

New York State Board of Elections
Republican Commissioners' Meeting – 2024 Presidential Primary Ballot Access
February 6, 2024

Commissioner Kosinski: Good morning, my name is Peter Kosinski, I'm the Republican Co-Chair of the New York State Board of Elections, and I'm joined today by my fellow Republican Commissioner, Tony Casale, and in accordance with section 2112B3D of the New York State Election Law, I call this meeting of the Republican Commissioners in order for the purpose of certifying nationally known or matching fund candidates, for ballot access for the Presidential Republican Primary to be held on April 2nd, 2024 in New York State. At this time, I'll ask Deputy Counsel Kevin Murphy to please read the requirements for ballot access for these candidates.

Kevin Murphy: Thank you, Commissioner. Just for the record, I think there was just a slight misstatement there, the section of law being 2122B3D, I just wanted to clarify that.

Commissioner Kosinski: I apologize, what did I say?

Kevin Murphy: I think 211, 112 instead of 122. I just wanted to clarify that.

Commissioner Kosinski: Is that what I said? It's wrong. I know that's wrong, and I said it anyway. Sorry. 211, 2122.

Kevin Murphy: 2122, yes.

Commissioner Kosinski: I'll get that right, I apologize, thank you for correcting me.

Kevin Murphy: In accordance with Chapter 474 of the Laws of 2023, any candidate seeking to appear on the Republican Primary Ballot may request by certification filed and received by the State Board of Elections no more than 16 weeks and not later than 9 weeks prior to the date of the Presidential Primary, that they are a nationally known and recognized candidate. Such candidates shall be eligible to be on the ballot only if the Republican Commissioners of the New York State Board of Elections determine that the person is a nationally known and recognized candidate, and that the candidacy of such person for the party nomination is generally and seriously advocated or recognized according to reports in the national or state news media. Additionally, any candidate who has been certified as eligible to receive Presidential Primary matching fund payments pursuant to the provisions of 11CFR Part 9033 or meets the eligibility criteria regarding national contributions establish an 11CFR 9033.2B3 regardless of whether such candidate actually applied for such matching fund payments may request, by certification filed and received by the State Board of Elections no sooner than 16 weeks, and not later than 9 weeks prior to the date of the Presidential Primary, with the name of the candidate appear on the ballot at the primary election. Such determinations shall be made solely upon a joint recommendation by the Republican Commissioners of the State Board of Elections, and no other commissioner of the State Board of Elections shall participate in such determination.

Commissioner Casale: Thank you Kevin. Based on your report, it's clear that the sole requirement for these candidates is either nationally known, or recognized as determined by the Republican Commissioners, or any candidate who has met the matching funds. At this time, I'm

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going to ask the staff to report on their findings for all the certificates filed requesting either nationally known and recognized status, or any candidate who's met the matching funds. Thank you.

Raymond Riley: Thank you, Commissioner Casale. The following candidates filed certificates with supporting documents requesting ballot access for nationally known status. All filings were received during the specified time period, and they are Donald J Trump, Chris Christie, Vivek Ramaswamy, Nikki Haley, Ryan Binkley, and David Stuckenberg. Additionally, in the certificate for Nikki Haley, the candidate requested ballot access for meeting the requirements of the matching funds, she is the only candidate to make such claim. Based on staff review of the documents, we believe the following candidates, staff review of the documents and staff review of media reports, we believe that the following candidates meet the requirements as nationally known and recognized, and they are Donald J Trump, Nikki Haley, Chris Christie, Vivek Ramaswamy. Nikki Haley also claimed the matching fund threshold designating her as a nationally known candidate, but we would recommend your decision based on that. Staff does not recommend placing Ryan Binkley or David Stuckenberg on the ballot, as we do not believe either candidate meets the requirements of being generally and seriously advocated or recognized important to reports in the national or state media.

Commissioner Kosinski: Thank you, Ray. Have there been any objections filed to those certificates?

Brendan Lovullo: There have not. There would have had to have been objections filed three days after the filing, and we have not received any.

