IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

DANIEL J. SULLIVAN, JR., Appellant, v. STATE OF ALASKA, DIVISION OF ELECTIONS, Appellee.	Case No. 3AN–26–07485 CI

ON APPEAL FROM
A FINAL DECISION OF
THE STATE OF ALASKA, DIVISION OF ELECTIONS

AMENDED BRIEF OF APPELLANT DANIEL J. SULLIVAN, JR.

#8

Filed in the Superior Court of the State of Alaska on this _____ day of June, 2026.

Clerk of the Superior Court

_____
Deputy Clerk

Jeffrey W. Robinson, ABA No. 0805038
Bryn R. Pallesen, ABA No. 1810104
Zoe A. Eisberg, ABA No. 1911094
BALLARD SPAHR LLP
1600 A Street, Suite 304
Anchorage, Alaska 99501–5148
Telephone: 907-264-3311
907-264-3304
907-264-3306
Email: robinsonjw@ballardspahr.com
pallesenb@ballardspahr.com
eisbergz@ballardspahr.com

Attorneys for Appellant Daniel J. Sullivan, Jr.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

Other Authorities

AUTHORITIES PRINCIPALLY RELIED UPON

United States Constitution, Article I, Section 3, Clause 3

> No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

United States Constitution, Article I, Section 5, Clause 1

> Each House shall be the Judge of the Elections, Returns, and Qualifications of its own Members.

Alaska Statute 15.25.030(a)

> (a) A person who seeks to become a candidate in the primary election or a special primary election shall execute and file a declaration of candidacy. The declaration shall be executed under oath before an officer authorized to take acknowledgments and must state in substance
>
> (1) the full name of the candidate;
>
> (2) the full mailing address of the candidate;
>
> (3) if the candidacy is for the office of state senator or state representative, the house or senate district of which the candidate is a resident;
>
> (4) the office for which the candidate seeks nomination;
>
> (5) the political party or political group with which the candidate is registered as affiliated, or whether the candidate would prefer a nonpartisan or undeclared designation placed after the candidate's name on the ballot;
>
> (6) the full residence address of the candidate, and the date on which residency at that address began;
>
> (7) the date of the primary election or special primary election at which the candidate seeks nomination;
>
> (8) the length of residency in the state and in the district of the candidate;

(9) that the candidate will meet the specific citizenship requirements of the office for which the person is a candidate;

(10) that the candidate is a qualified voter as required by law;

(11) that the candidate will meet the specific age requirements of the office for which the person is a candidate; if the candidacy is for the office of state representative, that the candidate will be at least 21 years of age on the first scheduled day of the first regular session of the legislature convened after the election; if the candidacy is for the office of state senator, that the candidate will be at least 25 years of age on the first scheduled day of the first regular session of the legislature convened after the election; if the candidacy is for the office of governor or lieutenant governor, that the candidate will be at least 30 years of age on the first Monday in December following election or, if the office is to be filled by special election under AS 15.40.230 - 15.40.310, that the candidate will be at least 30 years of age on the date of certification of the results of the special election; or, for any other office, by the time that the candidate, if elected, is sworn into office;

(12) that the candidate requests that the candidate's name be placed on the primary election or special primary election ballot;

(13) that the required fee accompanies the declaration;

(14) that the person is not a candidate for any other office to be voted on at the primary or general election and that the person is not a candidate for this office under any other declaration of candidacy or nominating petition;

(15) the manner in which the candidate wishes the candidate's name to appear on the ballot;

(16) if the candidacy is for the office of the governor, the name of the candidate for lieutenant governor running jointly with the candidate for governor; and

(17) if the candidacy is for the office of lieutenant governor, the name of the candidate for governor running jointly with the candidate for lieutenant governor.

Alaska Statute 15.25.042(a)-(b)

(a) If the director receives a complaint regarding the eligibility of a candidate for a particular office, the director shall determine eligibility under regulations adopted by the director. The director shall determine the eligibility of the candidate within 30 days of the receipt of the complaint.

(b) Except as provided in (c) of this section, the director shall determine the eligibility of the candidate by a preponderance of the evidence.

Alaska Statute 15.25.060(a)

(a) The primary election ballots shall be prepared and distributed by the director in the manner prescribed in this section. The director shall prepare and provide a primary election ballot for each political party that contains all of the candidates of that party for elective state executive and state and national legislative offices and all of the ballot titles and propositions required to appear on the ballot at the primary election. The director shall print the ballots on white paper and place the names of all candidates who have properly filed in groups according to offices. The order of the placement of the names for each office shall be as provided for the general election ballot. Blank spaces may not be provided on the ballot for the writing or pasting in of names. The director shall also prepare and print a separate primary election ballot including only the ballot titles and propositions required to appear on the ballot.

6 Alaska Administrative Code 25.212

(a) Subject to the limitations of AS 15.15.030 and the provisions of this section, a candidate's name will appear on a ballot in the manner in which the candidate has requested on that individual's candidacy filing paperwork submitted to the director.

