

IN THE COURT OF APPEALS OF THE STATE OF OREGON

MARK PORTER AND OUR PRIMARY VOICE,
Plaintiffs-Appellants,

v.

TOBIAS READ, Secretary of State of the State of Oregon and
THE STATE OF OREGON,
Defendants-Respondents.

Marion County Circuit Court
25CV38061

A190160

AMICUS CURIAE BRIEF OF OPEN PRIMARIES INC.

Appeal from the General Judgment of the Circuit Court for Marion County
Honorable Natasha A. Zimmerman, Judge

Drew L. Eyman, OSB No. 163762
Snell & Wilmer L.L.P.
601 SW Second Avenue, Suite 2000
Portland, Oregon 97204-3229
503.624.6800
deyman@swlaw.com
*Attorneys for Amicus Curiae
Open Primaries Inc.*

Robert Koch, OSB No. 072004
robert.a.koch@doj.oregon.gov
Oregon Department of Justice
1162 Court Street NE
Salem, Oregon 97301
503.378.4402
Attorney for Respondents

Aaron Landau, OSB No. 094135
Miller Nash LLP
1140 SW Washington Street, Suite 700
Portland, Oregon 97205
503.224.5858
aaron.landau@millernash.com

C. Robert Steringer, OSB No. 983514
April M. Stone, OSB No. 200937
Dunn Carney Allen Higgins &
Tongue LLP
851 SW 6th Avenue, Suite 1500
Portland, Oregon 97201
503.224.6440
BSteringer@DunnCarney.com
AStone@DunnCarney.com
*Attorneys for Appellants
Mark Porter and Our Primary Voice*

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INTRODUCTION

Open Primaries Inc. (“Open Primaries”) is a national nonpartisan organization dedicated to ensuring that every voter, regardless of political affiliation, has an equal and meaningful vote in every stage of the publicly funded election process. Open Primaries represents 7,702 independent supporters who are residents of Oregon and directly impacted by the Court’s decision.

Open Primaries has supported similar challenges in *Polelle v. Byrd*, 146 S Ct 298, 223 (2025), *Bryson, et al. v. Moore, et al.*, No. ACM-REG-2152-2025 (Md App Ct); *Chavez v. Oliver*, No. S-1-SC-37371 (NM Sup Ct Nov. 13, 2018); *Smerconish, et al s. v. Commonwealth of Pa., et al.*, 69 EM 2025 (Penn Sup Ct); and *Malcom, et al. v. Gray*, No. 2024-CV-0202658 (Wyo Dist Ct), reflecting a nationwide movement of litigation aimed at ending the exclusion of independent voters from decisive elections.¹

ARGUMENT

I. PRIMARIES ARE PUBLIC ELECTIONS, NOT PRIVATE ORGANIZATIONAL ACTIVITIES.

The core question before this court is simple: Does the right to participate in an integral stage of Oregon’s electoral process derive from citizenship or

¹ Open Primaries recognizes that Oregon, uniquely, has an Independent Party. Our reference to “independent” voters includes all voters who are not registered with or otherwise affiliated with a political party.

from membership in a political party?

Opponents of open primaries often contend that closed primary systems merely reflect the associational rights of political parties and that independent voters may participate simply by joining a party. That argument fundamentally mischaracterizes the nature of Oregon’s primary elections. Oregon’s primaries are not private organizational meetings. They are publicly funded, publicly administered, and legally regulated elections conducted by the State of Oregon to determine who may appear on the general election ballot and ultimately hold public office. The constitutional significance of that distinction cannot be overstated.

A. Primary elections have long been recognized as elections under federal and state law.

Congress has expressly defined primary elections as elections. The Federal Election Campaign Act provides that the term “election” includes “a general, special, primary, or runoff election[.]” 52 USC § 30101(1)(A). Federal campaign finance law is built upon this premise. Contribution limits, disclosure requirements, expenditure regulations, and presidential nomination rules all treat primary elections as elections in every meaningful sense.

