

Uh Oh... More Bad News for Democrats: Biden Cannot be Replaced on Ballot in Three Swing States, Except for Death or 25th Amendment

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The Democratic Party is facing a potential crisis. Following Joe Biden's disastrous debate performance against Donald Trump, concerns about his fitness to serve have intensified.

The debate has left the party in a state of panic, with whispers of Biden stepping down becoming louder.

It has always been the plan from the start, which is why they scheduled the debate for this year unusually early.

[Daily Mail](#) reported:

According to Democratic bigwig, Obama campaign guru David Axelrod, the Biden team scheduled one of the earliest presidential debates in history (June 27 on CNN) to prove to naysayers that Joe's not going anywhere.

But the gambit carries tremendous risk.

While an efficient debate performance by Biden could help rally Democrats behind him – a significant misstep would only stoke more replacement chatter.

Former Clinton advisor and polling expert Mark Penn suggested the CNN debate will be Biden's last chance to reassure voters he's fit for the job.

Now DailyMail.com has learned that if Joe stumbles in that first face-off with Trump or if his polling numbers keep falling, it'll take a united front of the liberal grandees to make Joe throw in the towel.

'The only people who could force him out would be Barack Obama, Bill Clinton, Nancy Pelosi and Chuck Schumer,' one Democratic strategist told DailyMail.com. 'It would have to be the four of them collectively.'

And the process would be high risk.

However, there is another potential complication. Biden could stubbornly refuse to step down and continue his campaign until Election Day.

If Biden refuses to step down, it would put the Democratic Party in a difficult position. They would have to contend not only with a stubborn incumbent but also with potential backlash from leftists if Kamala Harris is passed over for the nomination.

"That person would not be Vice President Kamala Harris, according to sources, who observed that Harris has already had to fend off a push to replace her on the ticket," Daily Mail reported.

"Strategists theorize that Democrats would have to hold a public event to symbolically transfer power to the new candidate. Biden, Obama, Clinton, Schumer, and Pelosi would publicly introduce and endorse the anointed nominee," the news outlet added.

The Gateway Pundit reported that former White House Press Secretary Kayleigh McEnany dropped a bombshell report concerning the current state of the Biden campaign.

McEnany quoted a post from Doug Kass, a hedge fund owner and prominent figure within the Democratic party, who claimed to have insider knowledge about a meeting taking place between President Joe Biden, his former Chief of Staff Ron Klain, and former President Barack Obama.

According to Kass's post, Jill Biden is insistent about Joe Biden running for re-election, causing tension within his own campaign. Kamala Harris is reportedly "furious" that she is not being considered as a potential replacement candidate.

"What I am hearing regarding Joe Biden. Ron Klain and Barack Obama are having a sit down with the President today. Jill Biden is insistent that Joe runs. Kamala is furious that she is not being considered as a replacement (Whitmer and Newsom are). Interestingly my neighbor in East Hampton is hosting the Bidens tomorrow. It will be an important tell if the fundraiser is cancelled," Doug Cass wrote on X.

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However, it may already be too late to remove Joe Biden from the ballot. The Heritage Foundation's Oversight Project is gearing up for a counter-fight should Democrats attempt to pull Biden off the top of the ticket, the Daily Mail reported.

"We are monitoring the calls from across the country for President Biden to step aside, either now or before the election, and have concluded that the process for substitution and withdrawal is very complicated. We will remain vigilant that appropriate election integrity procedures are followed," said Mike Howell, Executive Director of The Heritage Foundation's Oversight Project.

The Heritage Oversight Project has identified three swing states – **Georgia, Nevada and Wisconsin** – where they believe removing Biden from the Democratic ticket would prevent anyone else from replacing him.

Wisconsin does not allow withdrawal from the ballot for any reason besides death, while in Nevada, no changes can be made to the ballot after 5 p.m. on the fourth Friday in June of an election year unless 'a nominee dies or is adjudicated insane or mentally incompetent.' In Georgia, if Biden were to withdraw less than 60 days before the election, his name would remain on the ballot but no votes would be counted.

According to a draft from The Heritage Oversight Project obtained by the Daily Mail:

Three of the expected six most contested states have some potential for pre-election litigation aimed at exasperating, with legitimate concerns for election integrity, the withdrawal process for a presidential candidate.

GA, NV, and WI, have specific procedures for withdrawal of a presidential nominee with differing degrees of applicability and timelines.’ WI does not allow withdrawal for any reason besides death.”

Important caveats include the timeline and triggering events. For example, some states allow withdrawal before the 74th day before an election,’ and failure to adhere to these timelines can result in the candidate’s name remaining on the ballot! (which provides its own corollary of post-election litigation). Likewise, the rationale for withdrawal (death, medical, or other) can be outcome determinative. Some states, like South Carolina, do not allow withdrawal for political reasons.’

There is also the possibility that states will be complicit in an improper withdrawal or substitution. The general scenario plays out after an election where the candidate dies, and the electors are left to choose who they are voting for. This circumstance is only applicable at the close of the election year there is greater uncertainty if the withdrawal happens before the election.

Should the Democrats choose to withdraw in June or July, after many states’ withdrawal timelines expire, what happens to those expired ballots? Or if done earlier, in April or May, how would that effect the withdrawal process? The answer is it depends.

Much will come down to when Biden withdraws, what procedures he does or does not follow, and the operating state law timelines and triggering events. However, at least 31 states defer to state or national party rules and committees for nominating in the event of withdrawal. These states circumvent the substitution process highlighted above. There may be some avenues for challenges to these laws on improper delegation grounds, however, these may be marginally beneficial.

There is also the issue of applicability. In some of these states there are no statutes that deal with presidential candidate withdrawal or vacancy in nominations, or the laws only operate at the primary election. Even more, there is little caselaw determining when these statutes apply.

Some of the extant cases do address applying these withdrawal statutes to different fact patterns than those contemplated by the statutory text, such as withdrawal of independent presidential candidates or congressional candidates. Yet, this confusion may be its own source of litigation. Arguing for strict application of a statute, like Wisconsin’s which prohibits withdrawal except in the case of death, would likely bear some fruit.

This memorandum does not address the procedures for presidential elector elections.

Additionally, it is outside the scope of this current research to assess different rules for political parties, national and state. Standing and other jurisdictional considerations, such as cause of action (implied or otherwise), are also outside the scope of this project. Further research can easily shore up these deficiencies.

CONCLUSION

Policymakers and the public should be prepared for all externalities that arise from President Biden not running for President in 2024. The process for substitution and withdrawal presents many election integrity issues. Adherence to the law in some states may result in that process being unsuccessful for the purposes of another candidate being on the ballot.