



REPORT

Routine Disqualification:

Every State Has Kept Ineligible
Candidates Off the Ballot, and
Trump Could Be Next

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Introduction

Following the January 6, 2021, attack on the Capitol, many continue to push state officials and courts to bar insurrectionists from office or the ballot pursuant to [Section 3 of the 14th Amendment](#), which disqualifies from office anyone who has sworn an oath to support the Constitution and then engaged in insurrection against it. This provision of the Constitution — also known as the disqualification clause — has successfully barred elected officials who engaged in insurrection from serving in office [as recently as last year, in New Mexico state court litigation](#). Enacted in the wake of the Civil War, Section 3 establishes a qualification for office akin to other constitutional qualifications based on age, citizenship, and residency, and is the only qualification that applies to both federal and state offices. This provision can and should be used to [hold former President Donald Trump accountable](#) for his role in the January 6, 2021, insurrection.

All [three branches of government](#) have called the attack on the Capitol an insurrection. Moreover, the bipartisan U.S. House Select Committee to Investigate the January 6th Attack on the United States Capitol (“the Committee”) concluded that Trump was the “[central cause](#)” of the “insurrection” and [recommended](#) that action be taken to enforce Section 3 of the 14th Amendment to disqualify any officials who violated their oath to defend the Constitution by engaging in the insurrection on January 6. While a criminal conviction is not a necessary prerequisite to disqualification under Section 3, the conduct alleged in the recent indictments of Trump by the [Justice Department](#) and the [Fulton County](#), Georgia, district attorney underscore the depth of Trump’s responsibility for fomenting the insurrection.

While Trump’s illegal attempt to disrupt the constitutional election certification process by [mobilizing a violent mob](#) to assemble in Washington, DC, and “[fight like hell](#)” at the Capitol was an unprecedented event in American history, removing disqualified candidates from the ballot is not. It is a standard and essential tool used by secretaries of state and other state election officials to maintain the integrity of their electoral processes by barring individuals who are not constitutionally qualified to run for or hold office. Secretaries of state should exercise this authority, consistent with their states’ laws, to implement the Committee’s [recommendation](#) to enforce Section 3 by excluding from the ballot candidates who are ineligible to hold office.

As this report explains, barring or removing candidates from the ballot for failing to meet substantive or procedural qualifications, such as age, citizenship, or residency requirements, or failure to collect the minimum number of signatures to appear on the ballot, is a routine and basic process. All 50 states and the District of Columbia have excluded candidates who do not meet requirements to appear on the ballot, and excluding Trump and other disqualified insurrectionists can be done through the same mechanisms.

Federal and State Qualifications for Office

In addition to the disqualification clause, the U.S. Constitution imposes several qualifications for federal elected offices. Representatives, senators, and presidents must meet minimum age requirements (ranging from 25 to 35 years of age); must be United States citizens (natural-born for presidents); and must live in the state they represent (or in the case of presidents, must have lived in the country for at least 14 years). In addition, the [22nd Amendment](#) prohibits individuals who have already been elected to two terms as president or served more than one and a half terms from being elected president again, and the [12th Amendment](#) prohibits a president and vice president from residing in the same state. The Supreme Court has repeatedly [held](#) that these qualifications are exclusive; Congress and the states [cannot](#) create additional qualifications for these federal offices. However, as will be discussed in this report, states do have the authority to ensure that candidates for federal office meet the Constitution's requirements.

In addition, states have broad discretion over eligibility standards for state officials, and they have the authority to implement a wide variety of state constitutional and statutory provisions for candidates to be deemed eligible to run for state offices. These can broadly be categorized as substantive or procedural qualifications.

Substantive: Some of the most common substantive qualifications — residency, age, and citizenship requirements — are similar to federal qualifications, but others lack a federal equivalent. For instance, some states impose professional standards as qualifications for office, such as [requiring](#) judges or prosecutors to have practiced

law for a certain number of years. Other qualifications found in various states include prohibitions against candidates who have been convicted of certain classes of crimes and against legislators seeking offices whose salaries they voted to increase.

Procedural: Procedural qualifications generally specify threshold actions or conditions a candidate must satisfy prior to appearing on a ballot. Many procedural qualifications involve paperwork, such as [requirements](#) for candidates to submit a certain number of signatures from voters, as well as certification requirements, usually in the form of an affidavit stating that the candidate is qualified for the office they are seeking. These must typically be filed by a set deadline. In some states procedural qualifications include other provisions, such as mandatory financial disclosures or so-called “[sore loser](#)” provisions that prevent failed primary-stage candidates from mounting subsequent independent campaigns.

