



## ELECTIONS

OFFICE OF COOK COUNTY CLERK KAREN A. YARBROUGH

69 W. Washington, Suite 500, Chicago, Illinois 60602

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TEL 312.603.0906 FAX 312.603.9786 WEB [cookcountyclerk.com](http://cookcountyclerk.com)

### **PROPOSED RULES OF PROCEDURE OF THE COOK COUNTY OFFICERS ELECTORAL BOARD FOR THE HEARING AND PASSING UPON OF OBJECTIONS TO THE NOMINATION PAPERS OF CANDIDATES FOR OFFICES WHICH ARE COTERMINOUS WITH OR LESS THAN THE COUNTY OF COOK, STATE OF ILLINOIS**

Rule 1. Appearances and Notices. Appearance by an objector or by a candidate at the hearing on objections, or proponents or opponents of referendum petitions, may be in person or by counsel. A candidate or objector may appear on his or her own behalf ("Pro Se") or a party may be represented by an attorney licensed to practice law in the state of Illinois. Except for a party appearing Pro Se, anyone who is not licensed to practice law in the state of Illinois may not appear on behalf of a party before the Electoral Board. Non-attorneys may participate on behalf of a party as a representative at any Records Examination conducted pursuant to Rule 6 of these rules. All parties appearing before the Electoral Board ("Board") must file a completed Appearance form. On the Appearance form each party must provide the Board with a telephone number, an e-mail address, and other contact information at which that party can be reached at any time during the day and at night. Copies of the Appearance must also be served on all parties who have appeared in the case. Parties may waive statutory service of initial Electoral Board documents and consent to service by email.

Notices by Email. The Electoral Board ("Board") shall send notice solely by electronic mail to the email address provided by the parties. Papers shall be served on the Board at [electoral.board@cookcountyil.gov](mailto:electoral.board@cookcountyil.gov) along with proof of service, and individual hearing officers at email addresses to be provided. All documents served upon the Board must also be served upon all parties who have appeared in the case along with proof of service.

Other forms of notice. The Electoral Board maintains a website at <https://www.cookcountyclerk.com/service/electoral-board> where parties and the public may obtain information and notices. Parties to Electoral Board proceedings have a responsibility to regularly and reasonably maintain contact with the Electoral Board and its Hearing Officers, and routinely check the Electoral Board website for updates.



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**Rule 2. Initial Hearing.** On the day set for the hearing of objections, both the objector and the candidate shall be required to be present in person or by counsel and to be ready for the initial hearing or scheduling of their case, unless otherwise ordered in writing by the Electoral Board or its Hearing Officers. The Electoral Board may, at its discretion, waive the need for the parties to appear at the hearing on the initial day of the Board's sessions.

**Rule 2A Remote Proceedings Pursuant to the Illinois Open Meetings Act, 5 ILCS 120/7,** by order of Court, proceedings of this Board are authorized to take place via audio and video conferencing. This includes all proceedings under the jurisdiction of this Electoral Board, including but not limited to hearings of the Electoral Board, and hearings before duly appointed hearing officers of the Electoral Board. The decision to conduct any particular hearing remotely is within the discretion of the Electoral Board and its hearing officers. Unless a hearing is specifically designated to take place remotely via video conferencing, then all hearings are to be conducted in person at 69 W. Washington, 22<sup>nd</sup> floor, or at such other locations as are designated. Parties and other persons must appear on scheduled matters in person. If a hearing, within the discretion of the Electoral Board and its hearing officers, is to be conducted remotely, parties will be given instructions to appear using Microsoft Teams Video Conferencing or another remote videoconferencing service as designated by the Electoral Board. For participants who do not have access to the Internet, the Electoral Board will make video Internet connections available at 69 W. Washington St. with users required to observe proper safety protocols. In the discretion of the Board or its hearing officer, participants may be allowed to participate by telephone conference call. The Electoral Board will promulgate procedures for remote hearings with access information to all parties. All proceedings of the Electoral Board conducted pursuant to remote video or teleconference have full force and effect of duly authorized proceedings of this Electoral Board pursuant to these Rules, the Illinois Open Meetings Act, and the Illinois Election Code, and order of Court.

**Rule 3. Hearing Officers and Continuances.** The Board may, in its sole discretion, on the day of the initial hearing of a case or thereafter, assign any part of a case to a Hearing Officer to conduct proceedings, hear evidence and arguments, recommend findings of law and fact, and report to the Board. The Hearing Officer shall have all powers of the Board provided in these Rules, except the power to issue subpoenas or issue a final decision.

