JOINT MEMORANDUM

TO: New Hampshire Election Officials
FROM: Attorney General’s Office and Secretary of State’s Office
RE: 2024 Presidential Primary Guidance and Issues
DATE: January 12, 2024

QUICK REMINDERS
- **Threat to safety**: For any medical issue, polling location emergency, or threat to safety, FIRST CALL 911. Notify the AG Hotline after you have communicated with law enforcement.
- **Guardrail**: There must be a guardrail separating a voting area from the public area. It needs to be a physical barrier of some sort (rail, rope, ribbon, tape) RSA 658:9. “Virtual guardrails” or tape on the floor are not permitted.
- **Set up your one4all accessible system**: The one4all must be operating.

AG HOTLINE & POLL INSPECTORS
AG Hotline: 1-866-868-3703 or electionlaw@doj.nh.gov

Elections Help Desk – For election officials.
1-603-271-8241
NHvotes@sos.nh.gov

Secretary of State’s Office
1-603-271-3242
elections@sos.nh.gov

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1. **Verify Polling Location Data on SOS Website**

Verify that your polling location is accurate on the Secretary of State’s website.

Go to: [https://app.sos.nh.gov](https://app.sos.nh.gov)

Please verify both the “Search Polling Places and Sample Ballots by Address” and the “View the State List of Clerks & Polling Places” entries.

Contact the Elections Division Help Desk (603) 271-8241 for assistance making corrections.

2. **Electioneering**

659:43 states: (1) electioneering is prohibited in the polling place building, (2) electioneering is prohibited in the no-electioneering corridor, and (3) electioneering is permitted if it is outside the building and outside the corridor.

The moderator has broad authority to define what constitutes the no-electioneering corridor, which must be:

...no less than 10 feet wide, that extend from all entrances of the polling place a reasonable distance along the sidewalks or to the parking lots that serve the polling place. The moderator shall establish the corridor in a manner that permits a voter arriving or leaving the polling place to enter or exit without interruption or interference from individuals outside the corridor.

659:43, II. Electioneering must be permitted in areas outside of the polling place building and outside the no-electioneering corridor(s). However, the moderator is empowered to designate any part of the polling place location—such as a parking lot—a no-electioneering corridor to permit voters arriving or leaving the polling place to move to and from the polling place without interruption or interference from electioneering individuals.

659:43, II does not give the moderator authority to extend a no-electioneering corridor to areas voters are not using to travel to and from the polling place building.

652:16-h defines electioneering as “visibly displaying or audibly disseminating information that a reasonable person would believe explicitly advocates for or against any candidate, political party, or measure being
voted.” While the general rule is that a voter cannot wear or display electioneering while voting, the statute makes an exception for “a person eligible to vote or register to vote in the voting district who is unable to remove or cover clothing that explicitly advocates for or against any candidate, political party, or measure, may wear such clothing in the polling place while actively engaged in the process of registering to vote or while actively engaged in the process of voting.”

Handing out electioneering materials is permitted if it is distributed from the electioneering zone.

All electioneering materials must be attended and within arm’s reach of the person responsible for the sign.

Cars parked at a polling place with electioneering material: If affixed in such a way that renders the vehicle unsafe or unfit for driving on the road, the signs are considered unattended signs affixed to public property and must be removed.

3. **Announcing Results**

We have had media inquiries about how and when election results will be reported after the polls close on January 23rd. Consistent with past training, we encourage the moderators to complete the recommended reconciliation procedures before announcing any results so that we are sure the results are as accurate as possible. With that said, we are all aware of an organized effort to write-in the name of the incumbent president on the Democratic Primary Ballot. To the extent that counting the write-in votes takes longer than expected, the moderator may release the Republican results earlier than the Democratic results provided the results are complete and the moderator is comfortable that appropriate reconciliation has taken place for that party.

4. **Electioneering Materials Supporting Write-In Candidate**

RSA 659:43 prohibits” electioneering within the polling place building.” RSA 652:16-h defines electioneering to mean “visibly displaying or audibly disseminating information that a reasonable person would believe explicitly advocates for or against any candidate, political party, or measure being voted.” Although President Biden’s name is not on the Democratic Primary ballots, he is a candidate for the Democratic National Committee’s nomination for president; he is an eligible write-in candidate; and wearing clothing or paraphernalia that displays President Biden’s name, likeness, or
logo constitutes a communication that a reasonable person would believe explicitly advocates for President’s Biden candidacy and advocates against the candidacies of other Democratic Primary candidates whose names are on the ballot and being voted for at the Presidential Primary election.