Ballot Exclusion Is Common in all 50 States

Both state and federal elections are administered by the states, giving state officials considerable authority over ballot access. States, of course, have plenary power over state elections, subject to traditional judicial review and the protections granted elsewhere in the Constitution. In addition, the Constitution grants states authority over the “[times, places, and manner](#)” of federal congressional elections and the [manner of selecting](#) presidential electors. As a result of this power, state officials, such as secretaries of state, election boards, or courts, have the authority to exclude ineligible candidates from the ballot and routinely do so at all levels of government.¹

Every state plus the District of Columbia has excluded candidates who lack qualifications, including presidential candidates who don’t meet constitutional qualifications. One of the most important decisions addressing this power comes from the U.S. Court of Appeals for the 10th Circuit, where then-Judge (now Supreme Court Justice) Neil Gorsuch authored a 2012 opinion involving a presidential

¹ There are three main paths to enforce Section 3 of the 14th Amendment: *quo warranto* lawsuits, legislative exclusion, and ballot exclusion or candidate eligibility challenges. For more information on how these processes work, see Appendix B.

candidate's access to the ballot. In that case, a naturalized U.S. citizen, Abdul Hassan, filed paperwork to run for president despite the Constitution's requirement to be a natural-born citizen. In a decision [upholding the Colorado secretary of state's decision to exclude Hassan from the ballot](#), Gorsuch wrote that "a state's legitimate interest in protecting the integrity and practical functioning of the political process permits it to exclude from the ballot candidates who are constitutionally prohibited from assuming office." Legally speaking, excluding a candidate from the ballot because they are disqualified under Section 3 is no different than excluding a candidate because they are a naturalized citizen like Hassan — a point Trump's counsel seemingly [endorsed in court filings](#) earlier this year when they admitted that state ballot access laws can provide a means to enforce the disqualification clause.

Ballot Exclusion Rules and Processes Vary Among States

In an effort to decentralize election practices across the country, the Constitution generally leaves it up to the states to organize their congressional elections. [Article I, Section 4 of the U.S. Constitution](#) states that state legislatures "shall" prescribe the "times, places and manner of holding elections for Senators and Representatives," and [Article II, Section 1 of the U.S. Constitution](#) gives states the exclusive power to appoint presidential electors. By its very terms, the Constitution gives states the task of determining how elections are to be held.

Part of a state's authority over elections includes safeguarding the integrity of the ballot process by ensuring that each candidate listed on a ballot meets the statutory and constitutional qualifications for the office they are seeking, thereby protecting "[the integrity of its political processes from frivolous or fraudulent candidacies](#)." State courts and state officials across the country routinely decide questions of constitutional eligibility without incident — including, ironically, state court challenges based on the [racist birther lie](#) directed at former President Barack Obama, [popularized by Trump](#).

While election administration procedures and duties vary, in each state the secretary of state or similarly situated official is [charged](#) with administering elections, including

certifying that each candidate is eligible to appear on the ballot. These mechanisms differ by state. But generally, once an individual files a declaration of candidacy to run for office, [the secretary of state is tasked with](#) reviewing and verifying their documentation to ensure that the candidate meets all state and federal qualifications for office. This includes substantive qualifications like age, residency, and citizenship requirements, as well as procedural qualifications like signature requirements. The state's determination to include or exclude a candidate based on their qualifications can be appealed or challenged in court. In the case of primary elections, state political parties may also have some responsibility for ensuring candidates are qualified.

Oregon's [procedures](#) for ballot access and candidate eligibility challenges represent one common system. When a potential candidate files a declaration of candidacy, the secretary of state must confirm their qualifications and, by [statute](#), is precluded from listing on the ballot a candidate who is ineligible: "If the filing officer determines that a candidate has died, withdrawn or become disqualified ... the name of the candidate may not be printed on the ballots or, if ballots have already been printed, the ballots must be reprinted without the name of the candidate." As illustrated below, a candidate can go to court to challenge their exclusion, and the presence of an ineligible candidate on the ballot [can be grounds](#) for a court to invalidate an election.