Matters shall proceed in an expeditious manner and continuances will be granted only for good cause shown.



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Rule 4. Defaults. If a *candidate* or *proponent of a question of public policy* fails to appear for any hearing at which appearance is required, a decision in the nature of a default judgment may be entered and the objections contained in the objector's petition shall be confessed against the candidate, but only upon a determination by the Board that the objector's petition sets forth valid grounds and makes a colorable claim for the removal of the candidate's name from the ballot.

If an *objector* fails to appear for any hearing at which appearance is required, the Board may, in its sole discretion, default the objector and dismiss the objection. The Board has the sole discretion to grant or deny a motion to withdraw an objection or objections. The Board may require a preliminary showing of proof on the validity of any objection or may order a partial check of some portion of the allegations of an objection.

Rule 5. Briefs, Motions, and Hearings. Preliminary motions and objections to an objector's petition and the nature of a motion to strike the objections may be heard first or taken with the case in chief. Motions must contain a demand for relief sought. The Board at its sole discretion may permit responses to motions. The Board may request written briefs on any issue properly brought before the Board. Any brief or motion shall be made simply and clearly, with supporting legal authority and proper citation. Preliminary motions to strike and dismiss shall be filed by 5 PM on the first business day after the initial hearing before the Hearing Officer in the case, responses shall be filed by 5 PM on the second business day after the initial hearing before the Hearing Officer, and any reply, in the discretion of the Board or Hearing Officer, shall be filed by 5 PM on the third business day after the initial hearing in the case. Business day includes Monday through Friday as well as Saturday and Sunday, excluding state holidays. Oral arguments on motions may be made in the sole discretion of the Board or the Hearing Officer.

If sufficient objections to an objector's petition are sustained, the objector's petition shall be overruled, and the petitions held valid. If objections to a portion of an objector's petition are sustained, that part of the objector's petition shall be overruled.

At an evidentiary hearing, the Board or a Hearing Officer will consider such evidence as may be submitted, including, but not limited to, other documentary evidence, affidavits, and oral testimony. In view of the fact that the Board must hear and pass upon objections within a limited time, extended examination and cross-examination of witnesses will not



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be permitted. The rules of civil discovery do not generally apply in Electoral Board proceedings, and written discovery requests and depositions are not allowed. While the Board or Hearing Officer will not be bound by rules of procedure or rules of evidence as is customary in courts of law, said rules may be used as guidance when appropriate.

According to the Illinois Election Code and established case law, candidates must submit signatures of qualified registered voters, registered to vote at their place of residence in the political subdivision in which the candidate seeks elected office, in order to be counted as a valid signature on a candidate's nomination petitions. If a candidate is subject to a maximum signature requirement and such candidate files nominating petitions containing signatures in excess of said statutory maximum, the Board shall disregard all signature lines filed in excess of the maximum. To determine when the maximum number of signatures is reached, the Board or its Hearing Officer shall begin by counting each signature in the order presented in said petition, counting each line on which a signature appears, except for such lines where a proper deletion of the signature as set forth on an accompanying certificate of deletions as required by the law is recorded, until signatures on lines reaching the maximum number are reached.

**Rule 6. Record Examinations.** When ordered by the Board or a Hearing Officer, petitions and objections shall be compared with those registration records by the Cook County Clerk's Office (the "Clerk's Office") or the Chicago Board of Election Commissioners or both. The Clerk's Office shall assign a records examiner to conduct each records examination. The Clerk's Office may, in the exercise of its discretion, assign additional records examiners to each records examination as deemed necessary. The Clerk's Office shall notify each party of the scheduled records examination and number of records examiners assigned via the telephone numbers and/or e-mail addresses listed on their Appearance forms and notice may be given as late as 9:00 p.m. the evening before the scheduled record examination. All Records examinations will be assigned by the Cook County Clerk to take place at the Cook County Clerk's Election Operations Center, 1330 S. 54<sup>th</sup> Ave., Cicero, IL 60804. Records examinations may be conducted by another election authority at the direction of the Board.

The objector and the candidate each shall have the right to have designated and duly authorized representatives present at such comparison during their good conduct. The comparison shall commence at the time specified by the Board or a Hearing Officer, or the Clerk's Office, and the failure of the candidate, objector or their duly authorized



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representatives to timely appear for said comparison shall neither delay nor in any way affect the validity of the comparison.

