

**CITY OF EVANSTON**  
**MUNICIPAL OFFICERS ELECTORAL BOARD**  
***2018 Municipal Elections***

**RULES OF PROCEDURE**

1. Appearance by an objector or by a petitioner at the hearing on objections may be in person (*pro-se*), or by counsel admitted and in good standing to the bar of the Supreme Court of Illinois. On the Appearance form each Party must provide the Board with electronic mail addresses and telephone numbers at which that party can be reached at any time during the day and at night. If a Party chooses not to be represented by counsel, that Party may proceed *pro se* and must perform the functions otherwise to be performed by counsel. Due to the expedited nature of the hearings, failure by any Party to monitor or be available at the addresses/numbers provided may result in a waiver of rights. Non-attorneys cannot appear on behalf of or represent another party in Electoral Board proceedings.

2. On the date set in the Call, both the objector and the original petitioner are required to be present in person or by counsel and may be required to present their cases.

3. After the Board convenes, it will be in session continuously until all objections are disposed of. The Board may recess from time to time. The Board may grant continuances on objections but may not grant resetting of initial hearings on objections. The Board retains sole discretion regarding scheduling matters for its consideration. The Board may schedule proceedings in a case to extend beyond the initial day set for hearing. A quorum of the Board is two (2) members. The Board may, 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 does not have the power to make final findings or issue a final decision.

4. Electoral Board Powers. The Electoral Board will 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 has all necessary powers to conduct a fair and impartial hearing, including, but not limited to the following:

- a. administer oaths and affirmations;
- b. regulate the course of hearings, set the time and place for continued hearings, set times for filing of documents, provide for the taking of testimony by evidence deposition if necessary, and in general conduct proceedings according to the recognized principles of administrative law and these rules;
- c. examine the witnesses and direct the witnesses to testify, limit the number of times any witness may testify, limit repetitive testimony, and set reasonable limits to the amount of time that each witness may

testify; the Board members and the Board's attorney may also examine witnesses;

- d. rule 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 prehearing conferences;
- f. dispose of procedural requests or similar matters;
- g. require the parties to prepare written briefs and proposed findings of fact and conclusions of law;
- h. consider and rule on all motions presented in the course of the proceedings;
- i. consider such evidence as may be submitted, including, but not limited to, documentary evidence, affidavits, and oral testimony;
- j. prepare the Record of its proceedings; the City Clerk or his designee will serve as ex officio Clerk of the Board and keep minutes of the Board's proceedings;
- k. adopt Rules of Procedure, such Rules which will apply to Board hearings convened in all 2018 hearings;
- l. the Board shall as a matter of procedure consider and count all signatures that are filed in excess of the statutory maximum for any elected office; and
- m. enter any order that further carries out the purpose of these Rules.

5. Case Management Conference. The Board may direct the parties or their attorneys to appear at a conference with the Board or its attorney at any time, for the purpose of considering the following:

- a. the formation and simplification of the issues;
- b. the possibility of obtaining admissions of fact and genuineness of documents to avoid unnecessary proof;
- c. the limitation of the number of witnesses;
- d. the preparation and submission of written briefs ;
- e. scheduling of hearings on motions;
- f. a proposed plan and schedule of discovery; and
- g. any other matters that may aid in the disposition of the objections.

6. Order of Presentation. The Board will hear first preliminary motions in the nature of a motion to dismiss under Section 2-615 of the Illinois Code of Civil Procedure. The Board may, in its discretion, reserve rulings on any matter pending further hearings.

The objector must first present his/her case-in-chief after consideration of such preliminary motions. The objector bears the burden of presenting evidence sufficient to support a decision sustaining the objection. The applicable evidentiary threshold on issues of fact will 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 original petitioner may present his/her case-in-chief.

At the close of the original petitioner'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 not permitted.