Georgia's system illustrates another common approach. State law provides a [clear path](#) for private actors to file a written complaint with the secretary of state challenging the qualifications of an officeholder or candidate. Upon receiving the complaint, the secretary of state must request a hearing before an administrative law judge of the Office of State Administrative Hearings to determine whether the candidate is qualified for office. If it is determined that the candidate is not qualified, they must be excluded or, if ballots have already been printed, struck from the ballot.

Examples of Disqualifications

In anticipation of the likelihood that individuals who violated Section 3 will seek office in the future, this report highlights examples of how states have excluded disqualified candidates from appearing on ballots in the past. The historical record shows that this is a common occurrence, with examples from all 50 states and the District of Columbia and involving candidates seeking local, state, and federal office, including the presidency. Below, we highlight notable cases from our survey of ballot disqualifications in 10 states.

CASE STUDY 1:

Oregon

In **Oregon**, the [secretary of state deemed](#) gubernatorial candidate Nicholas Kristof ineligible to run for governor because he failed to meet the state constitution's three-year residency requirement. [Article V, Section 2](#), of the Oregon Constitution states that individuals running for governor shall have been an Oregon resident for three years before the election.

In 2021, Kristof filed his declaration for candidacy with the secretary of state to run in the Democratic primary election for governor. Upon his submission, Kristof was requested to submit further materials to substantiate his residency. [Kristof provided supplemental materials](#) including: a self-affidavit proclaiming he viewed Oregon as his home since the age of 12, declarations from community members who confirmed that Kristof visited Oregon "virtually every year," along with documentation on various real estate properties which he managed, maintained, and paid state taxes on.

In performing their role overseeing election administration, the Oregon secretary of state reviewed the factual record, finding that Kristof paid taxes in New York, owned a house in New York, and voted in New York as recently as 2020. Relying on this information, the secretary of state's office excluded Kristof from the ballot for failing to establish residency in Oregon. When determining the question of residency, the secretary of state [considers](#) "a place in which a person's habitation is fixed and to which, when they are absent, they intend to return," placing significant value on an

individual's voting record. Kristof immediately challenged the decision in the Oregon Supreme Court.

The Oregon Supreme Court affirmed the secretary of state's decision to exclude Kristof from the ballot, concluding that Kristof failed to meet the residency requirement. In its decision, the Oregon Supreme Court endorsed the position that the secretary of state's role in maintaining the integrity of elections in Oregon includes rejecting candidates from the ballot who are constitutionally or statutorily unqualified to take office.

CASE STUDY 2:

Connecticut

In **Connecticut**, the state supreme court declared that attorney general candidate and then-Connecticut Secretary of State Susan Bysiewicz was **ineligible** to appear on the ballot because she did not meet the minimum statutory qualifications of 10 years of law practice. Under **Connecticut state law**, a candidate for attorney general must have at least 10 years "active practice" as an attorney in the state of Connecticut, having "some experience litigating cases in court."

Bysiewicz **declared** her candidacy for the office of attorney general in 2010, contending that she had been an active member of the bar for over 10 years, and that her 11 years as secretary of state, along with her six years as a corporate lawyer in Connecticut, fulfilled the statutory requirement. Bysiewicz then requested a legal opinion as to her eligibility from the then-attorney general, who determined that the term "active practice" required more than simply being a member of the Connecticut bar.

Bysiewicz brought an action in the Superior Court of Connecticut against the Office of the Secretary of the State, noting that it has the authority to place the names of qualified candidates on the ballot. While the lower court agreed with Bysiewicz, on appeal the Connecticut Supreme Court **determined** that while Bysiewicz was executing the state's public policies in her role as secretary of state, she was not engaged in the active practice of law within the meaning of the statute. Thus, the court deemed her ineligible to appear on the ballot.

CASE STUDY 3:

Colorado

In **Colorado**, the secretary of state [excluded](#) Abdul Hassan from the ballot for president because he was not a natural-born citizen. Under [Colorado law](#), any individual seeking access to the presidential ballot must affirm on their filing [paperwork](#) that they meet the constitutional qualifications for the office, including that they are a natural-born citizen of the United States. Hassan, a native of Guyana and a naturalized American citizen, announced his [intention](#) to run in the 2012 presidential election; in light of his status as a naturalized American citizen, Hassan sought a determination from the Colorado secretary of state regarding his eligibility for inclusion on the presidential ballot. The Colorado secretary of state informed Hassan that he did not meet all of the state and federal qualifications for president and therefore would be excluded from the presidential ballot.

