UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Democrats for an Informed Approach to Gender (DIAG), *Plaintiff*, v. **Alexi Giannoulias**, in his official capacity as Illinois Secretary of State, *Defendant*.	Civil Action No. 1:26-cv-00894 Hon. Steven C. Seeger Oral argument requested

DIAG'S PRELIMINARY INJUNCTION MOTION

Plaintiff Democrats for an Informed Approach to Gender (DIAG), pursuant to Federal Rule of Civil Procedure 65, respectfully moves this Court for a preliminary injunction ordering Illinois Secretary of State Alexi Giannoulias to allow DIAG to conduct affairs in Illinois and enjoining him from enforcing the Party Name Provision, 805 ILCS 105/104.05(a)(6). The Party Name Provision violates the First and Fourteenth Amendments because it is an unconstitutional content-based restriction on protected speech and because it is an unconstitutional prior restraint. This motion is supported by the accompanying memorandum, this case's complaint and all other papers filed in this action, and all other arguments counsel provided to this Court before and at any hearing on this motion.

DIAG requests oral argument on this motion because of the important constitutional issues involved.

Dated: January 27, 2026

Respectfully submitted,

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MEMORANDUM SUPPORTING DIAG'S PRELIMINARY INJUNCTION MOTION

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INTRODUCTION

By granting existing political parties a monopoly on certain words and barring other nonprofits from using them in their names unless the party consents, 805 ILCS 105/104.05(a)(6), Illinois's Party Name Provision, unconstitutionally prevents nonprofits from exercising First Amendment rights. The law singles out terms like "democrat" and "republican" and, if the historically associated political party withholds consent, denies the nonprofit the ability to register with the state, thereby prohibiting it from exercising First Amendment rights—including soliciting charitable contributions, which the Supreme Court has placed "in a category of speech close to the heart of the First Amendment," *Gresham v. Peterson*, 225 F.3d 899, 904 (7th Cir. 2000) (citing *Village of Schaumburg v. Citizens for a Better Env't*, 444 U.S. 620, 632 (1980)). By impermissibly conditioning this speech on the approval of a third party—which, as in the case here, may have ideological or political reasons for withholding consent—the Party Name Provision violates the First Amendment.

Illinois's Secretary of State has twice enforced the Party Name Provision against Plaintiff Democrats for an Informed Approach to Gender (DIAG), an advocacy group consisting of current and former Democratic Party members who oppose the party's current views on gender-identity issues. To support its advocacy, DIAG wants to solicit charitable contributions in Illinois but cannot do so because the Party Name Provision requires DIAG to obtain permission from the Illinois Democratic Party, the precise entity that DIAG opposes. The First Amendment forbids such censorship, and this Court should preliminarily enjoin the Secretary from enforcing the Party Name Provision and continuing to withhold DIAG's registration.

STATEMENT OF FACTS

A. DIAG organizes against the Democratic Party's gender position and wants to solicit charitable contributions in Illinois.

DIAG is a California-incorporated nonprofit comprising "Democrats, or now politically homeless former Democrats," who believe that "[o]ver the past 10 years, under the guise of kindness, gender ideology has hijacked the gay rights movement, falsely fashioned itself into the civil rights issue of our time, and led our party wildly astray." Verified Civil Rights Complaint (Compl.) ¶ 12. DIAG works to "end ideology-driven medicine and sex-denialism," "guid[e] [its] fellow liberals back to reality and reason," "expose[] ideologically-driven medical abuse," "mobilize[] dissenting Democrats," "promote[] free speech and civil discourse," "advocate[] for those harmed by the regressive 'gender' movement," "support[] the protection of female-only spaces, sports, honors, and opportunities," and "hold[] accountable clinicians, lawmakers, institutions, influencers, and media for misleading the public, harming healthy bodies, undermining women's rights, and destabilizing families." Compl. ¶ 13.

To advance its mission and political views across the country, DIAG solicits charitable contributions online, through a general solicitation webpage, social media, and emails to supporters. Compl. ¶¶ 14, 38. DIAG also speaks with supporters in person about how they can support DIAG's mission, including soliciting charitable contributions to DIAG. Compl. ¶ 39. DIAG wants to solicit charitable contributions in Illinois, including through its general solicitation webpage and in-person solicitation. Compl. ¶ 40. So that it can solicit charitable contributions in Illinois, DIAG applied to conduct affairs in Illinois. Compl. ¶ 45.

