



**NEW HAMPSHIRE SECRETARY OF STATE**  
**David M. Scanlan**

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September 13, 2023

**New Hampshire Secretary of State David M. Scanlan's Statement on Recently Raised Issues Surrounding the Fourteenth Amendment of the US Constitution**

Thank you for attending this press briefing today. Normally the announcement of the candidate filing period for New Hampshire's First-in the Nation Presidential Primary is a routine event. This time, however, the issue of exercising Section 3 of the Fourteenth Amendment of the United States Constitution has been raised as a means to keep a presidential candidate off the primary ballot. The purpose of this briefing is to make clear the position of the New Hampshire Secretary of State on this topic and to remove any ambiguity that may exist about how my office will conduct the 2024 New Hampshire Presidential Primary.

New Hampshire celebrated the 100<sup>th</sup> anniversary of the First-in-the-Nation Presidential Primary Election in 2020. That tradition continues because it is easy for ANYONE to get their name on the Presidential Primary ballot, provided they meet the qualifications of Article 2, Section 1, Clause 4 of the United States Constitution. A candidate for president must be at least 35 years old, a natural born United States citizen, and have lived in the United States for at least 14 years. Additionally, in New Hampshire, a candidate must pay a nominal \$1,000 filing fee, or if indigent (unable to pay), collect 10 voter signatures from each of the 10 New Hampshire counties.

New Hampshire, a small state geographically, has a population of approximately 1.3 million, limited media markets, and a highly engaged electorate. A candidate does not need great wealth or high name recognition to run a campaign here; they just have to be able to connect with voters. Anyone who had the fourth-grade dream of growing up to be president of the United States can try and make it happen in New Hampshire.

RSA 655:47 (see attached) is the New Hampshire state law that prescribes the declaration of candidacy for the Presidential Primary. That language requires the placement of a candidate's name on the Presidential Primary ballot as long as they swear under the penalties of perjury that they meet the qualifications mentioned earlier in Article 2 of the United States Constitution.

That language is not discretionary. As long as a presidential candidate swears under penalties of perjury that they meet the above qualifications and pays a \$1,000 filing fee during the filing period, their name SHALL be placed upon the ballot. There is no mention in New Hampshire state statute that a candidate in a New Hampshire Presidential Primary can be disqualified using the Fourteenth Amendment of the United States Constitution referencing insurrection or rebellion. Similarly, there is nothing in the Fourteenth Amendment that suggests exercising the provisions of that Amendment should take place during the delegate selection process held by the different states. There is nothing in our state statute that gives the secretary of state discretion in



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entertaining qualification issues once a candidate swears under the penalties of perjury that they meet the qualifications to be president. If a candidate for president properly submits their paperwork during the filing period and pays the required fee, their name will appear on the ballot.

The individual states are responsible for conducting their own nominating events for presidential candidates. Some events are run by the states, others are run by the political parties. Many states conduct primary elections, and others hold caucuses. In most states, the secretary of state is the chief election officer. In other states, elections are run by election boards or commissions. Each of these nominating events is designed to award delegates to the national convention who support various candidates using formulas that differ from state to state. In short, there is no uniformity to this process. At a presidential primary in New Hampshire, a voter casts a vote reflecting that voter's preference for whom the voter's political party convention nominates. The votes result in delegates, selected by the candidates, being chosen to participate in the nominating convention; it is not a direct vote. It all comes together at the national conventions, where a party nominee is determined.

Understanding these realities, the effort to exercise the Fourteenth Amendment provisions by encouraging individual secretaries of state to rule separately on a Fourteenth Amendment disqualification issue at a presidential primary does not make sense. In a situation where some states permit a name to appear on the ballot and other states disqualify it, chaos, confusion, anger and frustration will be the result.

Either a Fourteenth Amendment disqualification applies across the board, or it does not. The United States Supreme Court is the authority that could make a determination on a disqualification challenge regarding a presidential candidate that would apply to all states. At a time when we need to ensure transparency and build confidence among voters around the country, the delegate selection process should not be the battleground to test this constitutional question.

New Hampshire has a proud tradition of welcoming all qualified candidates participating in a presidential primary, and that will continue here.