(b) A candidate's name may not appear on a ballot

(1) with a designation of any academic, professional, personal, or honorary degree or title held by a candidate; or

(2) in a manner that is confusing or misleading to voters or compromises the fairness or neutrality of the ballot.

(c) A candidate's nickname may appear on a ballot if the nickname

(1) is a name by which the candidate is commonly and generally known in the community; and

(2) does not imply any action or position the candidate intends to take if elected.

(d) Written notice of a candidate's request to change how the candidate's name appears on a ballot must be received by the director not later than the deadline for the candidate to withdraw from the election as provided under AS 15.25.055 for the primary and special primary election and AS 15.25.100 for the general election.

(e) A decision under this section will be made by the director based on a preponderance of the evidence and may be directly challenged in superior court.

6 Alaska Administrative Code 25.260

(a) Any person may question the eligibility of a candidate who has filed a declaration of candidacy with the director for statewide or districtwide office, by filing a complaint with the director. A complaint regarding the eligibility of a candidate must be received by the director not later than the close of business on the 10th day after the filing deadline for the office for which the candidate seeks election.

(b) The complaint must be in writing and include the name, mailing address, contact phone number, and signature of the person making the complaint, and a statement in 200 words or less of the grounds, described in particular, on which the candidate's eligibility is being questioned.

(c) The director's review under this section is limited to the grounds cited in the complaint that are related to candidate qualifications addressed in the candidate's declaration of candidacy. The director may not consider other grounds cited in the complaint, including grounds related to issues under the authority of the Alaska Public Offices Commission under AS 15.13.

(d) Upon receipt of a complaint, the director will review any evidence relevant to the issues identified in the complaint which is in the custody of the division including the candidate's registration record or declaration of candidacy, and including, in the discretion of the director, any other document of public record on file with the state. Based on the review of the public documents, the director will determine whether a

preponderance of evidence supports or does not support the eligibility of the candidate.

(e) The director will send notification in writing to the candidate whose eligibility is being questioned that a complaint has been received. The notification will include a copy of the complaint, and, based on the director's review of the public documents, a statement as to whether a preponderance of evidence supports or does not support the eligibility of the candidate.

(f) If the director determines that a preponderance of evidence supports the eligibility of the candidate, the director will issue a final determination upholding the candidate's eligibility.

(g) If the director determines that a preponderance of evidence does not support the eligibility of the candidate, notice to the candidate will identify any additional information or evidence that must be provided by the candidate in support of his or her eligibility, and the date by which the requested information must be received by the director. The director will consider any additional information provided by the candidate in issuing a final determination as to the candidate's eligibility.

(h) If the information requested by the director under (g) of this section is not received from the candidate by the specified deadline, the director will issue a final determination regarding the candidate's eligibility based on the public records initially reviewed.

(i) Upon issuing a final determination as to the candidate's eligibility, the director will send notice of the determination in writing to the person making the complaint and to the candidate. The determination of the director is final.

(j) Nothing in this section limits the authority of the director to evaluate a candidate's eligibility for office, as addressed in the candidate's declaration of candidacy, in the absence of a complaint.

I. JURISDICTIONAL STATEMENT

This is a timely appeal from a final decision of the Division of Elections (the "Division") dated June 15, 2026 regarding the eligibility of Daniel J. Sullivan, Jr. (hereinafter "Mr. Sullivan") for the office of United States Senator. Such decision is final pursuant to 6 AAC 25.260(i). This Court has jurisdiction to hear this appeal pursuant to AS 22.10.020(d) and Alaska Appellate Rule 601(b). Venue lies with this Court pursuant to Alaska Civil Rule 3 and Alaska Appellate Rule 602(b)(2).

II. ISSUE PRESENTED

Mr. Sullivan, by and through undersigned counsel, seeks review of the following question presented by the Division's rejection of his declaration of candidacy:

1. Whether the Division violated Alaska law and the United States Constitution when it excluded Mr. Sullivan from the ballot despite his meeting every lawful qualification and procedural requirement to run for the office of United States Senator, based on a standardless "good-faith" requirement that appears nowhere in Alaska or federal law?

III. STATEMENT OF FACTS

Daniel J. Sullivan, Jr. is running in the state's primary election for U.S. Senate. He indisputably satisfies the requirements to do so under state and federal law. He is over 30 years of age and has been a U.S. citizen for more than nine years. DOE 011.[1] He has been

[1] Now that the Division has compiled and forwarded the administrative record pursuant to Alaska Appellate Rule 604(b), and with the Court's permission, Mr. Sullivan submits this amended brief with updated citations to the pages of the agency record in lieu of the previously-provided citations to an appendix collecting such agency records.

a resident of Petersburg, Alaska for almost 50 years, and, whether elected to the U.S. Senate or not, intends to remain one. DOE 011; Appendix ("App.") 2.

Mr. Sullivan duly submitted a notarized Declaration of Candidacy with all necessary information and fees to the Director of the Division on May 29, 2026, before the filing deadline lapsed. DOE 011. In the Declaration of Candidacy, Mr. Sullivan certified that he met the specific citizenship, age, and inhabitancy requirements for service in the U.S. Senate, and requested that he be affiliated with the Republican Party. *Id.* The Declaration of Candidacy form—as promulgated by the Division—explicitly states, "If this is not the party affiliation currently on your voter registration record, it will be changed to reflect what you provided." *Id.* The form is self-executing.

