

## **PROPOSED DUPAGE COUNTY OFFICERS' ELECTORAL BOARD RULES OF PROCEDURE**

The following Rules of Procedure shall be utilized by the DuPage County Board of Election Commissioners when sitting in their capacity as the County Officers' Electoral Board for the hearing and passing upon of objections to nominating petitions.

### **RULE 1. Appearance.**

Appearance by -a candidate or objector at the hearing on objections shall only be made in person by a candidate or objector(s) or through legal counsel who have timely filed an appearance on behalf of either candidate or objector(s). All parties must provide the Board with a written appearance with a mailing address, a telephone number or numbers and an e-mail address for notification to the party of any matter requiring notice in these proceedings. The parties shall be available for receipt of such notification during the course of these proceedings.

### **RULE 2. Hearing Date/Continuances.**

On the date set in the Call Notice for the initial hearing of the Electoral Board, both the objector and the candidate, personally or by counsel, will be required to appear, unless the parties are advised to the contrary in the Notice sent by the Chairperson of the Board setting the date for the initial meeting, to present their cases. There will be no continuance or resetting, except for good cause shown by the parties, at the Board's discretion. The Board may, on its own motion continue the matter, in its sole and exclusive discretion, for purposes of conducting Records Checks, issuing subpoenas, seeking legal briefs on the issues, or for any other reason the Board deems necessary.

If a candidate or counsel for the candidate or proponent or counsel for the proponent of a question of public policy fails to appear on the date set for the evidentiary hearing, a decision in the nature of a default judgment may be entered and the objections contained in the objector's petition may be sustained, but only upon a default prove-up hearing, upon a verified objector's petition, and only upon a determination by the Board that the objector's petition sets forth valid grounds for the removal of the candidate's name or question of public policy from the ballot.

If an objector or counsel for the objector fails to appear for the hearing, the Board may, in its sole discretion, dismiss the objection.

### **RULE 3. Presentation of Case.**

All parties must be prepared to present their case at the time set by the Board or hearing examiner, as the case may be, for an evidentiary hearing, including the presentation of witness testimony, affidavits, documentary evidence and any and all legal arguments in support of said parties of position or in

opposition to the opposing party's position.

**RULE 4. Electoral Board.**

The Electoral Board ("Board") shall conduct and preside over all hearings and take necessary action to avoid delay, maintain order, ensure compliance with all notice requirements and make a clear and complete record of the processing. The Board shall have all the powers necessary to conduct a fair and impartial hearing including, but not limited to:

- (a) Administer oaths and affirmations;
- (b) Issue witness and/or record subpoenas, upon request and proper application by the parties;
- (c) Regulate the course of hearings, set the time and place for continued hearings, set times for filing of documents, provide for the taking of testimony, and in general conduct the proceedings, all according to the recognized principles of administrative law and the provisions of these rules;
- (d) Examine the witnesses and direct the witnesses to testify, , limit repetitive testimony and set reasonable limits to the amount of time that each witness may testify;
- (e) Rule upon offers of proof and receive relevant evidence;
- (f) Direct parties to appear and confer for the settlement or simplification of issues and otherwise conduct prehearing conferences;
- (g) Dispose of procedural requests or similar matters;
- (h) Require the parties to prepare written briefs and proposed findings of fact and conclusions of law;
- (i) Consider and rule upon all motions presented in a manner and time the Board deems appropriate;;
- (j) Consider such evidence as may be submitted including, but not limited to documentary evidence, affidavits and oral testimony;
- (k) Enter any order that further carries out the purpose of these rules; and
- (l) Prepare a written record of its proceedings. A transcript of proceedings will be made by a certified court reporter.

**RULE 5. Hearing Examiners.**

In view of the time limitations and the amount of evidence to be presented at the hearings, the Board, at the recommendation of the Executive Director, may appoint a hearing examiner in any case in which the Board deems such an appointment necessary. The parties shall be notified as to the assigned hearing officer, if any, along with the Call Notice for the Board to meet to consider the objection. Any hearing examiner so appointed shall have the duties and powers of the Board provided in these Rules, except only the Board shall be authorized to make finding and enter a final order. The entire record must be introduced and argued before the hearing examiner. The Board will not entertain any additional evidence or arguments, unless the Board, upon a majority vote, deems such additional evidence or argument necessary. The Board shall not be bound by the hearing examiner's recommendations.

**RULE 6. Substitution of Hearing Examiner.**

Any party may, upon a showing of a bias or other basis that would render the hearing examiner unable to conduct the hearing in a fair and impartial manner, request substitution of a hearing examiner. Such request must be exercised in writing, prior to 4:30 p.m. on the day preceding the date set for the Call for the Board to meet to hear and pass on objections. The Executive Director may, within his sole and exclusive discretion, upon a determination of a lack of impartiality, appoint another hearing examiner. Requests shall only be granted for good cause shown, evidenced by matters of record introduced as a basis for the removal of a hearing examiner.

**RULE 7. Notice of Filing and Service.**

Unless otherwise specified by these Rules or permitted by the Board or a hearing examiner,, service may be made upon any party of the proceeding by first filing the original of the document or papers to be served and an executed Proof of Service with the Executive Director of the Election Commission. The Parties are responsible for serving every other party with any such papers, by e-mail transmission or personal service. A Proof of Service shall contain a verified statement that electronic notice or personal notice of the filing has been given to the party. All documents to be presented to the Board are to be filed with the Executive Director.