The Supreme Court has consistently done the same. In *Buckley v. Valeo*, 424 US 1 (1976), the Court described federal contribution limits that apply separately to primary and general elections, recognizing both as distinct

government elections within a single electoral cycle. Likewise, in *McCutcheon v. Fed. Election Comm'n*, 572 US 185, 193-95 (2014), the Court observed that federal law permits separate contributions for a candidate's primary and general election campaigns because each constitutes a separate election under federal law.

No court has suggested that primaries are somehow not elections. To the contrary, the entire structure of American election law presumes that primary elections serve as the first round of elections in any election year. That understanding is particularly appropriate in Oregon, where primary elections are conducted pursuant to state law, administered by public officials, funded by taxpayers, and used to select candidates for public office.

B. Primary elections are administered by the state – identical in all respects to the general election.

Primary elections are created by statute. They are administered by the Secretary of State and government workers using public funds provided by taxpayers, including taxpayers barred from voting in these elections. The State has integrated the primary into the official process by which public officials are selected. The experience of a voter in a primary election and in a general election are identical.

These facts distinguish primary elections from genuinely private associational activities. Political parties are free to hold conventions, caucuses,

endorsement meetings, and internal governance proceedings. Those activities are private. Closed primary elections are not.

When the State uses its sovereign power to administer an election that determines who may advance toward public office, constitutional protections attach. The United States Supreme Court has repeatedly recognized this principle. In *United States v. Classic*, 313 US 299, 318 (1941), the Court held that constitutional protections apply when a primary constitutes “an integral part of the procedure of choice” of public officials. In *Smith v. Allwright*, 321 US 649, 664-65 (1944), the Court rejected the argument that a party primary was a private affair, holding that exclusion from a state-regulated primary election constituted unconstitutional state action. In *Terry v. Adams*, 345 US 461, 469-70 (1953), the Court likewise invalidated a process that effectively determined electoral outcomes while excluding portions of the electorate.

The Court has continued to recognize this principle in modern election law. In *Morse v. Republican Party of Virginia*, 517 US 186 (1996), the Court held that a political party’s nomination convention was subject to federal voting-rights protections because the nomination process was an integral component of Virginia’s system for selecting candidates for public office. The Court explained that when a State delegates authority to political parties to perform functions that determine access to the ballot and public office, those functions become part of the electoral process itself rather than purely private

associational activity. *Id.* at 205-16. Thus, even where political parties exercise substantial influence over nominations, the constitutional and statutory protections governing elections do not disappear simply because a party participates in the process.

The common principle running through these decisions is clear: when a state delegates or incorporates a critical stage of the electoral process into the machinery of government, the constitutional rights of voters cannot be disregarded.

C. Closed primary systems exclude citizens from a public election.

Closed primary systems prevent millions of independent voters from participating in the publicly administered process by which candidates are selected. These voters are not outsiders. They are citizens otherwise qualified to vote. They pay taxes that fund the primary election. They are subject to the laws enacted by the officials chosen through that process. Yet they are denied participation because they decline to affiliate with a political party. Respondents argued in the trial court that such voters may simply join a party. But the constitutional injury arises from that very requirement.

The Constitution protects not only the freedom to associate but also the freedom not to associate. Citizens cannot be compelled to join a private political organization – one whose values they do not share – as a condition of exercising fundamental rights. The State may not force voters to surrender one

constitutional liberty in order to exercise another. A voter's right to meaningful participation in the electoral process derives from citizenship, not party membership.

D. The practical importance of primary elections makes exclusion particularly severe.

The constitutional burden imposed by closed primary systems cannot be assessed in the abstract. It must be examined in light of contemporary political realities. Those contemporary realities include the dramatic growth of voters who choose not to affiliate with either major political party. In Oregon, more than one million registered voters are unaffiliated with a political party – making them the largest bloc of registered voters in the state. Or Sec of State, Elections Div, *Voter Registration by County* (April 2026).² Nationally, voters identifying as independents now constitute the largest political constituency in the country, with recent polling showing that nearly half of Americans identify as independent rather than Democratic or Republican. *CNN Poll: Nearly Half of Americans Don't Consider Themselves Democrats or Republicans*, CNN (June 16, 2026).³ Independent identity is not simply aspirational. Registered independent voters are the largest or second largest group of registered voters in almost every state. Jeremy Gruber & John Opdycke, *The Next Great Migration:*