A representative may be ordered removed from the records examination proceedings by the Clerk's Office for any conduct that disrupts the orderly conduct of the proceedings. In the event of such removal, the records examiner will continue with the records examination in the absence of the removed representative.

Records examiners shall, based upon their examination of such records, make and announce a finding as to whether certain objections in the objector's petition are sustained or overruled. The computerized voter registration records of the Cook County Clerk and/or of the Chicago Board of Election Commissioners, printouts of those records and the records examiners' findings as to whether the objections are sustained or overruled may be considered evidence, pursuant to Rule 8, with respect to objections pertaining to the following issues:

- (a) Whether a signer of a petition sheet is a registered voter.
  - (1) The failure to locate a computer-based voter registration record for the signer of a petition shall be presumptive evidence that the person is not a registered voter at the address shown on the petition, and any objection alleging that the person is not a registered voter shall be sustained.
  - (2) Objections alleging that the signer is not a registered voter because the registration is described as "inactive" shall be overruled at the records examination. To sustain such an objection, the objector must prove at an evidentiary hearing conducted pursuant to Rule 8 that the person who signed the petition no longer resides at the address shown, has died, has been incarcerated by reason of a conviction of a crime that makes the voter ineligible to vote, or otherwise lacks the requisite qualifications to be a registered voter in the political subdivision or district in question.
- (b) Whether a signer of a petition sheet was registered at the address shown beside his or her signature when he or she signed the petition sheet in question;



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(c) Whether the signature of a signer of a petition sheet is genuine and is that of the person whose name appears on the petition sheet.

(1) A computer-stored image of a registered voter's signature shall be examined and compared with the signature on the petition by the records examiner. If, in the records examiner's judgment, the two signatures were made by the same person, the objection shall be overruled; if not made by the same person, the objection shall be sustained.

(2) If no registration record can be found for the person in question, or the registration record does not contain a computer-stored image of the person's signature, the objection shall be overruled at the records examination. To sustain such an objection, the objector must prove at an evidentiary hearing conducted pursuant to Rule 8 with other evidence that the signature is not genuine.

(3) An objector's petition may plead in the alternative that a voter is not registered at the address shown, and that the signature of the voter is not genuine.

(d) Whether a signer of a petition sheet is a resident of the political subdivision or district involved for the period required.

(e) Whether a signer of a petition sheet has signed the petition more than once. If a second or greater number of duplicate signature(s) is found, the objection to the signature on the lowest-numbered petition page shall be overruled and subsequent objections shall be sustained.

The records examiner shall note his or her findings as to each objection on worksheets or within the computer software application or applications designed for such purpose and shall prepare a report of such findings. After the conclusion of the records examination, the parties will receive a report summarizing the record examiner's findings. A final petition summary report of the findings will be made a part of the Board's case file and preserved for examination in any future hearing or proceeding. **The records examination**





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**is considered completed after all rulings have been made and at the time shown on the final petition summary report.**

The Board's case file and its contents may be examined at any time after the conclusion of the records examination and any party may request a copy of any report in the case file, except that no copies will be made or provided of any report, printout or record containing a registered voter's signature or a computer-stored image of such signature.

If at any time during the records examination it appears that (i) the number of valid signatures remaining on the petition is fewer than the number of valid signatures required by law or (ii) the number of valid signatures on the petition will exceed the number of valid signatures required by law even if all of the remaining objections to be decided were to be sustained, the records examination may be suspended based on parameters set by the Board or a Hearing Officer and the results of the records examination forwarded to the Board or Hearing Officer. The records examination may be resumed if so ordered by the Board or a Hearing Officer.

The Board or a Hearing Officer may, in their discretion, order that a partial or sample records examination be conducted in order to test the validity of certain objections in the objector's petition when it appears possible, viewing the face of the objections or upon other known facts, that the objections may not have been made as the result of a reasonable inquiry or investigation of the facts or were not made in good faith. The weight to be given to the results of such partial or sample records examination shall be within the discretion of the Board or a Hearing Officer.

The findings of records examiners are final and reviewable only by the Board or a Hearing Officer upon the timely written filing of a motion in accordance with Rule 8.

**Rule 7. Record Examination Objections.** Representatives of the objector or candidate may object to the findings of the records examiner, which objection shall be noted by the records examiner. In no case shall a review of the result of the examination of an individual record or the presentation of additional evidence as to that record be permitted when no objection to the finding was made and recorded at the time of the comparison.



