

**RULES OF PROCEDURE ADOPTED BY THE CITY OF CHAMPAIGN
ELECTORAL BOARD FOR THE HEARING AND PASSING UPON
OBJECTIONS TO NOMINATING PAPERS OF CANDIDATES
DECEMBER 2020**

Preamble. The purpose of these rules is to set forth succinctly a fair, orderly and efficient process for the Electoral Board of the City of Champaign ("Board") to consider and rule on objections to election petitions and such other matters provided for by statute.

Rule 1. **Appearance.** Appearance by a candidate or objector at the hearing on objections will be by Zoom, unless an exception is made in advance by the City and may be in person or by counsel.

Failure of the candidate or objector to appear at the time and date scheduled by the Board without good cause shown shall be grounds for striking their petition objections or sustaining such objection upon a showing that such objections, if taken as true, would be sufficient to require removal of such candidate.

Candidates who request assistance to appear via Zoom, or to submit materials via email, must make arrangements in advance with the City at least one business day prior to the appearance or deadline for document submission.

Rule 2. **Filing of Telephone Numbers and Email.** All parties are obliged to file with the Board, at the time appearance is first made, a telephone number or numbers and email addresses for notification to the party and the party's counsel, if any, of any matter requiring notice in these proceedings. Telephone numbers for fax transmittals shall also be given by each party if a fax is available to the party. Telephone numbers are for at least the time periods 8:00 a.m. to 8:00 p.m. Any such telephone shall be reasonably available for receipt of such notification during the course of these proceedings. Additionally, parties and their attorneys, if any, shall provide email addresses which are monitored regularly, at least during the times indicated in this Rule.

Rule 3. **Hearing Date.** On the date set for commencement of the hearing, which shall be the date of the "call" unless the Board otherwise specifies, both the objector and the candidate will be required to proceed with the hearing as required by the Board. The parties shall not be granted a continuance or resetting by the Board, except for good cause shown, provided however that the Board may in its discretion continue or reset a matter in its discretion.

Rule 4. **Electoral Board.** The Board shall generally conduct all hearings and take necessary action to avoid delay, to maintain order, to ensure substantial compliance with all notice requirements, and to ensure the development of a clear and complete record.

Rule 5. **Hearing Officer Role.** The Board shall have all powers necessary to conduct a fair and impartial hearing. The Chair shall be the Hearing Officer and conduct the hearing unless the Board designates the City Attorney or the City Attorney's designee or other duly licensed attorney to act as the Hearing Officer for the

hearing. The Hearing Officer shall act on behalf of the Board and have all powers to conduct the hearing included herein where the Board is specified to act, except for the ruling on dispositive motions and the final disposition of the case, including, but not limited to the authority to:

- a. Regulate the course of hearings, set the time and place for continued hearings, fix times and the manner for filing of documents, provide for the taking of testimony by deposition if necessary, and in general conduct the proceedings, according to recognized principles of administrative law and the provisions of these Rules;
- b. Direct parties to appear and confer for the settlement or simplification of issues, and otherwise conduct conferences among the parties for the expeditious conduct of the hearing;
- c. Rule upon procedural matters or requests of the parties or similar matters;
- d. Administer oaths and affirmations or direct another authorized to administer oaths to do so;
- e. Examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitious or cumulative testimony, and set reasonable limits on the amount of time each witness may testify;
- f. Rule upon offers of proof and receive relevant evidence;
- g. Rule upon the admissibility of evidence as may be submitted, including but not limited to, documentary evidence, affidavits and oral testimony;
- h. Consider and rule upon all motions presented in the course of the proceedings; provided however that the Hearing Officer's ruling on motions to dismiss the objections shall be ratified by the Board before becoming effective;
- i. Require the parties to prepare written briefs and proposed findings of fact and conclusions of law;
- j. Examine registration records and to that end rely on the records of registrations provided by the County Clerk and examine signatures as part of the Registration/Binder check and make rulings on the validity of such signatures; and
- k. Enter any procedural or substantive order that further carries out the purpose of these Rules.

Rule 6. **Board's Attorney.** The City Attorney or the City Attorney's designee shall serve as the Board's attorney, and if designated by the Board, as the Hearing Officer.

Rule 7. **Preliminary Motions – Timing; Outcomes.** Preliminary motions and objections to an objector's petition in the nature of a motion to strike the objections will be heard first.

