

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
 Telephone: 907-277-9511
 Email: robinsonjw@ballardspahr.com
 pallesenb@ballardspahr.com
 eisbergz@ballardspahr.com

Attorneys for Appellant Daniel J. Sullivan, Jr.

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

Motion #2

**MOTION FOR STAY OR, IN THE
 ALTERNATIVE, FOR
 TEMPORARY RESTRAINING
 ORDER AND PRELIMINARY
INJUNCTION**

Appellant Daniel J. Sullivan, Jr. ("Mr. Sullivan") by and through undersigned counsel of record and in accordance with Alaska Appellate Rules 603 and 612, respectfully moves for a stay of the Final Decision of the Division of Elections ("Division") dated June 15, 2026 determining that he is disqualified from candidacy in the 2026 primary election for United States Senator. In the alternative, Mr. Sullivan applies for a temporary restraining order and preliminary injunction prohibiting the Division from printing ballots for such election until such time as the issues raised by Mr. Sullivan in the above-captioned administrative appeal are fully and finally resolved.

Concurrently herewith, Mr. Sullivan has moved for this appeal to be briefed and considered on an expedited basis. The instant motion is filed out of an abundance of

caution in the event it is not possible for the Court to render a decision on Mr. Sullivan's appeal prior to the Division's target date to begin distributing ballots to advance remote voters.

This Motion proposes two alternative paths for relief. First, the Court may stay the Division's final decision—meaning that it restores the status quo prior to the Division's "de-certification" of Mr. Sullivan's candidacy. If the Court does so, the Division will be free to move forward with printing and distributing ballots for the August 18, 2026 primary election, provided that Mr. Sullivan's name appears on those ballots. Second, in the alternative, the Court may opt to issue an order enjoining the Division from printing those ballots until a final determination is reached regarding Mr. Sullivan's entitlement to run for U.S. Senate. A proposed order is filed herewith for the Court's consideration.

I. FACTUAL BACKGROUND

Mr. Sullivan incorporates by reference the statement of the case included in his Brief on Appeal. For purposes of this Motion, Mr. Sullivan briefly reiterates the following.

The instant appeal arises from the Division of Election's legally unsupported decision to exclude Mr. Sullivan from the ballot based on its subjective and extra-jurisdictional determination that Mr. Sullivan was not a "good faith" candidate for the office of United States Senator.

Mr. Sullivan submitted his Declaration of Candidacy on May 29, 2026. App. 1. In that Declaration, he 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.* On June 1, 20226, the National Republican Senatorial Committee ("NRSC") sent a letter to Alaska Lieutenant Governor Nancy Dahlstrom ("Lt. Gov. Dahlstrom") and Director of the Division of Elections Carol Beecher ("Director Beecher") taking issue with Mr. Sullivan's candidacy, primarily on the ground that Mr. Sullivan shares the same first and last name as incumbent Senator Daniel S. Sullivan ("Senator Sullivan"). App. 11-12. Following that letter, Lt. Gov. Dahlstrom sent

Mr. Sullivan a threatening communication claiming that she had opened an “investigation” regarding his candidacy for the purpose of determining whether his declaration of candidacy “was properly filed with a good-faith intention to serve.” App. 16. Lt. Gov. Dahlstrom demanded that Mr. Sullivan answer seven questions “under penalty of perjury” in furtherance of this purported investigation. App. 17. There is no legal authority that allows Lt. Gov. Dahlstrom to make this demand, and she indeed provided none. *Id.* Nevertheless, Mr. Sullivan provided a letter response to Lt. Gov. Dahlstrom on June 10, 2026, reiterating that his Declaration of Candidacy was complete and timely filed, but respectfully declining to provide the sworn answers sought. App. 19-20.

That same day, the Chair of the Alaska Republican Party, Carmela J. Warfield, through counsel, filed two candidate eligibility complaints against Mr. Sullivan. *See* App. 21–24. 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. App. 21. 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.” App. 23.

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.” App. 25. 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”). App. 26–28. 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.” App. 26. 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. App. 27. It likewise 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.