On June 1, 2026, the National Republican Senatorial Committee ("NRSC") sent Alaska Lieutenant Governor Nancy Dahlstrom ("Lt. Gov. Dahlstrom") and Alaska Division of Elections Director Carol Beecher ("Director Beecher") a letter imploring the Division to determine that Mr. Sullivan "is not an eligible candidate for U.S. Senate and therefore must not appear on the August 18, 2026 Alaska primary ballot." DOE 22; *see generally* DOE 022–028. The NRSC's primary objection was that Mr. Sullivan shares the same first and last name as incumbent Senator Daniel S. Sullivan ("Senator Sullivan"). DOE 025–026. That same day, the NRSC sent a threatening litigation hold demand to Mr. Sullivan, among others. DOE 045–046.

After receiving NRSC's demand, Mr. Sullivan sent a letter to Director Beecher in which he stated that his Declaration of Candidacy was complete and timely filed, and that he met the three constitutional requirements required to serve in the Senate: "I am older

than 30, I have been a U.S. citizen my whole life, and I reside in Alaska." DOE 048. In that same letter, Mr. Sullivan noted that the NRSC did not dispute that his Declaration of Candidacy was complete, accurate, and timely, but instead "takes issue with my name and that fact that I filed to run as a Republican." DOE 049. But, as Mr. Sullivan wrote, "Senator Sullivan and NRSC have no right to exclude me from the ballot simply because we happen to share a name." DOE 048.

Lt. Gov. Dahlstrom responded to Mr. Sullivan on June 8, 2026. DOE 054–056. In her letter, the Lieutenant Governor, like the NRSC, did not dispute Mr. Sullivan's qualifications to run for or serve as a United States Senator. *See generally id.* Instead, Lt. Gov. Dahlstrom informed Mr. Sullivan that she had opened an investigation to determine whether his declaration of candidacy "was properly filed with a good-faith intention to serve" and not "out of intention to confuse and manipulate voters." DOE 054. She requested that Mr. Sullivan answer seven questions "under penalty of perjury" to "assist" with the investigation. DOE 055. Not one of the seven questions relates to Mr. Sullivan's qualifications to serve as a U.S. Senator. *Id.* Lt. Gov Dahlstrom did not cite any legal authority for her request for a sworn affidavit or for her application of a "good-faith intention to serve" standard.

Mr. Sullivan declined to provide sworn answers to the seven questions, *see* App. 30–33, and instead responded to Lt. Gov. Dahlstrom via letter on June 10, 2026, DOE 057–059. In that letter, Mr. Sullivan reiterated that his Declaration of Candidacy was complete and timely filed and that he met all legal requirements to be placed on the August 18, 2026 primary election ballot. DOE 058.

Also on June 10, 2026, the Chair of the Alaska Republican Party, Carmela J. Warfield, through counsel, filed two candidate eligibility complaints against Mr. Sullivan. *See* DOE 060–061; DOE 086–087. The first complaint demanded that Director Beecher and the Division conclude that Mr. Sullivan is not an eligible candidate for the office of U.S. Senator because "he misrepresented his registered party affiliation" on his Declaration of Candidacy, DOE 060. The second complaint asserted that Mr. Sullivan is ineligible to qualify as a candidate because his Declaration of Candidacy "has the intent and effect of confusing and misleading Alaska voters and interferes with the state of Alaska's duty to ensure the integrity, credibility, and neutrality of the ballot and Alaska's elections." DOE 086.

Later on June 10, 2026, Director Beecher sent Mr. Sullivan a letter (the "Preliminary Decision") copying Lt. Gov. Dahlstrom, informing him that the Division had "determined that the preponderance of the evidence does not support your eligibility for the office United States Senator." DOE 127. The Preliminary Decision mentioned the NRSC letter and both of Ms. Warfield's complaints, but did not include any substantive support for the Division's determination. *Id.*

Five days later, on June 15, 2026, Director Beecher issued the Division's final determination as to Mr. Sullivan's eligibility for the office of U.S. Senator, determining him to be ineligible (the "Final Decision"). DOE 128–30. Director Beecher concluded that Mr. Sullivan's Declaration of Candidacy "was not properly filed with the Division because it was not filed in order to declare an actual good-faith candidacy for the office of the United States Senator, but was instead filed with a purpose to confuse or mislead and to thereby

compromise the ballot's fairness or neutrality." DOE 128. The Final Decision did not dispute that Mr. Sullivan's Declaration of Candidacy was complete and timely filed. Nor did it dispute that Mr. Sullivan meets the age, citizenship, and inhabitancy qualifications to run for U.S. Senate. *Id.* It recognized that Mr. Sullivan had been affiliated with the Republican Party at the time he submitted his Declaration of Candidacy. DOE 129. And it did not cite any legal support for the existence of a "good-faith" requirement separate from the qualifications and procedural requirements enumerated in the U.S. Constitution and Alaska law.