Such motions should be made in writing and filed electronically by sending a true copy to legaldepartment@champaignil.gov and other parties at the email addresses provided to the Board to the case by 5:00 p.m. on the second business day following the first day set in the call for the Board to meet.

A written response, if any, must be made in writing and filed with the City Attorney and other parties to the case by 5:00 p.m. on the next business day following the filing of a motion to strike. After the objection and reply, the Board will consider the motion without further presentation by the parties unless the Board requests oral argument.

If the objections to an objector's petition are sustained, the objector's petition as to those objections will be stricken and the validity of the nomination papers will be sustained as to those sustained objections.

Motions in the nature of motions to strike the objector's petition or parts of the objector's petition not made within the above time frame shall be deemed waived.

Other motions and replies not in the nature of a motion to strike shall be made by leave of the Chair or Hearing Officer if one has been appointed.

Rule 8. **Registration or Binder Checks.** When ordered by the Board, in response to the motion of any party, or upon the Board's or Hearing Officer's own initiative, nomination papers and objections may be compared with the permanent precinct registration records (binder records) or other registration records maintained by the County Clerk. The Hearing Officer may rely upon the response from the County Clerk in determining the validity of any signatures.

The Hearing Officer may submit a list of signatures or addresses to the County Clerk's Office for verification of registration or the Hearing Officer may, in the discretion of the Hearing Officer, examine registration records if such records are made available by the County Clerk electronically. In comparing a signature to which an objection has been filed, the Board will determine, in addition to any determination based upon the specific objection, from the permanent registration records:

- a. whether the signer of a petition (nominator) or circulator is a registered voter at the address shown beside his or her signature;

- b. whether the signature is that of the registered voter whose name appears on the petition; and
- c. whether the address shown is within the City or district involved.

The objector and the candidate shall each have the right to have one designated representative present, during his or her good conduct, at such comparison if the Hearing Officer elects to make such comparison via physical presence; provided, however, that the failure of such watchers to timely appear at the comparison shall not delay nor affect the validity of the comparison.

The standards set forth in the Appendix shall serve as a guide for the Board's decisions based on petition signatures. The Board may rely upon standards or decisions adopted or cited by the State Officers Electoral Board, the City of Chicago Electoral Board, standards promulgated by other electoral boards, or the Statewide Standards of the Citizen Participation Institute. For example:

http://www.citizenparticipation.org/uploads/6/1/4/1/61419805/ebm_2019_electoral_board_manual_3.pdf

<https://app.chicagoelections.com/documents/general/IndexOfElectoralBoardDecisions.pdf>

<https://app.chicagoelections.com/documents/general/LibraryOfElectoralBoardDecisions.pdf>

Rule 9. Order of Presentation. The Board will first hear preliminary motions in the nature of a motion to dismiss. The Board may, in its discretion, reserve rulings on such motions pending further hearings.

The objector shall present his/her case-in-chief after the consideration of such preliminary motions. The objector shall bear the burden of presenting evidence sufficient to support a decision sustaining the objection.

The applicable evidentiary threshold on issues of fact shall be a "preponderance of the evidence".

The Board, in its discretion, may entertain a motion for a directed finding at the close of the objector's case-in-chief.

After the conclusion of the objector's case-in-chief, the candidate may present his/her case-in-chief.

At the close of candidate's case-in-chief, the objector may offer a case in rebuttal. Matters in rebuttal will be strictly limited to matters raised by the issues

then before the Board.

Surrebuttal is disfavored and may be allowed by the Board only upon showing of compelling grounds. In the interest of brevity, the Board may terminate evidence or argument on repetitive matters or matters plainly beyond the scope of the case.

The Board may refuse to hear, with or without an objection of a party, evidence or argument it determines not germane to the electoral board hearing.

The objector need not adduce proof that the objector is a registered voter within the political subdivision at issue. The candidate may raise the lack of the objector's standing or eligibility as an affirmative defense in his/her own case-in-chief.

The objector's motivation or personal knowledge of the factual basis for the objections is not relevant to the Board and shall not be considered.

The Board may alter the order of proof in order to expedite the hearing.

