

Discovery Recounts & Election Contests

March 20, 2018 Primary Election

Discovery Recounts:

A losing **candidate** whose vote is equal to at least **95%** of a winning candidate's vote has the statutory right to a discovery recount. [A discovery recount cannot change the results of an election; it provides an opportunity to gather information about an election.] In a discovery recount, a losing candidate petitions the Cook County Clerk's office to recount the ballots in up to **25% of the precincts** within the relevant jurisdiction. [Divide the number of precincts in the race by 4 and ignore the fraction, but if the district has 1, 2 or 3 precincts, you can get 1 precinct discovered.] An eligible candidate must file the petition for discovery recount with the Cook County Clerk's office within five days after the last day for the proclamation of the election results. Multi-jurisdictional districts require a separate petition to each election authority. For this election, the filing deadline is **April 16, 2018**, for candidates whose results are proclaimed by the County Clerk. 10 ILCS 5/22-9.1. If the proclamation comes from the State Board of Elections, as it does for congressional, state-wide and state legislative offices and for judges, then the deadline is **April 25, 2018**.

In the case of a **referendum**, if the losing side would have won had it received an additional number of votes equal to 5% of the total number of votes cast on the referendum, i.e., more than **47.5%** of the total vote on the issue, then 5 supporters of the losing side can petition for a discovery recount. Referenda discovery petitions are due by the **April 16, 2018** deadline. 10 ILCS 5/22-9.1.

The petition must list the precincts the petitioner(s) wish(es) to have recounted and include a payment of **\$10.00 per precinct**. The results of a discovery recount have no effect on the results of an election; it is simply an information-gathering process. 10 ILCS 5/22-9.1.

Election Contests:

A **candidate** who wants to contest the proclaimed results of an election, i.e., change the results of an election, must file a lawsuit in the Circuit Court. This lawsuit is commenced by the filing of a petition for election contest. The petition must be filed with the Clerk of the Circuit Court within **10 days of the proclamation** of results by the relevant canvassing board. 10 ILCS 5/7-63.

In the case of a **referendum**, the losing side needs 5 supporters to file a petition for an election contest within **30 days of the proclamation** of results. 10 ILCS 5/23-24.

Note that for election contests the deadline is **not a fixed date**; it depends on when the proclamation of the canvass results is issued. The last date for the County to proclaim is April 10, 2018, but it could be earlier. If the proclamation date is April 10, the deadline for filing an election contest would be April 20, 2018 for candidates, and May 10, 2018 for referendums. Here, too, if the relevant proclamation is made by the State Board of Elections, the candidate filing deadline is 10 days after the State Board proclaims. The State Board's deadline is April 20, 2018, but it could proclaim earlier.

Disclaimer: This is not legal advice. The Cook County Clerk's office is providing this for general informational purposes only. Candidates or others interested in filing a discovery recount petition or an election contest petition should seek legal advice from an experienced election attorney. The Cook County Clerk's office cannot recommend an attorney or give legal advice on these matters.