On June 17, 2026, the Division of Legal and Research Services issued a legal review memorandum (the "Memorandum") to Alaska State Representative Andrew Gray addressing whether Mr. Sullivan is an eligible candidate for the United States Senate. App. 29–33. The Memorandum concludes that "the three qualifications laid out in the federal constitution are the only qualifications a person must meet to be eligible to run for the Senate," and that Mr. Sullivan appears to meet those qualifications. App. 29. The Memorandum also concluded that the Lieutenant Governor "lack[s] authority to interrogate the motives underlying a person's decision to file for a Congressional seat." App. 31. The Division has not addressed the content of this Memorandum or explained why the Final Decision took a contrary approach.

This appeal followed.

IV. STANDARD OF REVIEW

Inquiry in Alaska administrative appeals extends to the following questions: "(1 whether the agency has proceeded without, or in excess of jurisdiction; (2) whether

there was a fair hearing; and (3) whether there was a prejudicial abuse of discretion." AS 44.62.570(b). The Court must find an abuse of discretion where "the agency has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence." *Id.*

Sitting as an appellate court, this Court applies its "independent judgment to questions of constitutional law, and adopt[s] the rule of law that is most persuasive in light of precedent, reason, and policy." *Vazquez v. State,* 544 P.3d 1178, 1185 (Alaska 2024) (citing *Gefre v. Davis Wright Tremaine, LLP*, 306 P.3d 1264, 1271 (Alaska 2013)). Likewise, "[s]tatutory interpretation, including the applicability of a statute, and whether factual findings satisfy statutory requirements, are questions of law that [are] review[ed] de novo." *Vazquez,* 544 P.3d at 1185 (citing *Wielechowski v. State*, 403 P.3d 1141, 1146 (Alaska 2017); *Sam M. v. State, Dep't of Health & Soc. Servs., Off. of Child.'s Servs.*, 442 P.3d 731, 736 (Alaska 2019)).

An additional layer of scrutiny is required in election cases involving candidate qualifications because such cases implicate a voter's fundamental right to choose her preferred candidate. Evaluation of issues presented in that context must necessarily begin with the "bedrock principle" that "[t]he right of the citizen[s] to cast [their] ballot[s] and thus participate in the selection of those who control [their] government is one of the fundamental prerogatives of citizenship." *Miller v. Treadwell,* 245 P.3d 867, 868 (Alaska 2010) (alterations in original) (quoting *Carr v. Thomas*, 586 P.2d 622, 626 (Alaska 1978)); *see Sanchez v. Bravo*, 251 S.W.2d 935, 938 (Tex. Civ. App. 1952). As a result, Alaska law "favors interpretating ambiguous statutes in favor of providing greater access to the ballot"

and requires "a presumption of candidate eligibility when interpreting ambiguous statutes." *Alaska Dem. Party v. Beecher*, 572 P.3d 556, 561, 566 (Alaska 2025).

Federal precedent is in accord. Any restriction on "candidates' eligibility for the ballot . . . inevitably affects—at least to some degree—the individual's right to vote and his right to associate with others for political ends." *Anderson v. Celebrezze,* 460 U.S. 780, 788 (1983) (citation omitted). Therefore, for a state to impose any restriction on ballot access, it must provide "justifications for the burden imposed by its rule." *Id.* at 789. The most "severe" burden on these rights is "exclusion or virtual exclusion from the ballot." *Libertarian Party of Ky. v. Grimes*, 835 F.3d 570, 574 (6th Cir. 2016). Such a burden warrants strict scrutiny. *Bates v. Jones*, 131 F.3d 843, 846 (9th Cir. 1997).

V. ARGUMENT

The Division abused its discretion and exceeded its statutory jurisdiction when it determined that Mr. Sullivan was not a qualified candidate for the office of United States Senator and decertified his candidacy in the 2026 primary election. Director Beecher's decertification of Mr. Sullivan's candidacy violates both Alaska and federal law for at least two independent reasons.

First, the Division had no authority to reject Mr. Sullivan's candidacy based on a "good faith" requirement that appears nowhere in the governing statutes or regulations. Rather, the Division's review of Mr. Sullivan's Declaration of Candidacy was limited by law to assessing whether he met the qualifications for the office he seeks. To the extent that the Division had concerns about voter confusion because Mr. Sullivan and Senator Sullivan have similar names, it was required to address those concerns via the "manner" in which

the names are placed on the ballot, not by excluding Mr. Sullivan altogether because he happens to share the incumbent's name. 6 AAC 25.212.

Second, by imposing an additional "good faith" qualification on Mr. Sullivan's candidacy—without any basis in the law or regulations to do so—Director Beecher and the Division violated Article I, § 3 of the Federal Constitution, which sets forth the three exclusive qualifications for the office of United States Senator: namely, that the candidate be at least 30 years of age; that the candidate be a citizen of the United States; and that the candidate be an inhabitant of the state they seek to represent.