5. **Use of Affidavit Ballots**

Election officials are encouraged to review the Secretary of State’s February 10, 2023 (Updated October 18, 2023), memorandum regarding the use of affidavit ballots. An on-demand webinar on this topic is available here: [https://attendee.gotowebinar.com/register/1930923174054191967](https://attendee.gotowebinar.com/register/1930923174054191967)

6. **Voter Questions – Why a Person’s Name is Not Printed on the Ballot**

Our guidance is to have planned responses to questions you anticipate voters asking which purposely avoids the election officials stating a candidate’s name. Using a generic response that does not restate a candidate/person’s name reduces the risk of someone hearing the conversation misconstruing the election official’s response as electioneering/advocating for or against the named candidate or write-in.

Examples:

“Why is X X not on the ballot?”

“If a person’s name is not on the ballot, it is because they did not file a declaration of candidacy. The Secretary of State reports that all individuals who properly filed a declaration of candidacy seeking their party’s nomination are printed on the primary ballot.”

7. **Voter Questions - How Do I Vote for ______ ______?**

“You may vote for the person of your choice. If that person’s name is not printed on the ballot, you may write in their name in the space for “write-in” which is at the bottom of the list of candidates printed on the ballot. All write-in votes are counted and reported as votes in the party primary of the party on whose ballot the name is written in.”
8. **Voter Questions – Will My Write-In Vote for a Person Printed as a Candidate on the X Party Ballot Count if I Write That Person’s Name in on the Y Party Ballot?**

Yes, a write-in on either party’s presidential primary ballot will be counted and the total write-in votes the person receives will be reported only as votes in that party’s primary.

To the extent the name written in is that of a candidate printed on the other party’s ballot, it will not count towards who the other party chooses to recommend to their national nominating convention for selection as the party’s presidential candidate.

Here is the governing statute:

**RSA 659:69 Counting Votes on Different Party Ballots.**

– “Votes cast for the same person for the same office on the ballots of different parties at any primary election shall not be added together but shall be credited to the party on whose ballot his name [is written in] and the vote is cast.”

9. **Gathering Signatures for Nominating Papers**

There may be one or more organized efforts at the polling places on Presidential Primary day to gather nominating paper signatures for placing a person on the General Election ballot (November 2024) for the office of president.

To be electioneering, a communication must relate to a candidate being voted for that day. Seeking a voter’s signature on a nominating paper in most circumstances is seeking to convince a voter to support that person as opposed to supporting any other candidate for the office, particularly those on the Presidential Primary ballots being voted on that day. A moderator would be prudent to restrict seeking signatures on nominating papers for the office of president to areas outside the polling place where electioneering is permitted. Asking a voter to support one person for the office of president by signing a nominating paper is effectively advocating against voting for the other candidates who are seeking their party’s nomination for that office, i.e., those whose names are on the Presidential Primary ballots being voted on.

**RSA 655:40 General Provisions.** – As an alternative to nomination by party primary, a candidate may have his or her name placed on the ballot for the
state general election by submitting the requisite number of nomination papers. Such papers shall contain the name and domicile of the candidate, the office for which the candidate is nominated, and the political organization or principles the candidate represents. Nomination papers shall be signed by such persons only as are registered to vote at the state general election. No voter shall sign more than one nomination paper for each office to be voted for, and no nomination paper shall contain the names of more candidates than there are offices to be filled. Each voter shall sign and date an individual nomination paper. Nomination papers shall be dated in the year of the election.

RSA 655:53 By Nomination Papers. – Candidates for president may be nominated by nomination papers as provided in RSA 655:40 through 655:45.

RSA 652:16-h Electioneering. –
Electioneering means visibly displaying or audibly disseminating information that a reasonable person would believe explicitly advocates for or against any candidate, political party, or measure being voted. Electioneering includes, but is not limited to:
I. Wearing clothing or paraphernalia that displays a candidate's name, likeness, or logo, a ballot measure's number, title, subject, or logo, a political party's name or logo, or any communication that a reasonable person would believe explicitly advocates for or against any candidate, political party, or measure, provided that a person eligible to vote or register to vote in the voting district who is unable to remove or cover clothing that explicitly advocates for or against any candidate, political party, or measure, may wear such clothing in the polling place while actively engaged in the process of registering to vote or while actively engaged in the process of voting.
II. Distributing or posting a card, handbill, poster, placard, picture, pin, sticker, circular, or any other form of communication that a reasonable person would believe explicitly advocates for or against any candidate, political party, or measure.