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**IMPORTANT: It is the responsibility of the candidate or objector or their representatives to ensure that any objection is recorded and preserved. If the candidate or objector does not ensure that an objection is recorded and preserved, any future review of the record examiner's finding is waived.**

Rule 8. Review of Record Examination Objections. Following the examination of the registration records, any candidate or objector who has made timely objections to the findings of the examinations and who requests so in writing, may have a further hearing as to the results of the records examination at a time fixed by the Board or Hearing Officer, before the Board or the Hearing Officer rules on the findings from the examination. This request shall be styled "Rule 8 Motion". Such Motion must specify, for each finding objected to, the sheet, line, name and address of the petition signer, and other information as is appropriate including the exact basis of the objection to the finding. The information required in the Motion must be set forth fully therein and not by way of reference to, or incorporation of, any other document. The Motion must be delivered to the opposing party or parties and the Board or Hearing Officer within 24 hours after the completion of the examination, (or the latter of the examinations, if separate examinations are held by the County Clerk and the Chicago Board of Election Commissioners) without any additional action by the Board, an Election Authority, or the parties. At the hearing on the Motion, the parties may present evidence including, but not limited to, affidavits as to the genuineness of signatures and live testimony. Affidavits presented to the Board or a Hearing Officer must be sworn to, signed, and notarized before a notary public. The findings of the records examination are considered *prima facie* true and correct, and the purpose of a Rule 8 hearing is not to conduct a *de novo* review of the findings of the records examination absent other evidence.

Rule 8A. Subpoenas. Subpoenas and subpoenas *duces tecum* will be issued under the authority of the Board only upon a vote of a majority of its members. When a case has been assigned to a Hearing Officer, a party must submit a written motion, either at a hearing or by email, for any subpoena, setting forth the particulars of the requested subpoena, justification for its issue and a copy of the requested subpoena. If presented at a hearing, the motion must be served on the opposing party at that hearing. If presented by email, the motion must be served on the opposing party by email simultaneously. The opposing party has 24 hours to file an objection to the motion by email with the Hearing Officer and the opposite party. A motion not objected to will be granted as a matter of course, through the





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process set out below, unless the Board determines otherwise. If an objection is received, the Hearing Officer shall issue a recommended ruling on the motion within 24 hours and forward the filings and the recommendation to the Board. The Board members shall consider them and each member shall make a determination of “Grant” or “Deny” on the motion and transmit the determination to the Chairman. If two or more members of the Board determine that the motion be granted, the Chairman shall be authorized to issue the subpoena(s). On application of a party, whether to pursue judicial enforcement of any subpoena properly served is in the sole discretion of the Electoral Board.

Subpoenas relating to all legal issues, including an alleged pattern of fraud, must be requested within five business days of the initial hearing, unless such time is extended for good cause shown by the Electoral Board or the Hearing Officer.

Rule 9. Scope of the Case. Within the parameters of the law, the Board or a Hearing Officer will only consider written objections and the written specifications of such objections to the original petitions, as set forth in the objector’s petition as initially filed. The objector’s petition may not be amended. No answer or response to the objector’s petition need be filed, unless specifically required by the Board.

The Board and it’s Hearing Officers shall conduct and preside over all hearings and take necessary action to avoid delay, maintain order, ensure compliance with all notice requirements and ensure the development of a clear and complete record. The Board and it’s Hearing Officers shall have all powers pursuant to the Illinois Election Code and established case law that are necessary to conduct a fair and impartial hearing, including, but not limited to:

- (a) Administering oaths and affirmations;
- (b) Regulating the course of hearings, setting the time and place for continued hearings, setting times for filing of documents, providing for the taking of testimony by evidence deposition if necessary, and in general conducting the



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- proceedings, all according to the recognized principles of administrative law and the provisions of these rules;
- (c) Examining the witnesses and directing the witnesses to testify, limiting the number of times any witness may testify, limiting repetitive testimony and setting reasonable limits to the amount of time that each witness may testify;
  - (d) Ruling upon any offer of proof and receive relevant evidence;
  - (e) Directing parties to appear and conferring for the settlement or simplification of issues and otherwise conducting pre-hearing conferences;
  - (f) Disposing of procedural requests or similar matters;
  - (g) Requiring the parties to prepare written memorandums and proposed findings of fact and conclusions of law;
  - (h) Considering and ruling upon all motions presented in the course of the proceedings;
  - (i) Considering such evidence as may be submitted, including but not limited to documentary evidence, affidavits and oral testimony; and
  - (j) Entering any order that further carries out the purpose of these rules.

