potential risks to minority voting strength, advocates and policymakers should carefully consider and model the impact a top-four RCV system would have on representation for communities of color before supporting these measures in a particular state.

³ See Lonna Rae Atkinson et al, [The Impact of Voter Confusion in Ranked Choice Voting](#) (Mar. 19, 2024) (finding that 16% of voters in RCV elections were somewhat or very confused by the process, with significantly higher rates among Latino voters); See Jason McDaniel, [Writing the Rules to Rank the Candidates: Examining the Impact of Instant-Runoff Voting on Racial Group Turnout in San Francisco Mayoral Elections](#) (March 22, 2014) (finding a significant decrease in Black turnout with RCV in San Francisco mayoral elections).