By any measure, Mr. Sullivan is a qualified candidate, and the Division abused its discretion and acted contrary to law when it wrongfully imposed additional qualifications on Mr. Sullivan in order to decertify his candidacy for the office of United States Senator.

A. The Division Had No Authority to Exclude Mr. Sullivan.

The Division acted without legal authority when it excluded Mr. Sullivan from the ballot based solely on the conclusion that his Declaration of Candidacy "was not filed in good faith for the purpose of genuinely pursuing election." DOE 129. That reasoning was not grounded in any qualification posed by Mr. Sullivan's Declaration of Candidacy, as the governing regulations require. As such, the determination violated the Division's ministerial duty to list qualified candidates on the ballot. And it ignored that Alaska demands an alternative, and far less burdensome, means of addressing any hypothetical potential of voter confusion: responsible ballot design. For all three reasons, the decision must be reversed.

i. The Division's Decision Was Not Grounded in the Declaration of Candidacy.

The Division's role in determining which candidates to place on the ballot is sharply limited. When candidate eligibility objections are filed, the director "shall determine eligibility under regulations adopted by the director." AS 15.25.042(a). The relevant regulation sharply restricts what the Division can consider in making that determination: "The director's review under this section *is limited to* the grounds cited in the complaint that *are related to candidate qualifications addressed in the candidate's declaration of candidacy*. 6 AAC 25.260(c) (emphasis added). This regulation limits Director Beecher's ability to second-guess Mr. Sullivan's eligibility for candidacy to *the candidate qualifications addressed in his declaration of candidacy.*

In addressing the objections to Mr. Sullivan's candidacy, Director Beecher could therefore review Mr. Sullivan's qualifications only insofar as they are "addressed in" Mr. Sullivan's Declaration of Candidacy. But Alaska law details exactly what that Declaration of Candidacy must say, AS 15.25.030(a), and it requires nothing like the "good faith . . . purpose of genuinely pursuing election" that Director Beecher concluded Mr. Sullivan lacks. DOE 129. The closest the Declaration gets is a sworn "request[] that the candidate's name be placed on the primary election or special primary election ballot," AS 15.25.030(a)(12), a request that Mr. Sullivan undeniably made and that not even the Division denies he in fact wishes to occur. If the legislature had intended to further require a "good faith . . . purpose of genuinely pursuing election," whatever that phrase may mean, it would have added it to the components that the Declaration already requires. *See id.* The

legislature has not done so, nor has it imposed such a good faith requirement anywhere else.

The requirement the Division applied simply does not exist. Nothing in Alaska law regulates in any way the private motivations that draw individuals to declare or campaign for office. Members of unpopular political parties, for example, frequently run for election, though there is little chance they will succeed. Likewise, in Alaska's open primary system, it is common knowledge that multiple members of the same political party will appear on the primary ballot. Indeed, some candidates may declare their candidacy not in the hope of winning, but rather to increase their stature and raise their personal or professional profile in the community. Still others may run to promote a niche issue they believe should be of paramount public importance.

As the Alaska Supreme Court has previously acknowledged, Alaska voters are savvy. They are well-equipped to understand the dynamics of an open primary and to choose a qualified candidate. In 2022, the Court in *Kohlhaas v. State*, 518 P.3d 1095 (Alaska 2022), rejected various challenges to the then-newly implemented ranked-choice voting system brought by registered Republican voters, among them a claim that an open primary and the ability of candidates to self-identify by political party would infringe on political parties' associational rights by allowing candidates to hide their political beliefs through disingenuous party designations. The Court easily rejected this challenge, noting that "[a] candidate may appear on the ballot as affiliated with a political party only if that candidate truly has registered with the Division of Elections as affiliated with that party." *Id.* at 1109.

Under this arrangement, the Court noted, "[t]heoretically, a candidate could register with a political party whose beliefs that candidate did not share to usurp the party label as an election tactic . . . [but] parties can warn voters about Trojan horse candidates—those who might run under a party's banner but do not share the party's values." *Id.* (internal quotation marks omitted). The Court further noted that "Alaska voters are not easily fooled . . . [and] with our confidence in Alaska voters' common sense, we cannot presume that voters will misinterpret a candidate's statement of party affiliation as a party's seal of approval." *Id.* at 1110. Likewise, voters "understand that the candidate does not speak on the party's behalf or with the party's approval." *Id.*

The Division's error in applying a "good faith" requirement that is unaddressed by the Declaration of Candidacy—and indeed, does not exist at all—requires vacatur of the Division's final decision. "An agency is bound by the regulations it promulgates." *Trustees for Alaska, Alaska Ctr. for Env't. v. Gorsuch*, 835 P.2d 1239, 1244 (Alaska 1992) (citing 2 Kenneth C. Davis, Administrative Law Treatise § 7:21 at 98 (2d Ed.1979)). "An agency has not acted in the manner required by law if its actions are not in compliance with its own regulations." *Id.* at 1244 (citing *Jager v. State,* 537 P.2d 1100, 1107 (Alaska 1975)). The text of 6 AAC 25.250(c) is clear and unambiguous. It does not allow the Division to frolic and consider a candidate's mental state in determining whether the candidate is qualified to run for federal office. It does not allow the Division to consider whether a candidate has declared their intent to run for office in "good faith" or "bad faith." It instead expressly limits the Division's review of complaints regarding candidate qualification *only* to determining whether the "candidate qualifications addressed in the candidate's

declaration of candidacy" are present. It was therefore unlawful for Director Beecher to disqualify Mr. Sullivan based on a purported eligibility requirement that appears nowhere on the statutorily defined Declaration of Candidacy form.

ii. The Division's Decision Violated Its Ministerial Duty.