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

8. Within the parameters of the law, the Board will only consider written objections and the written specifications of such objections to the original petitions, as set forth in the objector's petition. The objector's petition cannot be amended. No answer or response to the objector's petition need be filed. The objector's motivation or personal knowledge of the factual basis for the objections is not relevant to the Board and will not be considered. The objector does not need to prove that the objector is a registered voter in the City of Evanston. The original petitioner may raise the lack of the objector's standing or eligibility as an affirmative defense in his/her own case-in-chief.

If the original petitioner fails to appear at a hearing, a default judgment may be entered against the original petitioner, and the objections contained in the original petitioner's petition shall be confessed against the original petitioner upon a determination by the Board that the objector's petition sets forth valid grounds for the removal of the original petitioner's name from the ballot. If an objector fails to appear at a hearing, 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.

9. The objector does not need to prove that the objector is a registered voter within the City of Evanston. The original petitioner 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.

10. 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 will be limited to 10 minutes each for the presentation of their case, unless the Board, in its sole discretion, extends the period of presentation.

**If a Party is represented by Counsel, all questions and statements made on the Record at any hearing can only be made by Counsel.**

The Chair of the Electoral Board, with the assistance of the Board's attorney, will make all necessary rulings, subject to appeal. The Board may overrule the Chair's rulings by a majority vote of the Board.

The Chair has the power to maintain order and decorum during any hearing. Public comment may be permitted during any hearing, in the discretion of the Board. Any comment will be restricted solely to the validity of the Petition and the objections. Because the Board must consider objections within a limited time, examination of witnesses and evidence will be subject to the Board's discretion.

All evidence must be relevant, probative, and material. The strict rules of evidence will not apply. For matters not covered by these Rules, the Board will generally follow the rules of practice in effect in the Circuit Court of Cook County, Illinois and the Illinois Code of Civil Procedure. Because of the expedited nature of these proceedings, the Board will not be bound by such rules in all particulars. Mandatory discovery is not permitted. All testimony, if any, will be given under oath.

11. The Board will provide a certified court reporter for all hearings, but not for record checks. The Board may waive this requirement at any time without notice. The Board will not cause a transcript to be prepared unless it needs a transcript for a particular purpose. If a petition for judicial review of the Board's decision is filed, the Board will provide a Record to the Court as provided by the Administrative Review Law. Any party may purchase a transcript from the court reporter at his/her own expense.

12. 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 ruling and findings in a written decision, noting the objections which it 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. 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 will not be sustained.

13. The inspection of any actual records of the Election Official of the City of Evanston will be restricted to members of the Board or Counsel, or representatives of the Parties and the Board's attorney.

14. Subpoenas. At the request of any party, the Chair may issue subpoenas requesting the attendance of witnesses and subpoenas *duces tecum* requiring the production of such books, papers, records, and documents as may be evidence of any matter before the Board. The party must serve the subpoena, with the appropriate fee, in the same manner as for subpoenas used in the Circuit Court of Cook County.

15. If any person served with a Board subpoena fails to honor it, the Board may seek judicial enforcement of the subpoena as provided by law.

16. Failure to Follow Directives. Failure to adhere to these Rules can be suitable grounds for dismissal of the objector's petition, or entry of a default against any Party.

17. Decision. The Board will state its findings in a written decision, noting the objections that were sustained. The Board will not default an original petitioner until after a finding that the objections constitute sufficient grounds for removal from the ballot.

18. The Board designates Michelle L. Masoncup, Corporation Counsel of the City of Evanston, as its attorney. The Board's attorney is authorized and directed to appear on behalf of MOEB at the Cook County Circuit Court if a petition for judicial review is filed, and directed to defend the MOEB in any litigation that may arise. The Board directs the City of Evanston to pay the reasonable and necessary costs of the Board's operation, including attorneys' fees, court reporting fees, and similar expenses, from its general funds. The Board authorizes its attorney to appoint and assign a Hearing Officer to any case, if necessary, and to take other actions to assist the Electoral board as deemed necessary and appropriate consistent with these Rules.

