

**BEFORE THE SHELBY COUNTY OFFICERS ELECTORAL BOARD FOR THE
HEARING AND PASSING UPON OBJECTIONS TO NOMINATING PAPERS
SEEKING TO PLACE CANDIDATES ON THE BALLOT FOR THE MARCH 19, 2024
GENERAL PRIMARY ELECTION**

RULES OF PROCEDURE

Pursuant to Section 10-10 of the Election code (10 ILCS 5/10-10), the Shelby County Officers electoral Board (the "Board"), a duly constituted electoral board under Section 10-9 of the Election Code, hereby adopts the following rules of procedure:

1. EXPEDIATED PROCEEDINGS

On all hearing dates set by the Board, the objector, and the candidate (at times individually referred to as "party" or collectively referred to as the "parties") shall be prepared to proceed with the hearing of their case. Due to statutory time constraints, the Board must proceed as expeditiously as possible to resolve the objections. Therefore, there will be no continuances or resetting of the initial hearing or future hearings except for good cause shown. The parties shall make themselves reasonable available by telephone (including cellular phone) during the day and at least until 6:00 PM (or as otherwise directed by the Board) for receipt of notice from the Board or opposing parties during the course of these proceedings. If the Board has made reasonable attempts to contact a party by telephone, cellular phone, fax, or email at the number(s) or address (s) provided by that party and the party cannot be contacted or fails to respond to such contacts, the party will be deemed to have received constructive notice of proceedings and the proceedings may go forward without the presence of that party. If a party has received actual or constructive notice of a hearing and fails to appear, the failure to appear shall constitute acquiescence by such party as to any action taken at that hearing or any agreement made by and between parties present at the hearing.

2. APPEARANCE

The candidate or objector may appear in person on his or her own behalf and participate in any proceeding before the Board or may appear by an attorney licensed to practice law in the State of Illinois. Non-attorneys other than a party appearing *pro se* shall not appear or participate (including the offering of any argument or advocating a position to the Board or any counsel to the Board) in the Board's hearings on behalf of either the candidate or the objector, except that non-attorneys may participate as observers or coordinators at any records examination on behalf of any party. A party must file with the Board and other parties of the case a written appearance stating his or her name, address, telephone, or cellular phone number, and if available, a fax number and email address as well as the name and contact information of his or her attorney, where appropriate.

3. AUTHORITY OF THE BOARD

The Board shall conduct all hearings and take all necessary action to avoid delay, to maintain order, to ensure compliance with all notice requirements, and to ensure the development of a clear and complete record. At the discretion of the Board, hearings may be conducted in two or more locations connected by telephonic or video conference; however, any witness who is going to provide verbal testimony must appear at the same location as the requesting party or its counsel (unless otherwise agreed by such requesting party or their counsel, and the Board). The Board shall have all powers necessary to conduct a fair and impartial hearing including, but not limited to:

A.) Administer oaths and affirmations;

- B.) Regulate the course of hearings, set the time and place for continued hearings, fix times 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;
- C.) Examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitious, or cumulative testimony, and set reasonable time limits on the amount of time each witness may testify;
- D.) Rule up on offers of proof and receive relevant evidence;
- E.) Direct parties to appear and confer for the settlement or simplification of issues and otherwise conduct case management conferences;
- F.) Dispose of procedural request or similar matters;
- G.) Issue subpoenas and rule upon objections to subpoenas (subject to provisions of paragraph 6 below) and discovery requests;
- H.) Consider and rule upon all motions presented in the course of the proceedings. Unless otherwise directed by the Board, the hearing of the objection will proceed despite the filing of the above Motions;
- I.) Consider such competent and relevant evidence as may be submitted including, but not limited to, documentary evidence, affidavits and oral testimony; and evidence as may be submitted, including, but not limited to, documentary evidence, affidavits, and oral testimony; and
- J.) Enter any order that further carries out the purpose of these Rules.

The grant of authority listed above to the designated hearing examiner by these Rules shall not be construed to limit the authority of the board to enter any contravening order.

The Board may on its own motion strike any objection if it determines that the objection does not meet the requirements set forth in 10 ILCS 5/10-8. Objections to individual signers and/or circulators must consist of a specific objection or objections to that particular signer or circulator. In addition, the Board on its own motion may strike any portion of an objection that it determines to be not well grounded in fact and/or law.

4. SERVICE OF DOCUMENTS

All briefs, notices, documents, pleading, answers, and correspondence shall be served upon the opposing parties, or their attorney if represented by counsel. All briefs, notices, documents, pleadings, answers, and correspondence may be sent by telefax or email attachment if the other receiving party or his or her representative has provided a telefax or email address to the Board. The date the telefax or email attachment is sent shall be deemed the date notice is given.

5. MOTIONS PRACTICE

All motions generally

- a.) The Board will decide all motions.
- b.) Motions for continuance are discouraged and will be granted only in extreme circumstances.