Rule 10. **Report of Proceedings.** All proceedings shall be, to the extent practical, transcribed by a court reporter. In absence of a court reporter, the proceedings shall be recorded in a common electronic format, which may include recording in the Zoom platform. Participants shall be responsible for obtaining or producing a transcript if desired at their respective cost.

Rule 11. **Open Meetings.** The Board shall not close the meeting, except as authorized by statute, and shall observe the Open Meetings law of the State, including any Emergency Orders issued by the Governor related to open meetings during an emergency declaration.

The City Clerk shall provide for notices and provide for minutes of the proceedings as provided for in the Act.

Rule 12. **Subpoenas/Attendance of Parties.** Subpoena forms may, upon written request and explanation therefore, be obtained from the City Attorney's office. It shall be the responsibility of the person requesting a subpoena to ensure service and pay such fees as required by law. The Hearing Officer may make a determination whether or not the subpoena has been requested in good faith calculated to produce relevant and material evidence. The Board or the Hearing Officer may, on its own motion, subpoena persons. The candidate or objector may, if either in good faith intends to call the other as a witness, notify the other party or the party's attorney of that fact. Such notice shall require the attendance of such party for testimony.

Rule 13. **Arguments.** All arguments of counsel or by a party if not represented by an

attorney and evidence must be confined to the points raised by the objections, if any, to the objector's petition and by the objector's petition and specifications with respect to the nomination papers. The objector and the candidate shall be concise and efficient in their presentation of their case. All opening statements and oral arguments following the close of evidence shall be limited to fifteen (15) minutes except as authorized in advance of said argument by the Hearing Officer or by motion of the Board. Any party who desires may submit arguments in writing within time limits prescribed by the Board.

Rule 14. **Failure to Follow Directives.** Failure to adhere to these rules or to a directive of a Hearing Officer or the Board shall be grounds for dismissal by the Board of the objector's petition or the striking of the responses of the candidate.

Rule 15. **Findings/Decision.** The Board shall state its findings and decisions in writing, noting the objections which have been sustained and which have been overruled. The final decision of the Board shall be made by majority vote. The Board's decision shall be effective when voted on in open session. There shall be no rehearings on the final decision. If there is a tie vote due to the absence or unavailability of one of the Board Members, the matter shall be continued to another date. If the tie vote persists, the Objection shall be taken as not sustained.

Rule 16. **General Procedures.** For matters not covered herein, the Board may generally follow rules of practice which prevail in the City Council's rules or procedures or rules generally applicable to administrative proceedings, but because of the expedited nature of these proceedings, the Board will not be bound by such rules in all particulars. The Board may rely upon evidentiary principles contained generally in the rules of evidence adhered to in the circuit courts but shall not be bound by those rules. For example, the Board or Hearing Officer may generally rely upon procedures utilized by the State Officers Electoral Board or City of Chicago Board of Election Commissioners and Model Rules of Citizen Participation.

<https://www.elections.il.gov/downloads/abouttheboard/pdf/rulesofprocedure.pdf>

<https://app.chicagoelections.com/documents/general/M2019-Electoral-Board-Rules-Of-Procedure.pdf>

Rule 17. **Sessions.** After the Board convenes, it will be in session continuously until all objections shall have been considered and ruled upon; provided, however, the Board may recess from time to time.

Rule 18. **Notice of Filing and Service.** Service upon the Board shall be made by email transmittal to legaldepartment@champaignil.gov.

Unless otherwise agreed by the parties, service shall be made by email based upon

the email address provided to the Board or by filing a copy of the document or papers to be served and an executed Proof of Notice, as provided for herein, with the office of the City Attorney via email at legaldepartment@champaignil.gov. The Department will hold the document or papers for the party to whom it is addressed.

A "Proof of Notice" shall contain a verified statement that telephone notice of the filing has been given to the party or the party's counsel or that a good faith effort to give telephone notice at the telephone numbers on file with the Board to a party has been made by attempting to telephone the party at least three (3) times with no less than a half-hour interval between attempts and the papers have additionally been sent by certified mail.

**STATE BOARD OF ELECTIONS
APPENDIX TO BOARD RULES REGARDING SIGNATURES
2020**

I. Objections to Individual Signers

A. Signer's Signature Not Genuine

The voter's original signature on his or her registration card (in either hard copy or electronic format) shall be examined. If, in the opinion of the records examiner the signature is not genuine, the objection shall be sustained. Collateral evidence of the validity of the signature is admissible, such as testimony of a person purporting to observe one person signing for another. There is no requirement that a signature be in cursive rather than printed form. Any objection solely on the ground that the signature is printed and not in cursive form or where the basis for the non-genuineness is the fact that the signature is printed, will be denied as failing to state grounds for an objection.