The Division’s Final Decision comes on the eve of several important election-related deadlines. Specifically, State and federal law requires the Division to begin mailing absentee ballots to absent uniformed services voters or overseas voters “not later than 45 days before the election”—that is, by no later than July 4, 2026. AS 15.20.081(k); 42 U.S.C. § 1973ff-1(a)(8)(A). To facilitate printing ballots in advance of that deadline, the Division has imposed a Sunday, June 28, 2026 deadline for the Director to certify ballots for printing. *See* Division’s Election Calendar, available at <https://www.elections.alaska.gov/calendar/> (last accessed June 22, 2026). It is unclear whether the Division actually intends to begin printing ballots that Sunday. Regardless, it plans to post sample ballots to the Division’s webpage the next day, and to begin mailing advance ballots on July 3, 2026. *Id.* Mr. Sullivan’s administrative appeal must thus, if no preliminary relief is granted, be resolved **by no later than June 27, 2026**.

II. STANDARD OF REVIEW

When a party seeks a stay of a non-monetary judgment pending appeal, the Court must consider criteria much the same as in determining whether to enter a preliminary injunction. *Powell v. City of Anchorage*, 536 P.2d 1228, 1229 (Alaska 1973). Those

criteria mirror those the Court must consider in determining whether to enter a temporary restraining order. *Id.*

A party may obtain preliminary injunctive relief under one of two standards: the balance of hardships standard or the probable-success-on-the-merits standard. *State v. Galvin*, 491 P.3d 325, 332 (Alaska 2021). The balance of hardships standard applies when the plaintiff “faces the danger of ‘irreparable harm’ ” if the relief is denied and the opposing party “is adequately protected” from harm if the relief is granted. *State, Div. of Elections v. Metcalfe*, 110 P.3d 976, 978 (Alaska 2005); *A. J. Indus., Inc. v. Alaska Pub. Serv. Comm’n*, 470 P.2d 537, 541-42 (Alaska 1970), *modified in other respects*, 483 P.2d 198 (Alaska 1971). “Irreparable harm is an injury which should not be inflicted and which, ‘because it is so large or so small, or is of such constant and frequent occurrence, or because no certain pecuniary standard exists for the measurement of damages, cannot receive reasonable redress in a court of law.’” *Galvin*, 491 P.3d at 333 (quoting *State v. Kluti Kaah Native Vill. of Copper Ctr.*, 831 P.2d 1270, 1273 n.5 (Alaska 1992)). “Adequate protection” generally means that the party opposing the injunction can be indemnified by a bond when financial harm is at stake; can be otherwise protected by some action; or, at a minimum, is facing only “relatively slight” harm compared to the potential harm facing the party seeking relief. *Kluti Kaah*, 831 P.2d at 1273 n.5; *State v. United Cook Inlet Drift Ass’n*, 815 P.2d 378, 378-79 (Alaska 1991).

In contrast, the “probable success on the merits standard” applies “if the party requesting preliminary injunctive relief does not face irreparable harm or if the opposing party cannot be adequately protected against injury threatened by the requested relief.” *Galvin*, 491 P.3d at 333. Under this standard, a court may grant an injunction if “the party seeking relief . . . make[s] ‘a clear showing of probable success’ on the merits of the dispute.” *Id.*

III. DISCUSSION

Both the irreparable harm and probable success on the merits standards favor the relief Mr. Sullivan seeks.

First, Mr. Sullivan can unquestionably establish that unquantifiable—and therefore irreparable harm—will occur if he is excluded from the ballot. An incorrect decision to include or not include a candidate on a ballot can cause irreparable harm to candidates and voters. *See, e.g., Graveline v. Johnson*, 747 F. App’x 408, 415 (6th Cir. 2018) (“Plaintiffs would face a substantial harm if a stay were granted: Graveline’s name would not appear on the ballot and the voter plaintiffs would be unable to vote for him.”). The Division has previously acknowledged, in the analogous context of whether a candidate who is unlikely to be an Alaska resident at the time he is elected but is nevertheless qualified to run for U.S. Senate, that “an incorrect decision to exclude a candidate from a ballot can cause irreparable harm to candidates and voters.” Division of Election’s Response at 9, *Beecher v. Alaska Democratic Party*, Supreme Court No. S-19231 (Sept. 11 2024); *see also Guerin v. State*, 537 P.3d 770, 782 (Alaska 2023) (opining in dicta regarding impropriety of Division’s removal from ballot of name of candidate who withdrew from election after the deadline to do so).

