



CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

June 25, 2026

The Honorable Gail Pellerin
Chair, California Assembly Elections Committee
1020 N Street, Room 365
Sacramento, CA 95814

The Honorable Natasha Johnson
Vice-Chair, California Assembly Elections Committee
1020 N Street, Room 365
Sacramento, CA 95814

Re: Amendment to Elections Code in Senate Bill 46

Dear Chair Pellerin and Vice-Chair Johnson,

On behalf of Citizens for Responsibility and Ethics in Washington (CREW), a nonpartisan nonprofit organization dedicated to promoting ethics, transparency and accountability in government, I write to you today in support of Senate Bill 46 which would amend the California Elections Code to ensure that California has the legal authority to remove constitutionally ineligible candidates for president and vice president from California's primary and general election ballot. This technical change to California's Elections Code is a crucial good government reform measure designed to ensure that government processes comply with the Constitution and to make sure that California voters have meaningful choices at the ballot box.

States have the authority to enact election laws and administer elections, as set forth in the Election Clause and Electors Clause of the U.S. Constitution.¹ Secretaries of State play a crucial role in our electoral system, often administering both state and federal elections. This can include certifying election results,² testing elections equipment³ and overseeing campaign finance reporting requirements.⁴ In addition, Secretaries of State play a crucial role regulating ballot access to maintain the integrity of their electoral system by barring individuals who are constitutionally ineligible to run for or hold office from appearing on the ballot.⁵ Secretaries of State however do not exercise these important powers in a vacuum. Rather, a

¹ U.S. Const. art. I, § 4, cl. 1; U.S. Const. art. II, § 1, cl. 2;

² See *Election Certification Deadlines*, Nat'l Conference State Legislatures (Jan. 20, 2025), (<https://www.ncsl.org/elections-and-campaigns/election-certification-deadlines>).

³ See *Voting System Standards, Testing and Certification*, Nat'l Conference State Legislatures (Aug. 21, 2025), (<https://www.ncsl.org/elections-and-campaigns/voting-system-standards-testing-and-certification>).

⁴ See *Campaign Finance Enforcement*, Nat'l Conference State Legislatures (Oct. 15, 2020), (<https://www.ncsl.org/elections-and-campaigns/campaign-finance-enforcement>).

⁵ See POGO & CREW, *Routine Disqualification: Every State Has Kept Ineligible Candidates Off the Ballot, and Trump Could Be Next* (Sept. 5, 2023), (https://www.citizensforethics.org/wp-content/uploads/2023/09/POGO-CREW_Routine-Disqualification-Report_2023-09-05_v2.pdf).

state's Attorney General assists the Secretary of State in these duties by providing legal counsel, representing the Secretary of State in state and federal court, and otherwise serving as the state's chief legal officer.⁶

In every state plus the District of Columbia relevant elections officials have removed ineligible candidates from the ballot, including presidential candidates who do not meet the constitutional qualifications for office.⁷ In the context of the office of president or vice president, constitutional ineligibility can occur in many ways, including if a candidate is under 35 years old, not a natural born citizen or, in the case of the office of the presidency, if a candidate has already served two terms in office.⁸ As then-Judge Neil Gorsuch wrote for the Tenth Circuit in *Hassan v. Colorado*, in a case where the Colorado Secretary of State refused to list a candidate for president because they were not a natural born citizen as required by Article II, Section 1 of the U.S. Constitution, “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.”⁹

However, in California there is no statutory framework which lays out this process and assigns responsibilities among state actors. Without a clear statutory framework, it is possible that ineligible candidates will remain on the ballot. Such an outcome could lead to the effective disenfranchisement of California voters. This possibility isn’t merely theoretical. Take for example the possibility that a major party nominated a popular Californian like Zendaya—who is 29 years old—or former California Governor Arnold Schwarzenegger—who is not a natural born citizen—as their candidate for president. Should that candidate remain on the ballot despite their disqualification for office, voters who have an affinity to that party would then be left with an impossible choice—effectively throwing their vote away by casting it for a candidate who is ineligible to hold office or abandoning their political leanings. That is effective disenfranchisement. Californians deserve better.

This does not have to be the case for California.

The amendment to the California Elections Code proposed by Senator Umberg would add a new section to the code, Section 6901.7, which sets forth the duties of the Secretary of State, the California Attorney General, and the protections that candidates have to prevent erroneous removal from the ballot.¹⁰ The proposed statute carefully balances the Secretary of State’s oath to the Constitution to give them the ability to refuse to certify the name of a constitutionally ineligible candidate from the ballot and the candidate’s due process rights by setting out expedited procedures to adjudicate any disputes. Moreover, should the Secretary of State conclude that further investigation is needed to determine if a candidate is constitutionally ineligible, the statute allows the Secretary of State to refer the matter to the Attorney General and assigns any investigatory responsibilities to the Attorney General’s office. The assignment of

⁶ See *What Attorneys General Do*, Nat’l Ass’n Att’y’s Gen., <https://www.naag.org/attorneys-general/what-attorneys-general-do/> (last visited June 23, 2026).

⁷ See POGO & CREW, *Routine Disqualification: Every State Has Kept Ineligible Candidates Off the Ballot, and Trump Could Be Next* at 8, 21-26 (Sept. 5, 2023), (https://www.citizensforethics.org/wp-content/uploads/2023/09/POGO-CREW_Routine-Disqualification-Report_2023-09-05_v2.pdf).

⁸ U.S. Const. art. II, § 1, cl. 5; U.S. Const. amend. XII; U.S. Const. amend. XXII.

⁹ *Hassan v. Colorado*, 495 F. App’x 947, 948 (10th Cir. 2012) (<https://law.justia.com/cases/federal/appellate-courts/ca10/12-1190/12-1190-2012-09-04.html>).

¹⁰ S.B. 46, 2025-26 Cal. Leg., Reg. Sess. (as amended Jan. 5, 2026), (https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202520260SB46).

any investigation to the Attorney General's office is in line with that office's role as the state's chief legal officer. This type of statutory scheme—where the Secretary of State with the assistance of the Attorney General's office has the statutory authority to police its ballot either unilaterally or through a challenge process—exists and has worked effectively in other states including Colorado,¹¹ Ohio,¹² Rhode Island¹³ and Wisconsin,¹⁴ among others.

CREW urges the California legislature to adopt this good government reform. By adopting this technical change to the California Elections Code, the legislature will ensure that the Secretary of State has the ability to police the ballot like their colleagues do in other states and will also ensure that Californians are not effectively disenfranchised by having an ineligible candidate appear on their ballot.

Sincerely,

Debra Perlin

Debra Perlin
Vice President For Policy

¹¹ Colo. Rev. Stat. § 1-5-412, (<https://law.justia.com/codes/colorado/title-1/general-primary-recall-and-congressional-vacancy-elections/article-5/p-art-4/section-1-5-412/>).

¹² Ohio Rev. Code § 3501.39, (<https://codes.ohio.gov/ohio-revised-code/section-3501.39>).

¹³ R.I. Gen. Laws § 17-14-13, (<https://webserver.rilegislature.gov/Statutes/TITLE17/17-14/17-14-13.htm>).

¹⁴ Wis. Stat. § 8.30, (<https://docs.legis.wisconsin.gov/statutes/statutes/8/30>).