Hassan appealed this decision to the federal district court, which rejected his argument that the Constitution's natural-born-citizen requirement, and its enforcement through state law barring his access to the ballot, violated the privileges or immunities clause and the equal protection [clause of the 14th Amendment](#). Hassan appealed the decision to the U.S. Court of Appeals for the 10th Circuit. A panel of the 10th Circuit, including then-Judge Neil Gorsuch, affirmed the lower court's determination that Hassan should be excluded from the ballot because he lacks the constitutional qualifications to be president. In so doing, the court "[expressly reaffirm\[ed\]](#)" the decision of the Colorado secretary of state, concluding "a state's legitimate interest in protecting the integrity and practical functioning of the political process permits it to exclude from the ballot candidates who are constitutionally prohibited from assuming office."

CASE STUDY 4:

Nevada

In **Nevada**, the state Supreme Court [directed](#) eight candidates running for reelection to state and local office to be excluded from the ballot because they were term-limited under the [state constitution](#).

Under Nevada state law, a citizen can [challenge](#) a candidate's qualifications for office

by filing a written challenge with the officer responsible for accepting candidacy papers for the office in question. The filing officer is then [obligated](#) to forward the complaint to the appropriate district attorney or, if the filing officer is the secretary of state, to the state attorney general who, in turn, is required to determine if probable cause exists to support the challenge.

In 2008, voters filed written challenges against eight candidates running for reelection arguing that they violated [Article 15, Section 3 of the Nevada State Constitution](#), which prohibits a person from serving more than 12 years in any state office or as a member of any local governing body. When the relevant district attorney did not find probable cause that the candidates were unqualified for office, the secretary of state stepped in and sought a writ of mandamus — a court order requiring officials to take a certain action — to exclude the candidates from the ballot for violating the term limit provision.

The Nevada Supreme Court granted the secretary of state’s request. Its findings concluded that the candidates were term limited and must be excluded from the ballot, emphasizing the secretary of state’s role in ensuring the integrity of the balloting process, and holding that “the Secretary of State is mandated to ... uphold Nevada’s Constitution, execute and enforce Nevada’s election statutes, and administer Nevada’s election process,” including enforcing constitutional qualifications for elected office.

CASE STUDY 5:

Delaware

In **Delaware**, candidate for mayor and councilperson, T. Magoo Dorcy, was found ineligible to run for office under the Delaware Constitution, which prohibits a person who has been convicted of an [infamous crime](#) from holding or running for office.

Under Title 15, Section 7555 of the [Delaware Code](#), the board of elections is required to order an ineligible candidate’s name removed from the ballot. If a candidate disagrees with the board’s decision to remove them from the ballot, under Section 7552 of the code they can appeal the decision to the Superior Court no less than 48 hours prior to the election.

[Dorcy](#) filed an action for declaratory judgment asking the Kent County, Delaware Superior Court to determine if he was eligible to run following a decision by the City of Dover’s Board of Elections to exclude him from the ballot. The board determined that Dorcy was ineligible to appear on the ballot because of a prior criminal conviction in Ohio. Dorcy argued that because his prior conviction was for a misdemeanor under Ohio law, it was not an infamous crime within the meaning of the Delaware Constitution. The court disagreed, explaining that because Dorcy’s conduct would have been a felony under Delaware state law, it was an “infamous crime” within the meaning of Article II of the Delaware Constitution and that he should thus be excluded from the ballot. In explaining its decision, the court noted that the state constitution also stipulates all officials hold their offices on condition that they “[behave themselves well](#)” and shall be removed by the Delaware governor on conviction of any infamous crime.

CASE STUDY 6:

New Jersey

In **New Jersey**, presidential and vice presidential candidates Henry Krajewski and Anne Marie Yezo were excluded from the ballot for violating the [12th Amendment’s](#) requirement that running mates be from different states.

Under [New Jersey law](#), electors for president and vice president are required to submit a petition to the secretary of state to confirm their eligibility. The secretary is then [required](#) to notify county clerks of the names of qualified candidates and only those names will be included on the ballot.

