

(Proposed – June 2018)

**RULES OF PROCEDURE TO BE ADOPTED BY 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 Appearance Forms. Appearance by an objector or by a candidate at the hearing on objections may be in person or by counsel. All parties appearing before the 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. The parties must receive service of documents at the e-mail address provided, or make alternative arrangements for service. The Board will provide the parties with e-mail addresses at which papers may be served on the Board or upon its Hearing Officers. These rules also apply to cases before the Board involving objections to referendum petitions, and to proponents and opponents of the petitions.

Rule 2. Initial Hearing. On the day set for the hearing of objections, both the objector and the candidate may be required to be present in person or by counsel and to be ready for the initial hearing or scheduling of their case. The 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 3. Scheduling and Hearing Officers. When appearance at the initial day of hearings is required, the Board will grant continuances of initial hearings on objections only for good cause shown. The Board may schedule proceedings in a case to extend beyond the initial day set for hearing. 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.

Rule 4. Defaults. If a *candidate* or *proponent of a question of public policy* fails to appear for the initial 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, a colorable claim, for the removal of the candidate's name from the ballot.

If an *objector* fails to appear for the initial 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 as to grant or deny a motion to withdraw an objection or objections. The Board may, in its sole discretion, 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. Preliminary Motions. Preliminary motions and objections to an objector's petition in the nature

of a motion to strike the objections may be heard first or taken with the case-in-chief. 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.

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.

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 and the failure of the candidate, objector or their duly authorized 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 examinations shall be conducted in accordance with procedures established by the Clerk's Office; if such procedures are in conflict with a specific provision of these Rules, these Rules will govern. 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 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 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;

(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 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.

(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 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.

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 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.

In respect to motions under this Rule, and other matters, the Board or a Hearing Officer will consider such other 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 be permitted.

The Board or Hearing Officer will not be bound by rules of procedure or rules of evidence which obtain in courts of law, although they may take guidance from such rules.

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 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).

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.

Rule 10. Case Parameters. All arguments of counsel 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. The parties shall be limited to 15 minutes each for the presentation of their case, 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 hear additional arguments from the parties or their attorneys. To do so, a party must provide 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. A party may file a memorandum setting forth the basis for that party’s disagreement with the recommendation of the Hearing Officer. 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 jurisdictional 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 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.

Following the call of the docket at each meeting of the Board, a period for public comment will be held. The public comment period will last 30 minutes or until all commenters have been heard, whichever comes first. Persons wishing to address the Board must sign up to do so at the site of the Board session before the start of the Board session at which they wish to speak. Comments are limited to three minutes. In order to avoid the possibility of participating in *ex parte* communications, Board members may not respond to public comments. The presiding member 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 David Orr, County Clerk of Cook County, Chairman
Honorable Kim Foxx, State's Attorney of Cook County, Member
Honorable Dorothy Brown, Clerk of the Circuit Court of Cook County, Member

COOK COUNTY OFFICERS ELECTORAL BOARD