² <https://sos.oregon.gov/elections/Documents/registration/2026-April.pdf>

³ <https://www.cnn.com/2026/06/16/politics/cnn-poll-political-parties-independent-democrats-republicans>

The Rise of Independent Voters, Open Primaries Education Fund 20 (2020).⁴

The constitutional burden imposed by closed primaries therefore falls on an increasingly large share of the electorate.

In many legislative districts throughout Oregon, the outcome of the general election is effectively predetermined. Many races are either uncompetitive or outright uncontested. The decisive contest occurs during the primary election. Once a candidate wins a primary election, success in the November general election is often guaranteed.

Under such circumstances, exclusion from the primary means exclusion from the stage of the election process that frequently determines who will govern. For independents, the practical consequence is disenfranchisement from a critical component of the public electoral process.

The State cannot evade constitutional scrutiny by labeling such an election a “party primary” when the election is conducted by public officials, financed with public funds, and functions as an integral stage in the selection of public officeholders.

⁴ https://openprimarieseducationfund.org/wp-content/uploads/2022/01/ROI_Report_R1-1-min.pdf. Jeremy Gruber, Senior Vice President of amicus curiae Open Primaries, who is not admitted to practice law in Oregon and is not appearing as counsel in this matter, assisted undersigned counsel with research and drafting for this brief under counsel’s supervision.

E. States can protect party interests through less restrictive means than closed primaries.

Recognizing the rights of independent voters would not require Oregon to abolish political parties or disregard legitimate associational interests.

Thirty-six states throughout the nation already employ a wide variety of nomination systems, including open primaries, semi-open primaries, nonpartisan primaries, and top-two systems. These approaches permit broad voter participation while preserving party activity.

The existence of these alternatives demonstrates that Oregon's exclusion of independent voters is not necessary to protect any compelling governmental interest.

F. This case concerns the rights of voters, not the internal affairs of political parties.

A central error of many adherents of closed primaries is their reliance on cases addressing political parties' associational rights while ignoring the distinct rights of individual voters.

Proponents of primary reform, including Open Primaries, do not seek to dictate party platforms, leadership, endorsements, or membership rules. They challenge the State's decision to condition participation in a publicly funded and publicly administered election on membership in a private political organization. That question is fundamentally different from those addressed in prior party-association cases.

The issue before this Court is whether Oregon may exclude over a million citizens from a critical stage of the electoral process solely because they choose not to affiliate with a political party. Because primary elections are public elections, conducted through the authority and resources of the State, the rights of voters-not merely the preferences of political parties-must remain the primary constitutional concern in a democracy.

G. Oregon’s constitution treats elections as public institutions of democratic self-government.

The Oregon Constitution does not view elections as private associational exercises. Rather, it repeatedly treats elections as governmental institutions through which the people exercise sovereign authority.

Article II, section 1, provides that “[a]ll elections shall be free and equal.” Or Const Art II, § 1. That command is directed to public elections administered by the State and reflects Oregon’s longstanding constitutional commitment to electoral participation as belonging to the people collectively rather than to private organizations.

The Oregon Supreme Court has recognized that the “free and equal” clause protects the integrity and accessibility of elections as mechanisms of democratic governance. *Libertarian Party of Oregon v. Roberts*, 305 Or 238, 248 (1988). The clause embodies the principle that electoral processes established by the State must operate for the benefit of the electorate as a whole.

Primary elections fall squarely within that constitutional framework. They are established by state law, conducted by state officials, financed by public resources, and used to determine which candidates may appear on the general-election ballot. Having incorporated primaries into the official electoral machinery of government, Oregon cannot plausibly characterize them as merely private associational activities.

H. The Supreme Court has repeatedly held that constitutional protections apply to every integral stage of the electoral process.