**RULE 8. Preliminary Motions – Timing.**

Preliminary motions and objections to an objector's petition, in the nature of a motion to strike or dismiss the objections, will be heard first at an appropriate time as determined within the discretion of the Board. Such motions must be made in writing and filed with the Election Commission, as provided for herein, on the opposing parties no later than 4:30 p.m. at least one (1) calendar day preceding the date set in the

Call for the Board to meet to consider the objection(s). A response, if any, must be made in writing and filed with the Election Commission and served upon the parties on the date set in the Call for the Board to meet, or such other times as the Board may determine. The Board, in its discretion, may entertain oral responses to any motion. The Board may consider any motion, without further presentation by the parties. When determined by the Board or hearing examiner, motions may be taken under consideration for further review and future ruling. If the objections to an objector's petition are sustained, the objector's petition will be overruled and the validity of the nomination papers will be sustained. The Board may, in its discretion, reserve ruling on any preliminary motions and objections pending further hearing on objections.

**RULE 9. Records Check.**

When requested and ordered, nomination papers and objections shall be compared with the permanent registration records by agents of the Board, acting under the direction and supervision of the Board. In comparing a signature based upon a filed objection to determine whether to sustain or overrule the objection, such agents will provide a report and recommendation to the Board in order for the Board to determine the validity of challenged signatures and/or challenged registrations.

**RULE 10. Objections to Records Check – Timing.**

Any candidate(s) or objector(s) may object to the Staff Report on the comparison of the registration records. Such objections to the Staff Report shall be filed with the Board indicating the specific name(s) objected to designating the sheet and line of the challenged petition, the basis for said objection; or in the case of circulator, the sheet number, as well as the ground(s) for each such objection, within twenty-four (24) hours after receipt of the Staff Report, on the form provided by the Election Commission. Said objections to the Staff Report will be considered as part of the record before the Board. Any such objections to the Staff Report as to the comparison of the nominating papers to the permanent registration records shall be considered by the Board only if a timely objection has been made. Failure to object to the Staff Report shall result in a waiver to introduce any additional evidence, affidavits or testimony relative to the issue of the records check.

**RULE 11. General Considerations.**

Except as otherwise provided in these Rules, the Electoral Board may consider all evidence relevant to the issues presented by the objections including, but not limited to:

- (a) Objections to the objector's petition as well as all testimony, evidence, affidavits and

- factual and legal arguments therein; and
- (b) Objections if any, to the original nominating papers, as well as all testimony, evidence, affidavits and factual and legal arguments therein;
  - (c) Affidavits, providing the party seeking to introduce or utilize an affidavit must first disclose said affidavit to the opposing party, at least 24 hours prior to the introduction of said affidavit to the Board. Further, in order to be considered by the Board, all affidavits must comport with the requirements of the Illinois Code of Civil Procedure, Supreme Court Rule 191.

**RULE 12. Arguments.**

All arguments of counsel and evidence must be confined to the points raised by the objections to the objector's petition, and by the objector's petition with respect to the nominating papers. The objector and the candidate shall be limited to fifteen (15) minutes each for the presentation of their case unless the Board, for good cause shown, extends the period of presentation. All oral arguments following the close of evidence shall be limited to five (5) minutes. Any party who desires may submit arguments in writing; must do so at the hearing. Cross-examination of witnesses will be permitted at the discretion of the hearing examiner or Board. All arguments of counsel and evidence should be confined to the points raised by the objections.

**RULE 13. Failure to Follow Directives.**

Failure to adhere to these Rules or to a directive of the Board, or a hearing examiner, or refusal to participate in the proceedings in good faith shall be a ground for dismissal of the objector's petition or appropriate sanction, as determined by the Board.

**RULE 14. General Procedures.**

For matters not covered herein, the Board will generally follow rules of practice, which prevail in the Circuit Court of DuPage County, Illinois, but because of the nature of these proceedings, the Board shall not be bound by such rules. The Board's Rules shall generally be in accordance with Roberts' Rules of Order, newly revised,. The entire record must be introduced and argued before the hearing examiner, if one has been assigned. In such instance, the Board will not entertain any additional arguments or evidence. However, the Board shall not be bound by the hearing examiner's recommendations.

**RULE 15. Sessions.**

After the Board convenes, it will remain in session continuously until all objections shall have been considered and ruled upon; provided, however, the Board may recess from time to time, as required.

**RULE 16. Findings.**

The Board shall state its findings in writing, noting the objections, which have been sustained or overruled. The Board shall also state in writing whether the candidate's name shall be printed upon the official ballot.

**RULE 17. Review by the Electoral Board.**

Any party disagreeing with, or aggrieved by, the decision of the Board may exercise those rights available under the Election Code and the Illinois Administrative Review Act.

**RULE 18. Rules Provided to Parties.**

Candidate(s) and objector(s) will be provided with a copy of the proposed Rules to be approved and adopted by the DuPage County Officers' Electoral Board at the time of service of the Call Notice of the hearing provided for herein.

Adopted this \_\_\_\_ day of \_\_\_\_\_ 20\_.

\_\_\_\_\_  
Chairperson

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Electoral Board Member

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Electoral Board Member

ATTEST:

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Electoral Board Secretary

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