The secretary of state rejected the petition by Krajewski and Yezo’s electors, because the petition revealed that both were New Jersey residents and thus ineligible to hold the offices of president and vice president together under the 12th Amendment. The New Jersey attorney general [agreed](#) with the secretary’s determination in a formal opinion, noting that Krajewski and Yezo plainly violated the 12th Amendment and that the secretary’s rejection “was required by the United States Constitution and the applicable law of New Jersey.”

CASE STUDY 7:

Illinois

In **Illinois**, the secretary of state [excluded](#) presidential candidate Linda Jenness from the ballot because she was 31, four years younger than the [requirement](#) in Article II of the U.S. Constitution that a president must be at least 35 years old.

Following Jenness' petition for candidacy, the State Electoral Board, composed of state election officials including the secretary of state, governor, and attorney general, voted to deny certification, excluding Jenness from the ballot on two grounds. First, Jenness refused to submit a signed loyalty oath, which Illinois state law required at the time. And second, Jenness did not meet the federal constitutional requirement of being at least 35 years old.

Jenness and the state Socialist Workers Party sued the board over its decision. The federal district court [ruled](#) that the loyalty oath requirement violated the First and 14th Amendments of the U.S. Constitution by infringing on Jenness' right to participate in the political process as well as her free speech and free association rights. However, the court upheld the board's finding that Jenness was unqualified for office because she did not meet the age requirement established in the Constitution. In so doing, the court held that the board had the power to exclude an unqualified candidate and doing so did not violate any federal rights.

CASE STUDY 8:

Texas

In **Texas**, Barney Donalson, Jr. was excluded from the ballot in a city council election for violating the state's [statutory prohibition](#) on people convicted of felonies serving in elected office.

Under Texas state law, a designated elections officer may [declare](#) a candidate ineligible if the facts establishing the ineligibility are contained in the candidate's paperwork or are "conclusively established by another public record" within the meaning of the statute. Donalson was informed by the city clerk in Canton, Texas, that he was ineligible for the city council because court records showed he had been convicted of multiple felonies and had not been "pardoned or otherwise released

from the resulting disabilities” as required under the Texas state statute.

Donalson sought a writ of mandamus in the Texas courts to force the city clerk to place his name on the ballot. The court held that because the public record proved Donalson’s convictions, the clerk “was required to declare Donalson ineligible,” and thus he should be excluded from the ballot.

CASE STUDY 9:

Oklahoma

In **Oklahoma**, then-state senator Mike Fair was prohibited from running for state labor commissioner under the Oklahoma Constitution, which states that a legislator is ineligible to serve in an office whose salary was increased during the legislator’s term.

Section V-23 of the Oklahoma Constitution states, “No member of the Legislature shall, during the term for which he was elected, be appointed or elected to any office or commission in the State” if the legislature increased the pay for that office during the legislator’s term. After receiving a written challenge to Fair’s declared candidacy for labor commissioner, the Oklahoma State Election Board held a hearing and found Fair ineligible to hold office because the legislature had voted to increase the commissioner’s pay while Fair was a state senator, and Fair’s existing Senate term extended past the date on which the commissioner would take office.

Fair appealed the decision, requesting the Supreme Court of Oklahoma issue a writ of mandamus to the election board ordering them to place Fair’s name on the ballot. Fair argued that Article 5, Section 23 violated the First Amendment of the U.S. Constitution because it prevented voters from supporting the candidate of their choice and the 14th Amendment of the U.S. Constitution because it did not affect all state senators equally. The Oklahoma Supreme Court upheld the state constitutional provision, and with it the board’s decision to exclude Fair from the ballot. In so doing, the court stated that a voter not being able to vote for and support the candidate of their choice does not “impermissibly burden” their First Amendment rights.

CASE STUDY 10:

Idaho

In **Idaho**, the secretary of state [advised](#) a sitting member of the judiciary, a Judge Boughton, that he was ineligible to run for reelection because he exceeded the state's statutory retirement age.

Under a state law in effect at the time, Idaho judges were ineligible to run for office after turning 70. After Boughton filed for reelection, the Idaho secretary of state advised Boughton that he would reject his candidacy papers because of the state's mandatory retirement age. Boughton sought a court order requiring the secretary of state to list him as a candidate, arguing that the state legislature did not have the power to add to the judicial qualifications in [Article 5, Section 23 of the Idaho Constitution](#).

The Idaho Supreme Court [upheld](#) the mandatory retirement age statute, and as a result upheld the secretary of state's decision to exclude Boughton as a judicial candidate.