Moreover, the Division's decision to exceed the scope of the authority it is granted to review candidate qualifications is fundamentally inconsistent with its ministerial obligation to place the names of qualified candidates for U.S. Senate on the primary election ballot. Alaska Statute 15.25.060 commands that the Director "*shall* prepare and provide a primary election ballot that contains all of the candidates for elective state executive and state and national legislative offices . . . ." AS 15.25.060 (emphasis added). "Shall" expresses a mandatory requirement. *Fowler v. City of Anchorage*, 583 P.2d 817, 820 (Alaska 1978) ("Unless the context otherwise indicates, the use of the word 'shall' denotes a mandatory intent."). The Director "shall print the ballots . . . and place the names of all candidates who have properly filed in groups according to offices." AS 15.25.060.

The Division is required to comply with its governing statutes and regulations, just as it is required to comply with Alaska Supreme Court precedent favoring ballot access. *See, e.g.*, *Alaska Democratic Party v. Beecher*, 572 P.3d 556, 567 (Alaska 2025) (affirming decision of the Division of Elections to fulfill statutory mandate in manner that favored candidates' right of access to the ballot); *see also O'Callaghan v. State*, 826 P.2d 1132, 1133 (Alaska 1992) (holding that candidate is not disqualified from appearing on the ballot after withdrawing from one party's nomination but then filling a vacancy on another party's

ticket despite general bar under prior statutory regime against withdrawn candidates running for the same position from which they had previously withdrawn).

Alaska, like many other states, treats election officials' obligation to place qualified candidates on the ballot as a non-discretionary and ministerial duty. *Alaska Democratic Party,* 572 P.3d at 562. Such ministerial duties are subject only to review or challenge for facial defects or explicit statutory mechanisms for challenging candidate qualifications under the narrow mechanism established by AS 15.25.042 and 6 AAC 25.250. There is nothing unusual about this; many states likewise provide no discretion in this area. *See, e.g.*, *Davis v. Wayne Cnty. Election Comm'n*, 28 N.W.3d 354, 372 (Mich. Ct. App. 2023) ("[W]hen it comes to who is or is not placed on the primary ballot, the statutory scheme leaves nothing to the secretary of state's discretion."); *Growe v. Simon*, 2 N.W.3d 490, 495 (Minn. 2024) (noting the Minnesota Secretary of State's understanding that he "did not have the authority to investigate a candidate's eligibility"); *McHenry Township v. Cnty. of McHenry*, 201 N.E.3d 550, 562 (Ill. 2022) ("[W]hen a candidate's nominating papers . . . appear on their face to comply with the statutory requirements of the Election Code, a clerk may not . . . look beyond the face of the submission for a basis to reject it; he or she must certify the candidate's name."); *Mayfield v. Sec'y, Fla. Dep't of State*, 402 So. 3d 1002, 1007 (Fla. 2025) (rejecting the contention that the Secretary of State "may go beyond the face of the paperwork to assess whether a candidate is legally and constitutionally eligible for the office" (footnote omitted)); *State ex rel. Sullivan v. Hauerwas*, 36 N.W.2d 427, 428 (Wis. 1949) (per curiam) (holding that Wisconsin statutes "confer[] no jurisdiction upon the Board of Election Commissioners to determine the eligibility of candidates or to refuse

to print the names of such candidates on the primary ballots as required by statute," even when the candidate admittedly did not satisfy the age qualifications for office); *cf. Ivy v. Republican Party of Ark.*, 883 S.W.2d 805, 807 (Ark. 1994) ("Arkansas law is well-settled that the party chairman and secretary do not have the judicial authority to determine that a candidate is ineligible to hold public office, nor can they refuse to place the candidate's name upon the ballot." (citation omitted)).

The Director's disregard of her ministerial statutory obligation to place Mr. Sullivan on the primary ballot has disturbing implications. In the Director's estimation, she could reject candidacy declarations filed by any candidate (either in response to a complaint or sua sponte) if the Director determines that the candidate was acting in "bad faith" under a standardless analysis with no grounding in the governing statute or regulations. To allow such a determination would let the Director bar candidates from the ballot based on nothing more than her own view of who voters should be allowed to vote for. Nothing in Alaska law gives her that power to extinguish the rights of (1) qualified candidates to run for public office; and (2) voters to choose from among a full and complete panoply of qualified candidates.

iii. The Division's Decision Ignored that Alaska Law Requires Confusion to Be Addressed by Ballot Design, not Exclusion.