The Supreme Court’s election-law jurisprudence consistently rejects attempts to separate candidate-selection processes from constitutional scrutiny. In *United States v. Classic*, 313 US 299 (1941), the Court held that constitutional voting protections extend to a primary election whenever the primary is “an integral part of the procedure of choice” by which public officials are selected. *Id.* at 318.

The Court expanded that principle in *Smith v. Allwright*, 321 US 649 (1944), holding that Texas could not evade constitutional constraints by characterizing a state-regulated primary as an internal party affair. Because the State had made the primary an essential component of its electoral system, exclusion of voters constituted state action subject to constitutional review. *Id.* at 664-65.

The same reasoning animated *Terry v. Adams*, 345 US 461 (1953), where

the Court invalidated an ostensibly private pre-primary process because it effectively determined electoral outcomes. Constitutional protections applied not because the process was formally governmental but because it functioned as a decisive stage in the selection of public officials. *Id.* at 469-70.

Together, these decisions establish a functional rule: when a process substantially determines access to public office, constitutional protections attach regardless of efforts to characterize the process as private.

I. A requirement to join a private political party imposes an unconstitutional condition on the exercise of voting rights.

Proponents of closed primaries argue that independent voters remain free to participate if they register with a political party. But that argument merely restates the burden rather than answering it.

The Supreme Court has long recognized that the government may not condition the exercise of one constitutional right upon the surrender of another. *See, e.g., Perry v. Sindermann*, 408 US 593, 597 (1972); *Koontz v. St. Johns River Water Management District*, 570 US 595, 604 (2013). The First Amendment protects both the right to associate and the right not to associate. *Roberts v. U.S. Jaycees*, 468 US 609, 623 (1984); *Janus v. Am. Fed’n of State, Cnty., & Mun. Employees, Council 31*, 585 US 878, 892-93 (2018). The freedom not to join a political organization is no less protected than the freedom to join one.

Closed primaries condition participation in a publicly administered election upon affiliation with a private political organization. For hundreds of thousands of voters, the State thus requires a choice between maintaining political independence and participating in the election that frequently determines who will hold public office. Such a condition implicates both voting rights and associational freedom simultaneously.

J. This Court should distinguish cases protecting party associational rights.

Closed primary defenders rely heavily upon decisions such as *Tashjian v. Republican Party of Connecticut*, 479 US 208 (1986); *California Democratic Party v. Jones*, 530 US 567 (2000); and *Clingman v. Beaver*, 544 US 581 (2005).

Those cases do not control here. Each involved the extent to which a political party could control participation in its nomination process. None involved a challenge brought by excluded voters asserting that the State's electoral structure unjustifiably denied them participation in a publicly funded election.

Indeed, those decisions presuppose that a State may structure primaries in various ways and focus principally on whether particular rules burden party autonomy. They do not hold that party associational interests automatically override all competing constitutional interests of voters. Nor do they suggest

that once the State creates and administers an election, the rights of non-party voters become constitutionally irrelevant.

This case therefore presents a distinct question: whether the Oregon legislature may exclude a substantial portion of its constitutionally-qualified electorate from participation in a state-run election that functions as a critical stage of the process for selecting public officials.

II. THE HISTORICAL ORIGIN OF PRIMARY ELECTIONS CONFIRM THEIR PURPOSE: TO EXPAND VOTER ACCESS AND CONSTRAIN PARTY CONTROL.

A century ago, the selection of candidates for public office occurred largely outside the control of voters. Decisions were typically made through party conventions, caucuses, and closed internal negotiations dominated by unelected party leaders and political machines. In many jurisdictions, organizations such as Tammany Hall exercised decisive control, allocating patronage and determining candidates with minimal public input. Martin Shefter, *Political Parties and the State: The American Historical Experience* 23–58 (1994). Contemporary observers widely criticized this system as susceptible to corruption and inconsistent with democratic accountability. *Id.*

As Senator Robert L. Owen has explained, the pre-primary system “had been corrupted by intrigue and bribery * * * by buying votes, by trading votes, by promising offices and future advantages, and by other secret and devious methods, an organized and unscrupulous few could easily and cheaply

circumvent the unorganized and frequently unsuspecting * * * with the result that the general public was cheated out of its right to select representatives who would serve the common welfare.” *Direct Primaries Defended by Owen*, N.Y. TIMES, June 28, 1927, at 14. This critique reflected a broader Progressive Era diagnosis: that party organizations had displaced the electorate as the operative decision-maker in candidate selection. James W. Ceaser, *Presidential Selection: Theory and Development* 88–130 (1979).