Motions Sua Sponte

- a.) The Board may, upon its own motion with notice to the parties, under the objector to show cause why the objection should not be dismissed.
- b.) The board may, upon its own motion with notices to the parties, order the candidate to show why the objections should not be summarily granted without further findings.
- c.) If a candidate fails to appear for the hearing, the Board will proceed to consider the merits of the objections and make its ruling.
- d.) The board may, upon its own motion, dismiss an objection for failure to prosecute where the objector fails to attend the initial meeting of the Board at which the objection is called.

6. SUBPOENAS

At the request of any party, the Chairman may issue subpoenas requiring the attendance of witnesses at a deposition or hearing and subpoena as duces tecum requiring the production of such books, records and documents as may relate to any matter under inquiry before the Board. Subpoenas and subpoenas duces tecum shall be issued in the same manner as stated by the Illinois Code of Civil Procedure. The decision of the Chairman to issue or note to issue a subpoena may be overruled by a majority of the Board.

Services of such subpoena shall be made by the Shelby County Sheriff or other person in the same manner as in civil cases in the courts of Illinois and the fees for such service shall be paid by the party requesting the subpoena as set out by the Illinois Code of Civil Procedure.

In case any person so served shall neglect or refuse to obey any such subpoena or to testify, the Board shall at once file a petition in Circuit Court setting forth the facts of such knowing refusal or neglect. The petition shall be accompanied by a copy of the subpoena, the return of service thereon and sworn statement of the person before whom the witness was to appear that such witness did not so appear. The petition shall apply for an order of the Court requiring such person to comply with the duly issued subpoena.

7. EVIDENCE

The Board will consider such other evidence as may be submitted, including, but not limited to, other documentary evidence, deposition, affidavits, and oral testimony. Due to the fact, however, that the Board must hear and pass upon objections within a limited time, extended examination and cross examination of witnesses will be subject to the discretion of the Board and the Board will not be bound by rules of evidence which prevail in courts of record.

8. ARGUMENT

All arguments and evidence must be confined to the points raised by the objector's petition and objections, if any, to the objector's petition. Allegations that could have been plead in the objection but were not so please shall not be considered by the Board. The Board reserves the right to limit oral arguments in any particular case. It may set time limits on such arguments as it deems appropriate.

9. ORDER

If the objections are sustained in whole, or with respect to petitions in sufficient part, the nomination papers will be held invalid, and the Board will state its findings in writing noting the objections which have been sustained.

10. GENERAL PROCEDURES

For the matters not covered herein, the Board will generally follow the provisions of the Illinois Code of Civil Procedure and the Illinois Supreme Court Rules regulating discovery and practice in trial courts, provided however, that the Board will not be bound by the Code or Rules in all particulars.

11. SESSIONS

After the Board convenes the initial hearing, it will be in session continuously until all objections shall have been considered and disposed of. If necessary, in the discretion of the Board, its session will be extended or recessed from time to time, such recesses to be for a time period as determined by the Board.

12. RECORD OF PROCEEDINGS

The Board shall appoint a secretary to take minutes of all proceedings before the Board. Said minutes shall constitute the official record of said proceedings. If either party wishes there to be a verbatim transcript of any proceeding, they may arrange for a certified court reporter to be present at that party's own expense. Copies of any such transcript may be purchased from the reporter and will not be furnished by the Board. If both parties desire a verbatim transcript of any proceeding, they shall agree on a certified court reporter and split the expense equally.

DULY AUTHORIZED SHELBY COUNTY OFFICERS ELECTORAL BOARD

Jessica Fox, County Clerk

Robert Hanlon, State's Attorney

Erica Firnhaber, Treasurer

APPENDIX A.

Listed below are the most common grounds for objections to petitions and the basis on which the Board will render decisions on objections unless evidence or argument presented at hearing persuade the Board that circumstances require a differing decision.

When the records examination is being conducted, any exceptions to the decision of the examiner must be made to the ruling at the time the ruling is made or the exception to the ruling is waived. Any party may, at the beginning of the records examination issue a general objection to any adverse decision of the records examiner obviating the need for individual objections. If, subsequent to the general objection, a party decides not to take exception to a particular ruling of the records examiner, the party may withdraw the objection as to that particular ruling.

Pattern of Fraud

If the Board determines that a pattern of fraud exists based on an inordinate number of invalid petition signers and/or petition circulators accompanied by evidence of fraudulent conduct, such that the integrity of the entire petition or the petition sheets of individual circulators is sufficiently compromised, the Board may strike the entire petition (or individual petition sheets) on this basis. In order to be considered by the Board, an allegation of a pattern of fraud must be initially pled by the objector and such pleading must be a part of the initial written objection filed by the objector. In the absence of such initial pleading by the objector, consideration of whether any pattern of fraud exists shall rest solely in the Board's discretion. To make a valid claim of a pattern of fraud, an objector must allege specific instances of fraudulent conduct in the signature gathering and related processes. A general claim of a pattern of fraud without specific examples is insufficient to establish such a claim. In addition, the sheer number of invalid signatures on a petition, or on sheets circulated by a specific circulator, without an accompanying allegation of specific fraudulent conduct, shall not by itself establish a pattern of fraud.