The Division's underlying concern in excluding Mr. Sullivan from the ballot seems to have been that voters might be confused by the fact that Mr. Sullivan has a similar name to incumbent Senator Sullivan. But nothing in Alaska law authorizes the Division to exclude a qualified candidate from the ballot merely because he shares a name with an

existing officeholder. To do so would, of course, deprive Mr. Sullivan of his constitutional right to stand for office. Fortunately, Alaska law provides for a different and far less burdensome solution: 6 AAC 25.212 instructs the Division not to place a candidate's name on the ballot "in a *manner* that is confusing or misleading to voters or compromises the fairness or neutrality of the ballot." 6 AAC 25.212(b)(2) (emphasis added). Thus, if the Division was legitimately concerned about voter confusion, then the solution was not to exclude Mr. Sullivan from the ballot, but rather to alter the "manner" in which his name and Senator Sullivan's name are listed.

The thrust of the Division's argument is that Mr. Sullivan's presence on the ballot will be "confusing" or "misleading" because the Division believes that Mr. Sullivan has declared his candidacy in order to divert votes from Senator Sullivan. As discussed above, the Division flatly lacks authority to speculate about a candidate's motivations and utilize such speculation to exceed the scope of its lawful review of a candidate's qualifications, as it wrongly does in its Final Decision. But even if the Division were correct in its presumption, a plan or desire to divert votes away from one candidate—or even to promote a different candidate—does not eliminate Mr. Sullivan's right to be considered himself. Nor does a desire to weaken another candidate's chances of election mean that Mr. Sullivan would not sit if elected himself.

If the Division were truly worried about voters confusing Mr. Sullivan and Senator Sullivan, the solution is obvious: distinguish the two men on the ballot by referring to them as Daniel J. Sullivan, Jr. and Daniel S. Sullivan, respectively, or (if they prefer) as Dan J. Sullivan and Dan S. Sullivan. To the extent voters may be unsure which Sullivan has which

initial, surely Senator Sullivan's campaign will be well situated to warn voters about the difference and ensure that those who wish to vote for Senator Sullivan go to the polls armed with the knowledge of his middle initial. The official election pamphlet promulgated by the Division would no doubt help address this concern, as well. But what the Division may *not* do is precisely what it has done here: singularly and patronizingly assume that voters are too simple to appreciate the nuances of a dynamic campaign or the differences between two candidates, particularly in a race that has been the subject of an astonishing amount of press coverage. Rather than taking reasonable steps to comply with the mandates of 6 AAC 25.212 and print ballots that clearly present voters with the full panoply of available candidates, the Division has abused its discretion and improperly foisted its own obligation to prevent voter confusion onto Mr. Sullivan.

B. The Division Violated the U.S. Constitution by Imposing an Additional Eligibility Requirement for U.S. Senate Candidacy.

The exclusion of Mr. Sullivan from the ballot also plainly violates the United States Constitution. The United States Constitution sets forth three requirements to serve as a Senator in the United States Senate: "No Person shall be a Senator who shall not have attained the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen." U.S. Const. art. 1, § 3, cl. 3 (the "Qualifications Clause"); *accord U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 800–01 (1995). The three qualifications listed in the Qualifications Clause of the U.S. Constitution are exclusive. *Gralike v. Cook*, 191 F.3d 911, 922 (8th Cir. 1999) ("the *sole source* of qualifications for Congressional office is contained in Article

I"); *U.S. Term Limits, Inc.*, 514 U.S. at 800–01 ("The Constitution and laws of the United States determine what shall be the qualifications for federal offices, and state constitutions and laws can neither add to nor take away from them." (quotation marks omitted)). The evidence—unchallenged (and unchallengeable) by the Division, the Lieutenant Governor, Alaska Republican Party Chairman Warfield, and the NRSC—establishes that Mr. Sullivan meets all three Qualifications Clause requirements. He is over the age of 30, has been a United States citizen for well over nine years, and currently is and will remain an inhabitant of Alaska. DOE 011.

In rejecting Mr. Sullivan's Declaration of Candidacy, Director Beecher appears to have created a new and nebulous *fourth* criterion for the office of United States Senator that appears nowhere in the Federal Constitution: the Division's subjective determination of whether a candidate has filed a "good-faith candidacy." But it has been the clear rule for more than thirty years that state-imposed restrictions on candidate eligibility for federal office which exceed those specifically enumerated by the United States Constitution are "contrary to the 'fundamental principle of our representative democracy,' embodied in the Constitution, that 'the people should choose whom they please to govern them." *U.S. Term Limits,* 514 U.S. at 783 (quoting *Powell v. McCormack,* 395 U.S. 486, 547 (1969)). As our country's high court explained in *U.S. Term Limits, Inc. v. Thornton*, "[a]llowing individual States to adopt their own qualifications for congressional service would be inconsistent with the Framers' vision of a uniform National Legislature representing the people of the United States." *Id.* at 784. In other words, "[i]f the qualifications set forth in the text of the Constitution are to be changed, that text must be amended." *Id.* States flatly do not "possess

the power to supplement the exclusive qualifications set forth in the text of the Constitution." *Id.* at 827.