The direct primary emerged in response to this democratic deficit. As part of a broader reform agenda – including the initiative, referendum, recall, and direct election of senators – the primary was designed to transfer control over candidate selection from party insiders to ordinary voters and to dismantle machine control over electoral access. Wisconsin’s early adoption of the direct primary under Governor Robert La Follette became a national model, and by the early twentieth century, most states had adopted some form of direct primary system. *Id.*; *Id.* at 201–230.

Crucially, this reform was not initiated by political parties themselves. To the contrary, party organizations historically relied on conventions and internal structures to maintain control over candidates and enforce discipline. Direct primaries displaced these mechanisms and were widely resisted by the leadership of both the Democratic and Republican parties on the ground that they weakened party cohesion and reduced organizational control.

Shefter, *supra*, at 98–132. The primary system thus originated as a statutory and structural limitation imposed upon parties, not as an extension of party autonomy.

A. The primary evolved into the nation’s principal public mechanism for selecting candidates.

Although initially opposed, primary elections became increasingly institutionalized throughout the twentieth century. As states adopted primary systems, party organizations were compelled to operate within them and gradually adapted their strategies accordingly. John H. Aldrich, *Why Parties?: A Second Look* 19–44 (2011). Nevertheless, for much of the twentieth century, presidential nominations remained substantially insulated from direct voter control, with party conventions and insider-controlled delegate selection processes continuing to play a determinative role. Nelson W. Polsby, *Consequences of Party Reform* 1–25 (1983).

This hybrid structure persisted until the late 1960s, when tensions between primary results and convention outcomes exposed fundamental legitimacy concerns in the candidate selection process. The 1968 Democratic National Convention in Chicago marked a decisive inflection point. Vice President Hubert Humphrey secured the Democratic presidential nomination without competing in a single presidential primary, relying instead on convention delegates aligned with party leadership. Ceaser, *supra*, at 201-30.

This outcome occurred amid intense national division over the Vietnam War and widespread perception that party elites were insulated from voter preferences expressed in primary elections.

The convention, coupled with public protests and intra-party conflict, produced a legitimacy crisis for the candidate selection process and for party governance more broadly. In response, the Democratic Party established the McGovern–Fraser Commission, which concluded that existing delegate selection procedures were overly centralized and insufficiently participatory. The Commission mandated reforms requiring greater transparency, expanded participation, and increased reliance on binding presidential primaries.

Because primary administration is governed largely by state law, these reforms rapidly diffused across both major parties. By the 1970s, presidential primaries had become the dominant mechanism for selecting nominees nationwide.

B. Modern restrictions on voter participation are irreconcilable with the primary’s original democratic purpose.

At the time of the adoption of the direct primary, the American party system was structurally stable and overwhelmingly binary. Almost all voters were registered with the two major parties. Therefore, it was never contemplated in any debate that the direct primary could be used to shut voters out. Aldrich, *supra*, at 19-44. The historical record therefore suggests that

reformers designing the direct primary assumed an electorate in which party membership was the ordinary and expected condition of political participation, rather than anticipating a durable and expansive class of independent voters outside the two-party system. Ceaser, *supra*, at 88-130.

Today, both major parties in numerous states, including Oregon, restrict participation in publicly administered primary elections to registered party members, excluding independent voters from the decisive stage of candidate selection. This development reflects a structural reversal of the original justification for the primary system. The direct primary was created as a statutory constraint on party control and as a mechanism to expand democratic participation to the electorate at large, rather than to impose party registration as a prerequisite for participation. *Id.*; Polsby, *supra*, at 1-25.