I. Objections to Individual Signers

A. Signer's Signature Not Genuine

The voter's original signature on his or her registration record shall be examined. If, in the opinion of the records examiner the signature is not genuine, the objection shall be sustained. 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. Staff must still perform the above-mentioned examination in situations where the signature is printed to determine whether there is a reasonable match.

B. Signer Not Registered at Address Shown

The voter's registration information shall be examined. If the address on the voter's registration record 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 at the Rule 7 signature rehabilitation/challenge hearing 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 or District

Any objection to a petition signer whose address is determined by the records examiner to not in fact be located in Illinois or within the applicable district, shall be sustained.

D. Signer's Address Missing or Incomplete

In general, if there is enough information in the address for the Board's staff to locate the voter whose name and address is on the petition, this objection will be overruled. If there is no address listed other than a city or village, the objection should be sustained unless in the city, town or village, street addresses either do not exist or are not commonly used. However, if the address line is blank, but the signer's surname is the same as the person signing above where an address is listed, indicating that such signer resides at the same address, any objections to missing address shall be overruled. Objections to missing counties or abbreviated municipalities (eg: FP—Forest park, OP —Oak Park, etc.) or to streets lacking a direction indicator (eg: North State, S. Main) shall be overruled if in fact the voter resides in that municipality or at the numerical address on that street. In addition, 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. Where the petition and the registration card both show the same rural route and box number, but not 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. (This issue should be presented to the Hearing Examiner at the Rule 9 signature rehabilitation/challenge hearing.) If the address listed next to the voter's signature matches the registration record in pertinent part (eg. 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.

E. Signature is Not Legible

If the records examiner determines that a signature is not legible, the examiner shall check the address opposite the illegible signature. If none of the signatures of voters listed at the address match, the objection will be sustained. The basis of the objection, however, must be 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 is sustained. In the event that the objection is sustained, the candidate at a later time (but in no event later than the expiration of the three (3) business daytime period set forth in Section 7 above) will be given an opportunity to present a copy of the signer's voter registration record for a signature comparison. If in the opinion of the Board 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. If the page and line number of the alleged duplicate signature is not listed in the objection, the objection shall be overruled.

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

Any objection solely on the ground that the petition signer's registration status is inactive will be denied as failing to state grounds for an objection. The signature of an inactive voter who remains at the registered address shall be deemed valid; whereas the signature of an inactive voter who has moved from the registered address may be objected to as "not registered at address shown." At the Rule 7 signature rehabilitation/challenge hearing, the Objector may introduce evidence that the voter in question no longer resides at the address shown on the petition.

II. Objections to Petition Circulators

The following information is intended as guidance to the Board in considering objections to a circulator's qualifications, the sufficiency of the circulator's affidavit and the method of circulation. It is not intended to establish legal standards for the following enumerated objections nor is it intended as a substitute for statutory or case law to the contrary.

A. Circulator did not Sign Petition Sheet

If the circulator's statement is unsigned, the objection should be sustained, and all the signatures on the petition sheet invalidated.

B. Ineligible Circulator

The fact that a circulator is not 18 years of age, or a United States Citizen or a resident at the place he or she states in the affidavit may be proved by any competent evidence. If the circulator is a registered voter in any state, a certified copy of his or her registration document is competent evidence of age, citizenry, and residence. Ineligible circulators may not circulate petitions and a petition page so circulated may be invalid. In addition, if it is shown that an ineligible circulator signed the circulator affidavit, this may constitute perjury and such evidence may be referred by the Board to the appropriate prosecutor's office. The use of more than one ineligible circulator may constitute a pattern of fraud, providing a basis for disqualifying the entire petition.

C. Circulator's Signature Not Genuine

If the circulator is a registered voter in Illinois, his or her original signature on his or her registration card shall be examined by the Board. NOTE: It is not a requirement that a petition circulator be registered voter. If, in the opinion of the Board the signature is not genuine, the objection should be sustained. The validity of a circulator's signature may be proved by any competent evidence. Collateral evidence of the validity of the signature of the circulator is admissible, such as testimony of a person purporting to observe one person signing the name of another circulator. There is no requirement that a signature be in cursive rather than printed form, and an 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.

D. Circulator's Address is Incomplete

The circulator's address must be sufficiently complete so as to easily locate the circulator at the listed address in the event the circulator's qualifications or the method of circulation is challenged.

E. Purported Circulator Did Not Circulate Sheet

Upon proof by the objector that the individual who signed as circulator did not circulate the petition sheet or personally witness the signing of the signatures on the petition sheet, the entire sheet may be invalidated. See also II (C) above.

F. Sheet Not Notarized

If the petition sheet is not notarized, the entire sheet may be invalidated. Simply missing a notary seal does not necessarily invalidate the sheet, unless the objector establishes that the sheet was not notarized by a qualified notary public.

G. Purported Notary Did Not Notarize Sheet

If the petition sheet is not in fact notarized by the notary who purports to notarize it. The entire sheet may be invalidated. See also II (C) above.