The Division’s decision here walked back its prior determination that Mr. Sullivan was qualified to run for U.S. Senate, and determined instead that he was unqualified and would therefore be “de-certified” from candidacy. As a consequence, the Division ostensibly plans to begin printing ballots on June 28, 2026 that do not include Mr. Sullivan’s name. In the absence of a stay or injunctive relief, if this Court determines that Mr. Sullivan was improperly excluded from the ballot, he will have no reasonable redress for the harm that occurred. At that point, the Division could not re-mail ballots or re-do the primary election without “throw[ing the election] into chaos.” *Office of the Lieutenant Governor, Div. of Elections v. Corbisier*, 522 P.3d 174, 179 (Alaska 2022). Likewise, voters’ constitutionally protected right to cast a ballot for the candidate of their choice will be infringed if they are unable on election day to select from among the candidates that have declared their candidacy in accordance with Constitutional requirements. *Guerin*, 537 P.3d at 783–84.

Second, if the Court either stays the Division’s final decision or enjoins it, the Division will be adequately protected. As noted above, a stay of the final decision would return the parties to the status quo before the Division’s June 15, 2026 “de-certification” of Mr. Sullivan’s candidacy—meaning that the presumption that he is qualified to run would remain undisturbed. The Division would be free to move forward with printing ballots on its preferred timeline, provided that Mr. Sullivan was listed as a candidate on such ballots. As explained in Mr. Sullivan’s opening brief, to the extent the Division expresses concern regarding voter confusion, any such confusion could easily be ameliorated or eliminated altogether by printing Mr. Sullivan and Senator Sullivan’s full names on the ballots, with their respective campaigns of course free to promulgate whatever messaging they feel is appropriate to alert voters of the presence of and differences between the two Sullivans on the ballot. Similarly, injunctive relief—particularly if limited in temporal scope—would allow the election to proceed in an orderly manner if the Court ensured that the parties were required to comply with an appropriately tight briefing schedule. A risk of disrupting the larger election timeline is simply not present.

Finally, Mr. Sullivan has shown a strong probability of success on the merits. The Final Decision included in its text no legal support, and none is apparent from applicable statute nor case precedent. Article I, section 3, clause 3 of the United States Constitution (the “Qualification Clause”) imposes three—and only three—qualifications for candidates for United States Senate. First, a candidate must be older than thirty. U.S. Const. art. 1, § 3, cl. 3. Second, a candidate must have been a citizen of the United States for no fewer than nine years. *Id.* Third, a candidate must be, when elected, an inhabitant of the state for which he has been chosen to represent. *Id.* When a person submits a candidacy declaration that satisfies this criteria, the Division is required to place him or her on the ballot. When candidate eligibility objections are filed, the Division is sharply restricted in its ability to adjudicate whether a candidate is qualified to run: “The director’s review . . . *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 specific 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. There is no "subjective good faith" requirement in such Declaration. Indeed, 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. To the extent Director Beecher attempts to impose additional qualifications for public office upon Mr. Sullivan beyond those laid out in our federal Constitution, she is flatly barred from doing so. 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)).

IV. CONCLUSION

For the reasons set forth above, Mr. Sullivan respectfully requests that the Court enter a remedial order either staying the Division's Final Decision or entering limited injunctive relief while this action proceeds on an expedited basis. A stay or injunction will ensure that Mr. Sullivan and Alaska voters are not irreparably harmed if the Division succeeds in unlawfully promulgating primary election ballots that do not allow voters to decide whether they wish to vote for Mr. Sullivan. This relief will not harm the Division, and is justified based on the strong likelihood that Mr. Sullivan will prevail on the issue he raises on appeal.

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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 A. Eisberg, ABA No. 1911094

I hereby certify that on June 22, 2026,
a true and correct copy of the foregoing was served via
email / First Class Mail 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