DIAG's views place it directly at odds with the Democratic Party nationally and the Democratic Party of Illinois. Compl. ¶¶ 29–36. The Democratic Party of Illinois is "commit[ted] to supporting gender-affirming care for all Illinoisans" and advocates "expand[ing] easy-to-access, culturally-sensitive gender-affirming care." Compl. ¶¶ 30–31. But DIAG is committed to the opposite, fighting against gender ideology and maintaining that gender-affirming care flouts fundamental liberal values, such as "promoting evidence-based medical care," "protecting vulnerable children and adults from predatory medical harm," and "upholding the rights of women and girls." Compl. ¶ 34.

B. The Party Name Provision requires DIAG to seek the Democratic Party's consent before soliciting charitable contributions in Illinois.

Illinois's General Not For Profit Corporation Act of 1986, which contains the Party Name Provision, requires nonprofits incorporated outside Illinois, like DIAG, to apply with the Secretary of State to conduct affairs in Illinois. 805 ILCS 105/113.05; *id.* 105/104.05(a)(6). To obtain approval, a nonprofit must comply with the Act's Party Name Provision, which imposes limitations on a nonprofit's name:

> The corporate name of [nonprofit] … [s]hall not contain the words "regular democrat," "regular democratic," "regular republican," "democrat," "democratic," or "republican," nor the name of any other established political party, unless consent to usage of such words or name is given to the corporation by the State central committee of such established political party.

Id. 105/104.05(a)(6). The failure to obtain permission from the Secretary before soliciting charitable contributions or otherwise conducting affairs in Illinois is a Class C

misdemeanor, subjecting a violator to up to 30 days in jail, a minimum fine of $75, and a maximum fine of $1,500. 805 ILCS 105/116.05(d); 730 ILCS 5/5-4.5-65.

A different statute requires organizations to additionally register with the Illinois Attorney General before soliciting charitable contributions in the state. *See* 225 ILCS 460/2. But before a foreign nonprofit can register under this statute, the Attorney General requires it to obtain permission from the Secretary of State to conduct affairs in Illinois. Charitable Org. Registration Instructions, Form CO.REG.INS para. 7 (Ill. Att'y Gen. 2024), https://perma.cc/6ECK-UNML.

C. The Secretary enforces the Party Name Provision against DIAG to prevent it from soliciting charitable contributions in Illinois.

Almost two months after DIAG applied to conduct affairs in Illinois, the Secretary rejected its application, listing several procedural deficiencies. Compl. ¶ 46. DIAG reapplied to conduct affairs in Illinois, but the Secretary again rejected its application, this time listing procedural deficiencies as well as DIAG's failure to comply with the Party Name Provision. Compl. ¶¶ 47–48. DIAG applied for a third time after correcting the procedural deficiencies, but on December 16, 2025, the Secretary denied DIAG's third application solely for failure to comply with the Party Name Provision. Compl. ¶¶ 49–52, Ex. A. Because DIAG advocates directly against what the Democratic Party of Illinois supports, DIAG also opposes having to seek permission from a private actor before exercising its First Amendment rights, not to mention the selfsame private actor whose views DIAG formed to oppose. Compl. ¶¶ 53–54.

Because of the Party Name Provision, DIAG has avoided soliciting charitable contributions in Illinois. Compl. ¶¶ 61–63. Illinois residents have visited DIAG's

website, where some have voluntarily provided their contact information and signed up to receive updates on DIAG's activities, resources to advance DIAG's mission, and opportunities to get involved in DIAG's cause. Compl. ¶ 41. DIAG usually allows any person to access the donate page on its website and to donate to support DIAG's cause. Compl. ¶ 43. But because Illinois enforced the Party Name Provision against it, DIAG has blocked Internet Protocol (IP) addresses that locate the user in Illinois to prevent DIAG from engaging in charitable solicitation in Illinois. Compl. ¶ 43. DIAG has programmed its website to divert Illinois users away from its website's donation page to another page informing those users that they cannot donate. Compl. ¶ 43. About 6% of all users who have attempted to access DIAG's donate page were redirected to a separate page because their IP address located the user in Illinois. Compl. ¶ 44.