19. Record Checks. The Board, in its discretion and when applicable, may order a record check to be conducted. The record check shall be used to initially determine the validity of most standard objections to individual signatures and circulators. At the record check, election documents and objections shall be compared with the permanent voter registration records of the local election authority by employees of the election authority acting under the direction and supervision of this Board, if possible, and if not, then by the Board or its agent(s) or designee(s). If the records of the election authority are stored on a computer database, the records check may utilize the computerized records in lieu of or in addition to the originals. The record check shall determine the validity of the following general types of objections:

- a. whether the signer of an election document is a registered voter at the address shown beside his/her signature;
- b. whether the signature on an election document is genuine;
- c. whether the signer of an election document is registered at an address within the relevant political subdivision or district involved; and
- d. whether a petition signer signed the document more than once.

20. The objector and original petitioner shall have the right to have an attorney and one designated representative (watchers) present at the record check. If the designated representative is the objector or original petitioner, that party shall not be entitled to any additional watchers other than the attorney. The record check will proceed at the scheduled time. The failure of any party to appear at the comparison shall not delay or cause the record check to be rescheduled. Failure of any party to appear at a record check shall result in that party being defaulted. The results of the record check shall be noted by the election authority's clerks on a form provided by the Board. Failure or refusal of the watcher to sign the form does not affect the accuracy of the form. Blank copies of the form used shall be furnished to each watcher on request,

so that the watcher may note the results of the comparison. The election authority or the Board's representative(s) may order a watcher removed for misconduct that materially hampers the businesslike proceedings of the record check. If a watcher is removed, the record check will proceed immediately without that watcher.

21. A watcher may orally object to the findings of the clerk at the time the clerk enters his/her ruling on the form. This objection shall also be noted by the clerk. FAILURE TO OBJECT TO A FINDING OF THE CLERK AT THE RECORD CHECK SHALL BAR THE PARTY FROM OBTAINING A CHECK OF ANY OTHER ELECTION AUTHORITY RECORDS RELATING TO THAT SIGNATURE AND ALSO FROM PRESENTATION OF ANY FURTHER EVIDENCE OR ARGUMENT BEFORE THE BOARD WITH RESPECT TO THE ISSUE CONSIDERED AT THE RECORD CHECK.

22. Timing of Objections to Record Checks. Any party may object to the results of the record check by filing a written request for further hearing before the Board. This request shall indicate the specific name(s) objected to by sheet and line of the election document and the ground(s) for the request. This request shall be filed no later than 24 clock hours following the clerk's ruling on the last signature examined at the record check. The request shall be filed with the Board and served on the other parties to the case. No request will be considered if the party did not make an objection to the election authority's finding at the time of the election authority's clerk entered his/her finding on the form.

23. At any subsequent record check objection hearing before the Board, the ruling made by the clerks shall be deemed valid, and the moving party shall have the burden of demonstrating that the ruling was incorrect by a preponderance of the evidence.

24. Any party filing any document must give notice of that filing by serving a copy of that notice of filing and document to all other parties to the case. If a party or his/her attorney has a fax machine or document scanner, service may be made to the fax machine or by email transmission. Service must be done in a manner reasonably calculated to provide actual and timely notice to the party. The party filing the document must file a sworn Proof of Service with the Board. The Proof of Service shall set forth the time, date and manner of service. The Proof of Service must be filed with the ex officio clerk or his/her designee during regular office hours, or with the Board in open session. Copies of any documents filed with the ex officio clerk must also be sent by hand delivery or fax transmittal to Ms. Masoncup at 847.448.8009. They must also be emailed to mmasoncup@cityofevanston.org. All Parties are encouraged to assent to service of all documents and Board notices via electronic mail.

Adopted: August 13, 2018

Electoral Board

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Chair, Mayor Stephen H. Hagerty