

May 21, 2014

Mrs. Linda Lamone
State Administrator
Maryland State Board of Elections
151 West Street, Suite 200
Annapolis, MD 21401

Dear Mrs. Lamone:

This is a request under the Maryland Public Information Act, State Government Article §§10-611 to 630. I am making this request on behalf of myself and wish to inspect all records in your custody and control pertaining to the following:

(A) Constitutional Compliance

Pursuant to EL 2-101(d) Oath. — Before taking office, each appointee to the State Board shall take the oath required by Article I, § 9 of the Maryland Constitution. Article 1, Section 9 of the Maryland Constitution reads as:

“Every person elected, or appointed, to any office of profit or trust, under this Constitution, or under the Laws, made pursuant thereto, shall, before he enters upon the duties of such office, take and subscribe the following oath, or affirmation: I, _____, do swear, (or affirm, as the case may be,) that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and Laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of _____, according to the Constitution and Laws of this State, (and, if a Governor, Senator, Member of the House of Delegates, or Judge,) that I will not directly or indirectly, receive the profits or any part of the profits of any other office during the term of my acting as _____ *(originally Article I, sec. 6, renumbered by Chapter 681, Acts of 1977, ratified Nov. 7, 1978).*”

Considering Mrs. Lamone took an oath to support the Constitution of the United States, this requires her to faithfully execute her duties as State Administrator in accordance with that Constitution, which also includes Article 2, Section 1, Clause 5 and reads as:

“No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.”

Pursuant to EL 2-102(a) under Powers and Duties of the State Board, it again states that the Board of Elections must ensure compliance with any applicable federal law:

“The State Board shall manage and supervise elections in the State and ensure compliance with the requirements of this article and any applicable federal law by all persons involved in the elections process”

The Maryland Board of Elections website at the following location <http://www.elections.state.md.us/candidacy/qualifications.html> states that the President and Vice President are required to be Natural Born Citizens in accordance with Article 2, Section 1, Clause 5 of the United States Constitution, shown above.

The information I am requesting regarding this issue is as follows:

1. What is the Maryland Board of Election’s definition of a Natural Born Citizen and by what documents are claims to this qualification supported or authenticated?

2. What is the source (Law, Case Law, Statute) used by the Board of Elections to determine that a candidate is qualified to claim eligibility by natural born citizen, a federal employment qualification?

3. What is the operating standard, including any and all information relating to the process, as in the steps taken by the State Board of Elections to ensure compliance with federal law, specifically Article 2, Section 1, Clause 5 of the U.S. Constitution, that presidential candidates are in fact qualified for the Office of the President.

4. Pursuant to Section EL 8-502 what are the documents used to generate a certificate of name and entitlement for placement on the ballot when the candidate has been challenged as ineligible?

5. By what method of certification of name in sec. 8-502 is a naturalized citizen prevented from being placed on the Primary Ballot if that candidate meets all other criteria for filing as in, petition, fees and any other necessary steps, including the requirement of name affirmation via national media?

6. In the case of a suspected ineligible state candidate who generates a certificate of candidacy or equivalent document, who as a public official and state actor bears the responsibility of initiating the investigation and who bears the responsibility of the actual investigation pursuant to Maryland Election and criminal laws?

(B) Running for office in Maryland

To secure ballot access in Maryland, there are procedures and forms that must be filled out by the candidate. Pursuant to the Election Law Article 1-101(L), a candidate is one that files a certificate of candidacy and states:

1-101 Definitions

— (1) “Candidate” means an individual who files a certificate of candidacy for a public or party office.

The information I am requesting regarding this issue is as follows:

1. Any and all forms required by the Board of Elections, for a presidential candidate to be on the ballot in Maryland, whether or not they are exempted from filing the form or not, including the form/forms required by the Board of Elections to make them aware that a candidate would like to have their name appear on the ballot in Maryland.

2. An advisory opinion concerning the justification for exempting Presidential candidates from filing a certificate of candidacy for placement of the candidate's name on the ballot, which would require the candidate to swear he/she is qualified for the office they seek, if this consideration is deemed important enough for state candidates to affirm?

3. The document that represents the formal certificate of name generated by the Secretary of State and sent to the State Board of Elections, and only that portion that concerns the Presidential candidate's names if this certification is more than one page in length.

4. The official certification of name generated by the State Board of Elections sent to the local boards in Carroll County, with the same restriction as to that portion of the certificate that pertains directly to the Presidential candidates and not state candidates for office.

(C) Previous Candidate Nominations

For the Primary Election in 2008, there were no previous nominations by a national party convention for Barack Obama, meaning he was not eligible for the exception under (g) of EL 5-301 which states:

(g) Exemption for candidates nominated by national party convention.

— (1) A candidate for President or Vice President of the United States nominated by a national party convention is not required to file a certificate of candidacy under this section.

Moreover, several of the 2012 Presidential Candidates were never nominated by a public party convention for the 2012 Primary, yet none of them were required to file a certificate of candidacy or equivalent document as I was told by the Maryland Board of Elections.

The info I am requesting regarding this issue is as follows:

1. Please clarify how the certificate of nomination from 2008 is relevant for a candidate seeking to have his/her name placed on the 2012 primary ballot and by what title and section of the Election Law Article.

2. What happens in the case a candidate is successfully nominated in the 2008 General Election, but did not win that election, as in the case of Mr. Mitt Romney. If he chooses to run in 2016, will he be given automatic placement on the Primary ballot because he was nominated by a political party convention? If not, why not, and by what section of the Election law.

3. Any and all information relating to the process in which Barack Obama was permitted to get his name placed on the ballot in the 2008 presidential primary election, including whether he was nominated by petition after collecting enough signatures or did he file a certificate of candidacy pursuant to EL 5-301(a) which reads as:

(a) "In general.— An individual may become a candidate for a public or party office only if:

(1) the individual files a certificate of candidacy in accordance with this subtitle;

4. Any and all Certificates of Candidacy forms or equivalent for the 2012 presidential primary election, that were filed by the following:

(a) Newt Gingrich

(b) Jon Huntsman

- (c) Fred Karger
- (d) Ron Paul
- (e) Rick Perry
- (f) Buddy Roemer
- (g) Mitt Romney
- (h) Rick Santorum
- (i) Barack Obama

If all or any part of this request is denied, I request that I be provided with a written statement of the grounds for the denial. If you determine that some portions of the requested records are exempt from disclosure, please provide me with the portions that can be disclosed.

Please advise me as to the cost, if any, for inspecting the records described above. I anticipate that I will want copies of some or all of the records sought. If you have adopted a fee schedule for obtaining copies of records and other rules or regulations implementing the Act, please send me a copy.

I look forward to receiving disclosable records promptly and, in any event, to a decision about all of the requested records within 30 days. Thank you for your cooperation. If you have any questions regarding this request, please telephone me at the number below.

Sincerely,

Tracy Fair
Registered Maryland Voter
19 W. Obrecht Rd.
Sykesville, MD. 21784
410-552-5907