The Party Name Provision therefore has chilled DIAG's solicitation to such an extent that DIAG, beyond avoiding actively soliciting donations from Illinois residents, has implemented measures such as IP blocking to avoid even unintentionally receiving charitable donations from Illinois residents. Compl. ¶ 62. But for the Secretary's enforcement of the Party Name Provision, DIAG would allow users in Illinois to access its donation page and donate to DIAG. Compl. ¶ 61.

DIAG leadership also speaks with supporters in person about how they can support its mission. Compl. ¶ 39. But DIAG refrains from speaking with Illinois supporters about becoming donors. Compl. ¶ 63. Because of the Party Name Provision, DIAG is refraining from soliciting charitable contributions in person from Illinois

supporters. Compl. ¶ 63. But for the Party Name Provision, DIAG would solicit charitable contributions in person from Illinois supporters. Compl. ¶ 63.

Absent this Court's intervention, the Party Name Provision will continue to violate DIAG's rights, forcing it to either self-censor its protected expression or risk prosecution. Compl. ¶ 65.

ARGUMENT

Unless this Court grants a preliminary injunction, the Secretary will continue to violate DIAG's First Amendment right to solicit charitable contributions in Illinois by withholding registration. DIAG is entitled to preliminary relief enjoining the Secretary because it is likely to succeed on the merits of its challenge to the Party Name Provision, it is suffering irreparable harm, the balance of equities favors it, and an injunction is in the public interest. *See Reps. Comm. for Freedom of the Press v. Rokita*, 147 F.4th 720, 729 (7th Cir. 2025). DIAG satisfies all these criteria because, in First Amendment cases, "the likelihood of success on the merits will often be the determinative factor," *Joelner v. Village of Wash. Park*, 378 F.3d 613, 620 (7th Cir. 2004), and the Party Name Provision is a content-based prior restraint that violates the First Amendment.

I. DIAG is likely to succeed on the merits because the Party Name Provision violates the First Amendment.

DIAG is likely to succeed on the merits of its challenge to the Party Name Provision for two separate reasons. First, the provision violates the First Amendment because it is a content-based and speaker-based speech restriction that fails strict

scrutiny. And second, the provision violates the First Amendment because it operates as an unconstitutional prior restraint.

A. The Party Name Provision violates the First Amendment because it is a content-based and speaker-based speech restriction that fails strict scrutiny.

The Party Name Provision violates the First Amendment because it discriminates based on content and speaker and cannot survive the resulting strict scrutiny. *See Sorrell v. IMS Health Inc.*, 564 U.S. 552, 571 (2011) (subjecting content- and speaker-based restrictions to heightened scrutiny). The provision is content based because it "discriminate[s] based on 'the topic discussed or the idea or message expressed.'" *City of Austin v. Reagan Nat'l Advert. of Aus., LLC*, 596 U.S. 61, 73–74 (2022) (quoting *Reed v. Town of Gilbert*, 576 U.S. 155, 171 (2015)). The Party Name Provision triggers strict scrutiny because it "singles out specific subject matter"—indeed, specific words—"for differential treatment," requiring the Secretary to treat particular political party names differently than other content. *Reed*, 576 U.S. at 169; *see also Planet Aid v. City of St. Johns*, 782 F.3d 318, 330 (6th Cir. 2015) (applying strict scrutiny to content-based restriction on charitable solicitation).

The provision also unlawfully discriminates among similarly situated speakers, allowing an established political party and nonprofits it blesses to use certain words but denying others use of those same words. Speaker-based restrictions are especially "constitutionally problematic" when, as here, they amount to a "governmental grant[] of power to private actors," "allow[ing] a single, private actor"—here, established and favored political parties—"to unilaterally silence a speaker." *Hill v. Colorado*, 530 U.S. 703, 734 n.43 (2000). The Party Name Provision is thus subject to

strict scrutiny. *See Turner Broad. Sys., Inc. v. FCC*, 512 U.S. 622, 658 (1994) (explaining speaker-based laws trigger strict scrutiny when they reflect a content preference).

Strict scrutiny is the "the most demanding test known to constitutional law." *City of Boerne v. Flores*, 521 U.S. 507, 534 (1997). It is "unforgiving because it is the standard for reviewing the direct targeting of fully protected speech." *Free Speech Coal., Inc. v. Paxton*, 606 U.S. 461, 484 (2025). Strict scrutiny is designed to enforce the bar against the government favoring certain speech and "succeeds in that purpose if and only if, as a practical matter, it is fatal in fact absent truly extraordinary circumstances." *Id.* at 485. To survive strict scrutiny, laws must serve a compelling governmental interest, be narrowly tailored to achieve the interest, and be the least restrictive means of advancing the interest. *Id.* at 469.