Commissioner Kosinski: Okay. I just want to clarify it for the public what our objection process here is at the State Board of Elections, because we have received several pieces of correspondence regarding Donald Trump's candidacy, requesting that he be denied access to the ballot. However, none of this correspondence falls into the category of an objection as outlined by the requirements of the Election Law. According to the Election Law, an objector has to file documents in three days contesting the certificate filed by any candidate. For an objection to be considered, it would have to be filed within three days, and then that'd be called a general objection. Within six days of that filing, the objector would then need to file a specific objection. This would need to outline the specific deficiency of the document filed was. A copy of the specific objection would need to be sent by overnight mail to the candidate, and proof of service must be filed with this Board. None of that has happened to our knowledge. This was not done, specifically with the certificates filed by Donald Trump, or any other candidate requesting ballot access, as nationally known or recognized candidate. These rules are in place to provide due process to all candidates so that they have an opportunity to answer any objections made to their candidacy, and to ensure that all candidates and objectors are held to the same standard. We cannot act unless these standards are met as that would be a violation of the Election Law. A consistent practice for all ballot access determinations for any and all elections has been the standards as described above. Under these rules, no objections have been filed to any of these certificates.

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Commissioner Casale: Mr. Kosinski, I agree with you, and I agree with everything that you've stated. Much correspondence has been received regarding ballot access for former President Trump, asking us to remove him from the ballot. The Commissioners and the staff have all reviewed each and every piece of correspondence received. While we understand the opinions shared in these letters, the matter before this Board is confined to the law for ballot access in New York State as previously read by our Deputy Counsel and by Commissioner Kosinski.

Commissioner Kosinski: Thank you, Commissioner Casale. Brendan, according to press reports, a number of these candidates have suspended their candidacies, has any candidate in our list requested to have their name removed from the ballot?

Brendan Lovullo: We have not received anything yet.

Commissioner Kosinski: Okay, so the process, I believe, ends today if I am correct for any candidate submitting a request to be included can have their name removed but they have to file today with this Board, correct? You're saying, as of this moment, that has not happened?

Brendan Lovullo: Correct.

Commissioner Casale: May I ask you - have we advised the candidates or their staffs of this requirement?

Brendan Lovullo: We have.

Commissioner Casale: Okay.

Commissioner Kosinski: Okay, so based on that, we will just be considering the certificates that were filed with us, and if none of them are withdrawn, we will do a determination based on each of these candidates. I believe that also in the law, these candidates have until March 26th of this year to request that the Board of Elections does not tally their votes. So, even if they continue to appear on the ballot, if they submit a certificate after today to us, and if they do appear, their votes would not be counted, correct?

Brendan Lovullo: Correct, they would be voided votes.

Commissioner Kosinski: Alright, fair enough. With that said, I think we should take up each of the candidates requests, Commissioner, and the first one we have I think we should consider and I would note for everyone that we have here documents that were filed by each of the candidates, some more voluminous than others, but each one filed a certificate with some accompanying material with their certificate requesting that they be granted ballot access. So, the first name that comes before us is Donald Trump, as a nationally known candidate. I vote yes. Commissioner Casale?

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Commissioner Casale: I vote yes.

Commissioner Kosinski: Ok. Then we will move on to the next candidate is we have a request from Nikki Haley as a nationally known candidate. I vote yes. Commissioner Casale?

Commissioner Casale: I vote yes.

Commissioner Kosinski: Next, we have a request from Chris Christie to appear as a nationally known candidate. While we note again, he suspended his campaign according to media reports, we have nothing here withdrawing his name, so, we will consider his name and I vote yes. Commissioner Casale?

Commissioner Casale: I vote yes.

Commissioner Kosinski: Next, we have Vivek Ramaswamy who also has submitted a certificate. We also understand he has suspended his campaign; however we've received nothing official from his campaign requesting he be removed. So, I vote yes as a nationally known candidate. Commissioner Casale?

Commissioner Casale: I vote yes.

Commissioner Kosinski: Okay. Next, we have a request from Ryan Binkley. Now Ryan Binkley has given a request as a nationally known candidate. Based on staff recommendations, and our own, I vote that he does not meet the standard for nationally known candidate. I vote no on his candidacy. Commissioner Casale?

Commissioner Casale: I agree, and I vote no, as well.

Commissioner Kosinski: And the last one is David Stuckenberg has also filed a certificate, actually his attorney filed the certificate, he didn't do it himself. I'm not sure if that complies with the law to be honest. I think maybe the candidate has to do it himself. But that said, I would consider it as a nationally known candidate. But again, based on staff recommendations, and my own, I am voting no as far as ballot access.

Commissioner Casale: I vote no.

Commissioner Kosinski: Thank you, Commissioner. And thank you Commissioner Casale and thank you to the staff. We have no other business to come before the two commissioners here today, and based on that I will close the meeting. and we will open as a State Board of Elections in a few minutes.