The reasoning of *U.S. Term Limits* has repeatedly required the rejection of efforts to add qualification requirements similar to the "good faith" requirement the Division attempted to impose here. The case itself contains multiple examples. In *Shub v. Simpson,* 76 A.2d 332 (Md. 1950), for example (cited with approval at page 799 of *Term Limits*), the Maryland Court of Appeals struck down a requirement that congressional candidates take loyalty oaths. Likewise, in *Stack v. Adams,* 315 F. Supp. 1295 (N.D. Fla. 1970) (also cited at page 799 of *U.S. Term Limits*), a U.S. district court applying Florida law invalidated a law that would have required a state officeholder to resign before declaring candidacy for federal office, despite acknowledging that the law served a legitimate state interest in "prevent[ing] a state official from using the prestige or power of that office in seeking election to a higher or different office . . ." *Id.* at 1297.

In the aftermath of *U.S. Term Limits,* courts across the country have uniformly struck down states' efforts to add to the hurdles to qualify for office created by the Qualifications Clause or to otherwise bar qualified candidates from running for federal office. *See, e.g., Schaefer v. Tomsend,* 215 F.3d 1031 (9th Cir. 2000) (holding unconstitutional proposed 29-day California residency requirement for candidates for U.S. House of Representatives); *Committee to Recall Robert Menendez from the Office of U.S. Senator v. Wells,* 7 A.3d 720, 748–49 (N.J. 2010) (holding unconstitutional New Jersey laws subjecting sitting Senators to recall following initial determination of candidate qualification and election to office); *Trump v. Anderson,* 601 U.S. 100, 113–14 (2024) (Colorado state officials lacked authority

to bar President Trump from appearing on the ballot as a result of allegations that he had engaged in insurrection in connection with the January 6, 2021 attack on the United States Capitol). Indeed, the Alaska Supreme Court has expressly approved of guidance from *U.S. Term Limits,* quoting *U.S. Term Limits* in concluding that "the states can exercise no powers whatsoever" which were not expressly provided by the federal government through the Tenth Amendment. *Kohlhaas v. State, Office of Lieutenant Governor,* 147 P.3d 714, 719 (Alaska 2006).

State election regulations comport with *Term Limits* only if they "d[o] not even arguably impose any substantive qualification rendering a class of potential candidates ineligible for ballot position." 514 U.S. at 835. But here, the Division imposed a substantive, mental-state-based qualification for U.S. Senate candidates in Alaska, and cynically and arbitrarily determined that Mr. Sullivan did not meet that qualification. In doing so, the Division violated the Qualification Clause. This was a prejudicial abuse of discretion in excess of the Division's jurisdiction.

VI. CONCLUSION

For the foregoing reasons, Mr. Sullivan respectfully requests that the Court expeditiously sustain Mr. Sullivan's appeal, vacate the Final Decision of the Division of Elections, and issue an order declaring that Mr. Sullivan is an eligible candidate for the office of United States Senator and directing the Division to include his name and affiliation with the Republican Party on the ballot for the August 18, 2026 primary election.

DATED: June 25, 2026

BALLARD SPAHR LLP
Attorneys for Appellant Daniel J. Sullivan, Jr.

By /s/ *Jeffrey W. Robinson*
Jeffrey W. Robinson, ABA No. 0805038
Bryn R. Pallesen, ABA No. 1810104
Zoe Eisberg, ABA No. 1911094

I hereby certify that on June 25, 2026,
a true and correct copy of the foregoing was served via
TrueFiling on:

Alaska Department of Law
Office of the Attorney General
P.O. Box 110300
Juneau, AK 9811-0300
(attorney.general@alaska.gov)

Carol Beecher
Director
Alaska Division of Elections
P.O. Box 110017
Juneau, AK 9811-0017
(carol.beecher@alaska.gov)

Rachel Witty
Civil Division Director
Alaska Department of Law
1031 West 4th Avenue, Suite 200
Anchorage, AK 99501
(rachel.witty@alaska.gov)

Christopher O. Murray
First & Fourteenth, PLLC
2 North Cascade Avenue, Suite 1430
Colorado Springs, CO 80903
(chris@first-fourteenth.com)

Michael Francisco
First & Fourteenth, PLLC
800 Connecticut Avenue, NW
Washington, D.C. 20006
(michael@first-fourteenth.com)

/s/ *Alexa A. Robertson*

APPELLATE RULE 513.5(c)(3) CERTIFICATE

The undersigned certifies that the foregoing document is set in 13-point proportionally spaced Times New Roman, in conformity with Appellate Rule 513.5(c)(1)(A).

DATED: June 25, 2026

BALLARD SPAHR LLP
Attorneys for Appellant Daniel J. Sullivan, Jr.

By /s/ *Jeffrey W. Robinson*
Jeffrey W. Robinson, ABA No. 0805038
Bryn R. Pallesen, ABA No. 1810104
Zoe Eisberg, ABA No. 1911094