The Party Name Provision fails each of these requirements and thus fails strict scrutiny. To start, there is no compelling interest. Rather, any interest the state has in reserving words for established political parties relates to the suppression of free expression, which the Supreme Court has clarified is "not [a] valid, let alone [a] substantial" or compelling interest. *Moody v. NetChoice, LLC*, 603 U.S. 707, 740 (2024).

The state also cannot prove the provision is addressing an actual problem. *United States v. Playboy Ent. Grp.*, 529 U.S. 803, 822 (2000) ("The question is whether an actual problem has been proved in this case."). As a threshold matter, federal law and other states allow nonprofits to use political party names in their names without issue. *See* Compl. ¶ 14. In fact, DIAG has successfully registered as "Democrats for

an Informed Approach to Gender" with the federal government and in multiple other states. Compl. ¶ 14. There is no reason to believe Illinois is unique.

Even if the state established that the Party Name Provision furthers a compelling interest, it still fails strict scrutiny's narrow-tailoring requirement, which ensures that the provision (1) is not overinclusive, prohibiting expression that does not purportedly harm the government interest; (2) is not underinclusive, allowing expression that does purportedly harm the government interest; and (3) is the least restrictive means of addressing the government interest. *See Brown v. Ent. Merchs. Ass'n*, 564 U.S. 786, 802–04 (2011); *Playboy Ent. Grp.*, 529 U.S. at 827. The Party Name Provision fails all three of these.

If the government asserts an interest in preventing confusion, for example (and assuming it could show such an interest is compelling), the Party Name Provision would be overinclusive because it reaches every nonprofit's name that includes certain terms, regardless of whether the inclusion of that term causes any confusion. The provision, for example, gives the Democratic Party veto power over Canada-based Federation for a Democratic China, which no one would reasonably confuse with the Democratic Party. It would be underinclusive because it excludes for-profit corporations. And it would not be the least restrictive means available because the General Not for Profit Act already provides the Secretary authority to deny applications to conduct affairs if the nonprofit name is indistinguishable from another entity's name. 805 ILCS 105/104.05(a)(3).

The Party Name Provision thus fails every step of strict scrutiny. It does not advance a compelling interest, there is no actual problem, it is underinclusive, it is overinclusive, and it is not the least restrictive means available. Because the lack of tailoring is inherent in the statutory scheme, it fails strict scrutiny's steps every time the Secretary applies the statute, not just when the Secretary applies it to DIAG. Thus, the lack of tailoring is "categorical" and "present in every case." *Ams. for Prosperity Found. v. Bonta*, 594 U.S. 595, 615 (2021). The Party Name Provision is thus invalid on its face *and* as applied to DIAG, *see id.* (noting "a facial challenge is appropriate" in cases where the lack of tailoring is "categorical"), and DIAG is likely to prevail on the merits of its First Amendment challenge to the provision.

B. The Party Name Provision violates the First Amendment because it operates as an unconstitutional prior restraint.

Because the Party Name Provision prevents DIAG from engaging in speech—such as soliciting charitable contributions—before the speech takes place, it is an unconstitutional prior restraint, the "most serious and … least tolerable infringement on First Amendment rights." *Neb. Press Ass'n v. Stuart*, 427 U.S. 539, 559 (1976). Almost a century ago, the Supreme Court considered a similar prior restraint that Connecticut enacted. *See Cantwell v. Connecticut*, 310 U.S. 296 (1940). That law prevented soliciting contributions for any "religious, charitable or philanthropic cause" unless the secretary of the public welfare council first approved the cause. *Id.* at 301–02. The Court struck down the law, holding it denied "liberty protected by the First Amendment" and describing its "previous restraint upon the exercise of [a] guaranteed freedom … as obnoxious to the Constitution." *Id.* at 305–06.