Conclusion

Defending our democracy requires preventing insurrectionists from holding office. While many state and federal officials are struggling with how to bar January 6 insurrectionists from office, the U.S. Constitution offers a clear pathway for accountability.

Despite being recently indicted on dozens of federal charges and state charges related to attempts to overturn the 2020 presidential election, improperly hold onto classified national security records, and use hush money payments to influence the 2016 election, former President Trump has [stated](#) that he will continue to run for president in the 2024 election even if convicted of criminal misconduct related to his conduct in office, leading to a growing realization that his campaign will [directly implicate](#) Section 3 of the 14th Amendment. Indeed, at least one state is [actively examining](#) Trump's eligibility. But it is clear that all 50 states plus the District of Columbia routinely exclude candidates who are ineligible to appear on ballots,

including in several instances presidential candidates who don't satisfy the constitutional qualifications for office. If Trump is found to be ineligible to run for office under Section 3 by a court or a state election official, then removing him from that ballot because of that ineligibility is supported by historical practice and precedent in all 50 states and the District of Columbia.

[The case](#) for former President Trump's disqualification from office is [overwhelming](#). Just as clear is that the means, and the imperative, to enforce that disqualification are well established in every state.

APPENDIX A:

What Is Section 3?

[Section 3 of the 14th Amendment](#) states:

No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 3's application hinges on a finding that there was an insurrection. Since its ratification in 1868, at least [eight public officials have been formally adjudicated to be disqualified and barred from public office](#) under Section 3 of the 14th Amendment. Importantly, many of those who were [disqualified](#) were never found guilty of any crimes, because Section 3 does not require a [criminal conviction](#).

Just as the Civil War was an insurrection, so too have courts and other government bodies found that January 6, 2021, was an insurrection. [Bipartisan acts of Congress](#), congressional [reports](#), presidential statements, judicial decisions, and other “public documents” have all found that January 6 was an insurrection. Perhaps most importantly, the bipartisan U.S. House Select Committee to Investigate the January 6th Attack on the United States Capitol established in its [final report](#) that the January 6 attack was an [insurrection](#) within the meaning of the 14th Amendment.

In [State ex. rel White v. Griffin](#), a New Mexico state district court concluded “that the January 6, 2021 attack on the United States Capitol and the surrounding planning, mobilization, and incitement constituted an ‘insurrection’ within the meaning of Section Three of the Fourteenth Amendment.” As a result of that [decision](#), Couy Griffin, a former New Mexico county commissioner who was a grassroots mobilizer

and member of the mob that attacked the Capitol on January 6, was removed from office. This case, brought on behalf of three New Mexico residents by Citizens for Responsibility and Ethics in Washington, was the first time since 1869 that a court had [ordered](#) a public official removed from office under Section 3 of the 14th Amendment, and the first time any court had ruled the events of January 6, 2021, were an insurrection as defined by the Constitution.

APPENDIX B:

Mechanisms to Enforce Section 3

There are three main mechanisms to enforce Section 3.

Quo Warranto Lawsuits: Section 3 can be adjudicated through [civil lawsuits](#) where state attorneys general or private citizens can bring a legal action challenging an officeholder’s qualifications for office. *Quo warranto* lawsuits are a remedy [commonly used](#) to challenge the authority of a public official to hold office or exercise power. They provide a [legal avenue](#) to challenge the eligibility, qualifications, or conduct of public officials and, in so doing, help ensure accountability, preserve the rule of law, and uphold the public’s trust in the integrity of government.

Legislative Exclusion: Congress and state legislatures have significant control over their own membership and can [refuse](#) to seat members-elect who fail to meet qualifications for office. When judging “qualifications,” the [Supreme Court has said](#) that the House and, by implication, the Senate may evaluate an officeholder’s potential “disqualifications,” including Section 3 of the 14th Amendment.

Congress has, in the past, refused to seat members-elect for violating Section 3. After the North Carolina legislature elected their Civil War-era governor, Zebulon Vance, to the U.S. Senate in 1870, the Senate [deemed](#) him ineligible to serve under Section 3 because of his past support of the Confederacy. However, [amnesty](#) was granted to Vance under Section 3 in 1872, and he was reelected to the Senate and served until his death in 1894. Similarly, in 1919, the U.S. House of Representatives [refused](#) to seat Congressman-elect [Victor Berger](#), citing the disqualification clause, due to his political views and alleged disloyalty.