Contemporary restrictions that exclude independent voters from participation in taxpayer-funded primary elections therefore sit in tension with the original objective driving reformers – to dismantle party control over candidates and expand democratic access to the selection process. Shefter, *supra*, at 98-132; Marty Cohen et al., *The Party Decides: Presidential Nominations Before and After Reform* 3–18 (2008).

The historical record therefore complicates any assumption that closed primaries represent the natural or original allocation of authority between parties, voters, and the state. Rather, the primary system itself was created as a

public-law intervention designed to limit party monopolization of ballot access. Its subsequent evolution reflects a dynamic process of institutional adaptation in which parties have reasserted influence within the constraints of a reform initially designed to diminish their power.

Accordingly, the relevant constitutional inquiry should not be limited to the scope of party associational rights in the abstract. It also implicates whether contemporary primary regulations remain consistent with the structural democratic purposes that justified the creation of the primary system in the first place.

**III. A FINDING THAT CLOSED PRIMARIES
UNCONSTITUTIONALLY EXCLUDE INDEPENDENT VOTERS
WOULD NOT REQUIRE THIS COURT TO PRESCRIBE ANY
PARTICULAR ELECTION SYSTEM.**

If this Court concludes that Oregon's closed primary system impermissibly burdens the rights of independent voters, such a ruling would not compel the adoption of any particular election structure. Nor would it require the Court to become entangled in questions of election administration or partisan design. The experience of states across the country demonstrates that there are numerous established, workable, and constitutionally permissible methods for conducting primary elections that protect party integrity and associational rights while ensuring that independent voters are not excluded from meaningful participation in the electoral process.

This point is significant. Defendants might suggest that invalidating the exclusion of unaffiliated voters would leave Oregon without a workable means of conducting elections or would substantially disrupt the State's electoral framework. The opposite is true. Thirty-six states – the overwhelming majority of states – have adopted systems that permit participation by voters who choose not to affiliate with a political party. Those states continue to conduct orderly elections, protect legitimate party interests, and provide voters with clear and meaningful opportunities to participate in candidate selection.

Indeed, the variety of systems currently employed throughout the United States demonstrates that there is no single constitutionally required model of primary elections. States have long exercised broad discretion in structuring primary elections. What they have not uniformly done is exclude a large and growing class of voters from participation altogether.

Today, only a minority of states maintain fully closed partisan primaries in which participation is restricted exclusively to registered party members. Under such systems, independent voters are barred from participating in the election that frequently determines who will ultimately hold public office. Oregon remains among this shrinking group of states.

As explained below, the alternatives available to Oregon are numerous.

A. Open partisan primaries.

Many states preserve partisan primary elections while permitting

independent voters to participate in the primary process.

Under one common model, voters registered with a political party vote only in their own party's primary, while unaffiliated voters may choose which major-party primary to participate in. Arizona, Colorado, Iowa, Kansas, Massachusetts, New Hampshire, New Mexico, Rhode Island, Maine, and Louisiana employ variations of this model.

Other states dispense with party registration altogether. In those jurisdictions, every voter may choose on election day which party's ballot to cast. States with this model include Alabama, Arkansas, Georgia, Hawaii, Illinois, Indiana, Michigan, Minnesota, Mississippi, Missouri, Montana, North Carolina, *North Dakota (no voter registration), Ohio, South Carolina, Tennessee, Texas, Vermont, Virginia, and Wisconsin have successfully administered such systems for decades.

These models demonstrate that states can preserve partisan primary elections while ensuring that voters who decline party affiliation are not wholly excluded from a critical stage of the electoral process.

B. Nonpartisan top-two primary systems

Several states have replaced party-specific primaries with a single nonpartisan primary election open to all voters. In California and Washington, all candidates appear on the same ballot, regardless of party affiliation. Every voter may participate and vote for any candidate. The two candidates receiving

the highest number of votes advance to the general election. This approach eliminates the exclusion of independent voters entirely while preserving the State's interest in narrowing the field of candidates before the general election.