"A restriction is a prior restraint if it meets four elements." *Samuelson v. LaPorte Cmty. Sch. Corp.*, 526 F.3d 1046, 1051 (7th Cir. 2008). First, "the speaker must apply to the decision maker before engaging in the proposed communication." *Id.* Second, "the decision maker is empowered to determine whether the applicant should be granted permission on the basis of its review of the content of the communication." *Id.* Third, "approval of the application requires the decision maker's affirmative action." *Id.* And fourth, "approval is not a matter of routine, but involves [the decision maker's] 'appraisal of facts, the exercise of judgment, and the formation of an opinion.'" *Id.* (quoting *Se. Promotions, Ltd. v. Conrad*, 420 U.S. 546, 554 (1975)). The Party Name Provision meets all four elements.

First, DIAG must apply to the Secretary before soliciting charitable contributions. 805 ILCS 105/113.05. Second, the Secretary determines whether DIAG should be allowed to conduct affairs in Illinois based on his review of DIAG's name. *Id.* 105/104.05(a). Third, the Secretary must affirmatively approve DIAG's application. *Id.* 105/113.05. And fourth, the Secretary's approval requires him to determine what constitutes an established political party, which involves fact appraisal, judgment, and opinion formation. *Id.* 105/104.05(a)(6).

The Supreme Court's "rule barring prior restraints" admittedly has three "narrow exceptions," *Green Valley Invs. v. Winnebago County*, 794 F.3d 864, 868 (7th Cir. 2015), but the Party Name Provision falls outside all of them. First, there is no "powerful overriding interest such as national security, obscenity, or incitement to violence and overthrow of the government" in this case. *Id.* (cleaned up). Second, the

Secretary's determination of whether a political party is sufficiently established lacks "procedural safeguards designed to obviate the dangers of a censorship system." *Id.* (quoting *Se. Promotions*, 420 U.S. at 559). The Secretary does not bear "the burden of instituting judicial proceedings," the restraint is not limited "to a brief period for the purpose of preserving the status quo pending judicial review," and there is no "assurance of a prompt judicial determination." *Id.* at 868–69 (citing *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 227 (1990) (opinion of O'Connor, J.)). And third, the provision is not a "valid time, place, and manner restriction[]" because charitable solicitation cannot occur *at all* without approval from the Secretary to conduct affairs in Illinois. *Id.* at 869 (rejecting this exception when the protected speech "cannot occur at all under the ordinance without permission from the County").

The approval scheme set up in the Party Name Provision thus "creates an unconstitutional prior restraint and cannot be enforced." *Id.* For that reason, as well as the independent reason that it flunks strict scrutiny, DIAG is likely to succeed on the merits of its claim that the Party Name Provision violates the First Amendment.

II. DIAG is suffering irreparable harm, and the balance of interests favors granting DIAG preliminary relief.

When, as here, "a plaintiff establishes a likelihood of success on the merits of a constitutional challenge to a statute implicating First Amendment freedoms, the other preliminary injunction factors are easily met." *Reps. Comm.*, 147 F.4th at 729. The "loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Am. C.L. Union of Ill. v. Alvarez*, 679 F.3d 583, 589 (7th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (plurality

opinion)). Such injuries are not adequately remedied by damages. *Id.* (quoting *Flower Cab Co. v. Petitte*, 685 F.2d 192, 195 (7th Cir. 1982)).

The balance of harms favors granting a preliminary injunction because "the public interest is not harmed by preliminarily enjoining the enforcement of a statute that is probably unconstitutional." *Id.* at 589–90 (citing *Joelner*, 378 F.3d at 620). In fact, "injunctions protecting First Amendment freedoms are always in the public interest." *Christian Legal Soc'y v. Walker*, 453 F.3d 853, 859 (7th Cir. 2006). All factors therefore favor preliminarily relief.

III. The Court should waive the bond requirement.

The Court should waive Federal Rule of Civil Procedure 65(c)'s bond requirement because this case is solely about protecting First Amendment liberties. *See BankDirect Cap. Fin., LLC v. Cap. Premium Fin., Inc.*, 912 F.3d 1054, 1058 (7th Cir. 2019) (explaining a judge may waive bond "when the suit is about constitutional principles rather than commercial transactions"). And the government suffers "no harm at all" in being enjoined from enforcing a provision that likely violates the First Amendment. *See Christian Legal Soc'y*, 453 F.3d at 867.

CONCLUSION

DIAG respectfully requests that this Court grant its motion for a preliminary injunction ordering the Secretary to allow DIAG to conduct affairs in Illinois and enjoining him from enforcing the Party Name Provision.

Dated: January 27, 2026

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