Ballot Exclusion and Candidate Eligibility Challenges: Although paperwork errors like invalid signatures are a common reason for candidates to be excluded from the ballot, every state plus the District of Columbia has excluded candidates who fail to meet other statutory or constitutional requirements for seeking or holding office. If a private party believes that a candidate has been improperly placed on the ballot, they can bring a candidate eligibility challenge.

Although processes vary across states, a [candidate eligibility challenge](#) may come in

the form of a [writ of mandamus](#) arguing that the requisite elections official committed an abuse of discretion by placing a statutorily or constitutionally ineligible candidate on the ballot.

North Carolina [law](#), for instance, specifically authorizes candidate eligibility challenges if “the candidate does not meet the constitutional ... qualifications for the office.” In 2022, [11 North Carolina voters](#), represented by Free Speech for People, brought a [lawsuit](#) against then-Representative Madison Cawthorn, arguing that he should be disqualified from running for office because of his efforts to subvert the 2020 presidential election. Although the lawsuit was dismissed as moot after Cawthorn lost the primary election, the U.S. Court of Appeals for the 4th Circuit nonetheless [endorsed](#) the legality of candidate eligibility challenges by holding that the individuals who had petitioned to prevent Representative Cawthorn from appearing on the ballot had standing “due to their rights under state law to challenge his candidacy.”

APPENDIX C:

Survey of Ballot Disqualifications

Alabama

Brandon Moseley, “McNeil Disqualified in District 102,” *Alabama Political Reporter*, December 18, 2014, <https://www.alreporter.com/2014/05/29/mcneil-disqualified-in-district-102/>.

Alaska

Gilbert v. State, 526 P.2d 1131 (Alaska 1974), <https://casetext.com/case/gilbert-v-state-250>.

Arizona

Rawles v. Kavanaugh, No. CV-04-0005 (Ariz. Sup. Ct. 2004) (see Jason Emerson, “Rawles: Ruling justifies effort to keep Kavanaugh from race,” *EastValley.com*, https://www.eastvalleytribune.com/local/rawles-ruling-justifies-effort-to-keep-kavanaugh-from-race/article_a9e8fffa-c4b6-50df-9d7e-59102e4c63db.html).

Arkansas

Bailey v. Martin et al., No. CV-14-358 (Ark. Sup. Ct. May 14, 2014), <https://www.arkansasonline.com/documents/2014/may/14/court-dismisses-valerie-baileys-appeal/>.

California

Lindsay v. Bowen, 750 F.3d 1061 (2014), <https://casetext.com/case/lindsay-v-bowen>.

Colorado

Hassan v. Colorado, No. 12-1190 (10th Cir. 2012), <https://law.justia.com/cases/federal/appellate-courts/ca10/12-1190/12-1190-2012-09-04.html>.

Connecticut

Bysiewicz v. Dinardo, No. 18612 (Conn. Sup. Ct. 2010), <https://www.jud.ct.gov/external/supapp/Cases/AR0cr/CR298/298CR105.pdf>.

District of Columbia

McDuffie v. D.C. Board of Elections, 273 A.3d 838 (D.C. Ct. App. 2022), <https://law.justia.com/cases/district-of-columbia/court-of-appeals/2022/22-aa-276.html>.

Delaware

Dorcy v. City of Dover, Civ. No. 96M-01-018, 1996 Del. Super. LEXIS 92 (Del. Super. Ct. 1996).

Florida

Diaz v. Lopez, 167 So. 3d 455 (Fla. Dist. Ct. App. 2015),
<https://casetext.com/case/diaz-v-lopez-2>.

Georgia

“Unopposed state Senate candidate disqualified,” Associated Press, July 31, 2012,
<https://www.jacksonville.com/story/news/2012/07/31/unopposed-state-senate-candidate-disqualified/15859170007/>.

Hawaii

Hirono v. Peabody 915 P.2d 704 (1996),
<https://law.justia.com/cases/hawaii/supreme-court/1996/18386-2.html>.

Idaho

Boughton v. Price, 70 Idaho 243 (1950), <https://casetext.com/case/boughton-v-price>.

Illinois

Socialist Workers Party of Illinois v. Ogilvie, 357 F. Supp. 109, 112 (N.D. Ill. 1972),
<https://casetext.com/case/socialist-workers-party-of-illinois-v-ogilvie>.

Indiana

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