C. Nonpartisan primary systems without party labels

Nebraska employs a nonpartisan primary system for state legislative elections in which all candidates appear on a common ballot without party designation. Similar systems are used extensively in municipal elections across the nation, including elections for mayor, city council, county offices, and judgeships. These systems further demonstrate that candidate-selection processes can function effectively without restricting participation based on party registration.

D. Top-four primary systems coupled with ranked-choice voting

Alaska has adopted a nonpartisan top-four primary system. All candidates compete in a single primary election open to every voter. The four candidates receiving the highest number of votes advance to the general election, where ranked-choice voting is used to determine the winner.

Whether or not Oregon were ever to adopt such a system is beside the point. Its successful operation illustrates yet another method by which a state may preserve robust electoral competition without excluding independent voters from participation.

E. Majority-vote runoff systems

Some jurisdictions have eliminated separate primary elections altogether. Under these systems, all candidates compete on a common ballot. If no candidate receives a majority of the vote, a runoff election is conducted between the leading candidates.

Louisiana has long employed a version of this approach for statewide elections. Such systems provide yet another example of how states can conduct elections without conditioning participation on party affiliation.

F. The existence of numerous alternatives demonstrates that exclusion is not necessary to advance any legitimate state interest.

The constitutional significance of these alternatives lies not in their individual merits, but in their collective existence. Together, they demonstrate that excluding independent voters is not an indispensable feature of democratic elections, nor is it necessary to protect ballot integrity, facilitate candidate selection, prevent voter confusion, or preserve orderly election administration.

States employing open partisan primaries, nonpartisan primaries, top-two systems, top-four systems, and runoff elections have successfully advanced those interests without denying participation to independent voters. Political parties continue to engage and even thrive in all aspects of protected associational activity as well. The widespread use of these alternatives confirms that less restrictive means are readily available.

Accordingly, if this Court concludes that Oregon's current system impermissibly burdens the rights of independent voters, it need not identify or mandate a specific replacement. The task of selecting among the many available alternatives would remain with the political branches. The Court would merely recognize a constitutional principle already reflected in much of the Nation's election practice: that millions of voters who choose not to affiliate with a political party cannot be categorically excluded from meaningful participation in the public election process.

CONCLUSION

For these reasons, this Court should conclude that Oregon's closed primary system violates Article II, section 2 of the Oregon Constitution.

Dated: July 14, 2026

SNELL & WILMER LLP

s/ Drew L. Eyman

Drew L. Eyman, OSB No. 163762

*Attorneys for Amicus Curiae
Open Primaries Inc.*

**CERTIFICATE OF COMPLIANCE
WITH BRIEF LENGTH AND TYPE SIZE REQUIREMENTS**

I certify that this brief complies with the word count limitation in ORAP 5.05(1)(b)(ii)(A), with a count of 4,564 words.

I certify that font size of the type in this brief is Times New Roman 14-point for both the text of the brief and footnotes, as required by ORAP 5.05(3)(b)(ii).

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I certify that on July 14, 2026, I filed the foregoing brief by causing it to be electronically filed with the Appellate Court Administrator through the appellate courts' eFiling system.

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I certify that service of a copy of the foregoing brief will be accomplished on all parties of record in this case by the appellate courts' eFiling system at the participant's email address as recorded on July 14, 2026 in the appellate eFiling system, and email.

Robert Koch, OSB No. 072004
Oregon Department of Justice
1162 Court Street NE
Salem, Oregon 97301
robert.a.koch@doj.oregon.gov
Attorney for Respondents

Aaron Landau
Miller Nash LLP
1140 SW Washington Street, Suite 700
Portland, Oregon 97205
aaron.landau@millernash.com

C. Robert Steringer
April M. Stone
Dunn Carney Allen Higgins & Tongue LLP
851 SW 6th Avenue, Suite 1500
Portland, Oregon 97201
BSteringer@DunnCarney.com
AStone@DunnCarney.com
Attorneys for Appellants
Mark Porter and Our Primary Voice

s/ Drew L. Eyman

Drew L. Eyman, OSB No. 163762