B. Signer Not Registered at Address Shown

The voter's registration information (in either hard copy or electronic format) shall be examined. If the address on the voter's card does not match the address opposite his or her name on the petition, the objection shall be sustained. **NOTE:** If the candidate can present evidence that the voter resided and was registered to vote at the address shown on the petition at any time during the petition circulation period, the objection shall be overruled pending evidence from the objector that the voter did not reside at such address on the date he/she signed the petition.

C. Signer Resides Outside the State

Any objection to a petition signer whose address is determined by the recorder's examiner to not in fact be located in Illinois, shall be sustained.

D. Signer's Address Missing or Incomplete

If there is no address listed other than a city or village, the objection shall be sustained unless, in the city, town or village, street addresses either do not exist or are not commonly used. Where the petition and the registration card both show the same rural route and box number, but no street address, the objection will be overruled. If the petition shows a street and house number and the registration card shows a rural route and box number, the objection will be sustained. If however, the voter's place of residence has in fact not changed, but only the designation of it has changed, it is the burden of the candidate to show that only the designation of the residence has changed. If the address listed next to the voter's signature matches the registration record in pertinent part (e.g. The petition lists "John Doe, 1020 South Spring, Springfield" and the registration record lists "John Doe, 1020 South Spring, P.O. Box 4187, Springfield"), the objection will be overruled. Objections to ditto marks in the address column where such marks indicate that a subsequent signer or signers live at the same address as the signer above, shall be overruled. Likewise, if the address line is blank, but the signer's surname is the same as the person signing above, indicating that such signer resides at the same address, any objections to missing address shall be overruled. In either case, the

decision to overrule the objection shall be subject to evidence by the objector showing such signer resides at a different address.

E. Signature is Not Legible

If the records examiner determines a signature is not legible, the examiner shall check the address opposite the illegible signature. If none of the signatures of voters listed at that address match, objection will be sustained. The basis of the objection, however, must be that the petition signer is not registered at the address shown on the petition. If the basis of the objection is that the signature is not genuine, the objection will be overruled for the reason that it is impossible to determine genuineness of the signature without a comparison to the signature on the voter registration record. If the address is also illegible, and the candidate cannot sufficiently, in a reasonably short amount of time, identify the signatory so as to permit the records examiner to check the signature against a specific voter record, then the objection will be sustained. If the illegible signature is located at a single address at which 10 or more voters are registered, the examiner shall not be required to examine every signature at that address to find the match but may instead rule the objection sustained. If the objection is sustained, the candidate at a later time, (but in no event later than the expiration of the 3 business day time period set forth in Section 9 above) will be given an opportunity to present a copy of the petition signer's voter registration record for a signature comparison. If, in the opinion of the records examiner or the Hearing Examiner, the signature is genuine and the address on the voter registration record matches that contained on the petition, the objection will be overruled.

F. Signer Signed Petition More Than Once at Sheet/Line Indicated

If the signatures on the sheet and line numbers indicated match, the objection shall be sustained and all but the signature appearing on or closest to the first petition sheet shall be invalidated.

G. Signature Incorporates Initials/Name Is Not Identical to Registration Record

If, for example, the registration record indicates "John E. Jones", 1020 South Spring, Spfld., and the petition lists "J. Jones" at 1020 South Spring, Spfld, the objection will be overruled if the signature on the card and the petition match. An objection that is based solely on the fact that a petition signature differs in form from the signature on the voter's registration card will be denied as failing to state grounds for an objection.

H. Voter Registration Record of Petition Signer Cannot be Located

The disposition of the objection depends on the grounds. If the objector is alleging that the person is not registered to vote at the address shown on the petition, the objection will be sustained. If the objection is based on the circumstances set forth in **A, D, E** or **G** above, where the only evidence to substantiate the objection is contained on the voter registration card, the objection will be overruled.

I. Petition Signer's Voter Registration is on Inactive Status

The objection shall be overruled. The Objector may introduce parol evidence that the voter in question no longer resides at the address shown on the petition.