Duly appointed Hearing Officers shall be specifically empowered to:

- (a) Hold a full hearing and receive all evidence and argument;
- (b) Prepare a record of the hearing, including a full transcript of the court reporter's stenographic notes of the proceedings, as needed;
- (c) Prepare recommendations, based upon all the evidence, of the decision to be reached.

On issues of signature validity, the Electoral Board's Hearing Officer's authority shall extend only to objections filed against specific signatures unless credible allegations of fraud, false circulation or disregard of the election laws are raised in the pleadings or come before the Board or Hearing Officer in the course of hearing evidence.

**Rule 10. Case Parameters.** All arguments of the parties and evidence must be confined to the points raised by the objections and specifications, if any, to the objector's petition, and by the objector's petition and specifications with respect to the nomination papers. Where appropriate, citations to legal authority, including ordinances, statutes, and case law, shall be provided to the Board for consideration on any argument. The parties shall be limited



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to 15 minutes each for the argument of their case after conclusion of evidentiary proceedings, unless the Board or a Hearing Officer extends the period of presentation.

Rule 11. Request for Review of a Hearing Officer's Recommendation by the Board. A candidate, proponent of a question of public policy, or objector who disagrees with the recommendation of a Hearing Officer may ask the Board to review the Hearing Officer's recommendation and consider additional arguments from the parties or their attorneys. To do so, a party must provide written notice by email to the Board and to the opposing party within 24 hours of receiving the recommendation of the Hearing Officer. When such a notice has been served, all parties must appear before the Board on the date it schedules its public meeting to consider the Hearing Officer's recommendation in their particular case. The Board or a Hearing Officer may shorten the time required for notice to be served. The proponent of the Rule 11 motion must specifically identify the recommendation it opposes, set forth the basis for that party's disagreement with the recommendation, and include any legal authority that would support their position. The parties may not introduce new evidence for review as the Board will be bound by the record of proceedings before the Hearing Officer. The Board, however, will have discretion to determine if the interests of fairness or substantial justice permit the presentation of new or additional evidence or the re-opening of the hearing. A request for review by the Board under this Rule is not mandatory for purposes of judicial review of a decision of the Board under Section 10-10.1 of the Election Code.

Rule 12. Decisions. If the objections to the nomination papers, or sufficient part thereof, are sustained, the nomination papers will be held invalid, and the Board will state its findings in a decision in writing, noting the objections which it has sustained. A decision may be executed by members of the Board in counterparts. If the objections, or a sufficient part thereof, are overruled, the nomination papers will be held valid, and the Board will state its findings in a written decision. The written decision of the Board shall be served upon the parties pursuant to law. In the event that the Board is sitting with only two members, and the two members do not agree as to the validity of any objection, that objection shall not be sustained.

Rule 13. Electoral Board Sessions. After the Board initially convenes, it will be in session continuously until all objections transmitted to it have been considered and disposed of, and, if necessary, in the sole discretion of the Board, its session will be extended or recessed



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from time to time. One member of the Board may attend sessions by audio or video conferencing, when the other two members are physically present at the session.

### Public Comment.

Speakers must submit a Notice of Public Statement in advance of making a presentation to the Board in writing by filing such Notice in person or by email to the Board 24 hours prior to the opening of a Board session. All statements are limited to two minutes unless the Board extends a speaker's time. The Board may shorten the time allotted for a speaker's statement if the statement does not comport with Board Rule 10 (e.g., statements should not relate to cases currently pending with the Board and should not include personal attacks against members of the Board or support staff).

In order to avoid the possibility of participating in *ex parte* communications, Board members may not respond to public comments. The Chair of the Board has the authority to maintain order and decorum during public comments, up to and including to the authority to terminate a commenter's remarks.

Honorable Karen A. Yarbrough, Clerk of Cook County, Chair,

By Her Designee, Edmund Michalowski

Honorable Kim Foxx, State's Attorney of Cook County, Member,

By Her Designee, Jessica Scheller

Honorable Iris Martinez, Clerk of the Circuit Court of Cook County, Member,

By Her Designee, Gloria Chevere

COOK COUNTY OFFICERS ELECTORAL BOARD