

**BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO  
AS THE DULY CONSTITUTED ELECTORAL BOARD**

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Objections of: Melissa Rabb	)	
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	)	
	)	
To the Nomination	)	No. 10-EB-RES-04
Papers of: Dave Lenkowski	)	
	)	
	)	
Candidate for the office of Representative	)	
in the General Assembly, 12th	)	
Representative District, State of Illinois,	)	
Republican Party	)	

**FINDINGS AND DECISION**

The duly constituted Electoral Board, consisting of Chicago Board of Election Commissioners Langdon D. Neal, Richard A. Cowen, and Marisel A. Hernandez, organized by law in response to a Call issued by Langdon D. Neal, Chairman of said Electoral Board, for the purpose of hearing and passing upon objections ("Objections") of Melissa Rabb ("Objector") to the nomination papers ("Nomination Papers") of Dave Lenkowski, candidate for the nomination of the Republican Party for the office of Representative in the General Assembly, 12th Representative District, State of Illinois ("Candidate"), having convened on May 3, 2010, at 10:00 a.m., at 69 W. Washington Street, 8<sup>th</sup> Floor Conference Room, Chicago, Illinois, and having heard and determined the Objections to the Nomination Papers in the above-entitled matter finds that:

1. Objections to the Nomination Papers of the Candidate herein were duly and timely filed.

2. The said Electoral Board has been legally constituted according to the laws of the State of Illinois.

3. A Call to the hearing on said Objections was duly issued by the Chairman of the Electoral Board and served upon the members of the Electoral Board, the Objector and the Candidate, by registered or certified mail and by Sheriff's service, as provided by statute.

4. A public hearing held on these Objections commenced on May 3, 2010 and was continued from time to time.

5. The Electoral Board assigned this matter to Hearing Officer Gerald B. Mullin for further hearings and proceedings.

6. The Objector and the Candidate were directed by the Electoral Board's Call served upon them to appear before the Hearing Officer for a hearing on the date and at the time designated on the Electoral Board's Initial Hearing Schedule.

7. The following persons, among others, were present at such hearing: the Objector, Melissa Rabb, appearing by counsel, Michael J. Kasper; and the Candidate, Dave Lenkowski, appearing by counsel, John G. Fogarty, Jr..

8. The Objector alleges that the name of no candidate of the Republican Party appeared on the ballot for nomination to the office of Representative in the General Assembly for the 12<sup>th</sup> Representative District of the State of Illinois at the February 2, 2010 general primary election and, as a result, a vacancy in nomination was created that could be filled within 75 days of the primary election pursuant to sections 8-17 and 7-61 of the Election Code. The Objector notes that any candidate designated to fill a vacancy in nomination is required to submit a nominating petition signed by a number of voters of

the Representative District equal to the number required for a candidate to qualify for the ballot in the primary election. The Objector alleges that the Nomination Papers filed by the Candidate are insufficient in fact and law for the following reasons:

- A. The Nomination Papers contain less than the 500 validly collected signatures of qualified and duly registered legal voters of the 12<sup>th</sup> Representative District (Objector's Petition, ¶ 8).
- B. The Nomination Papers are invalid in their entirety because the purported Representative District Committee of the Republican Party for the 12<sup>th</sup> Representative District lacked authority to fill a vacancy in nomination because the Committee failed to properly organize by failing to file a Certificate of Organization with the Illinois State Board of Elections as required by the Illinois Election Code (Objector's Petition, ¶ 6).
- C. All of the petition sheets included within the Nomination Papers contained a circulator's affidavit that states that no signatures on the sheet were obtained more than 90 days preceding the last day for filing the petition. The circulation period for the office cannot begin until: (a) at most 75 days prior to the last date for filing the petition; and (b) the candidate has been designated by the Representative District Committee. Accordingly, the Objector alleges that because the circulator's affidavit on each petition sheet fails to include a statement, certified by the circulator, that the signatures were gathered within the time period permitted by law, every signature on such sheets is invalid. (Objector's Petition, ¶ 5)

D. The Nomination Papers are invalid in their entirety because the Resolution to Fill the Vacancy in Nomination indicates that the vacancy was filled on March 20, 2010, but the Resolution to Fill a Vacancy in Nomination was not filed with the State Board of Elections until April 19, 2010. The Objector alleges that, as a result, the Resolution to Fill a Vacancy in Nomination was not filed within three days of the date vacancy was filled as required by the Illinois Election Code. (Objector's Petition, ¶ 7)

9. Counsel for the Objector and the Candidate stipulated that:

A. There were sufficient signatures on the nominating petitions submitted by the Candidate and that, consequently, there is no need for a records examination.

B. The date of the General Primary Election was February 2, 2010.

C. The date the nominating petitions were delivered and filed with the State Board of Elections was April 19, 2010.

D. The date of the Resolution to Fill a Vacancy was March 10, 2010.

E. The date of transmitting the Resolution to Fill a Vacancy to the State Board of Elections was April 19, 2010.

F. The date of filing of the Candidate's Statement of Economic Interests was April 19, 2010.

10. The Candidate filed a motion to strike the Objector's Petition.

Memoranda were filed by the parties and on May 26, 2010 the Hearing Officer issued his report recommending that the Electoral Board deny the Candidate's motion to dismiss the

Objector's Petition and recommending further that the objections to the Candidate's Nomination Papers be sustained.

11. The Hearing Officer framed the two issues which require resolution in this matter as follows: (1) whether nominating papers are invalid that contain a statement that all of the signatures were gathered not more than 90 days preceding the last date for filing of petitions, but failed to contain a statement that all the signatures were gathered not more than 75 days preceding the last date for filing of the petitions as required by 10 ILCS 5/7-61; and (2) whether the failure to file a resolution filling a vacancy in nomination within three days as required by 10 ILCS 5/7-61 as amended, renders the nomination to fill a vacancy void. The Hearing Officer noted that resolution of both of these legal issues requires an analysis of two amendments to section 7-61 that became effective January 1, 2010.

12. Section 7-61 of the Election Code (10 ILCS 5/7-61) was amended by Public Act 96-809 (House Bill 723) to revise the ninth paragraph of that section to read:

"If the name of no established political party candidate was printed on the consolidated primary ballot for a particular office and if no person was nominated as a write-in candidate for such office, a vacancy in nomination shall be created which may be filled in accordance with the requirements of this Section. If the name of no established political party candidate was printed on the general primary ballot for a particular office and if no person was nominated as a write-in candidate for such office, a vacancy in nomination shall be filled only by a person designated by the appropriate committee of the political party and only if that designated person files nominating petitions with the number of signatures

required for an established party candidate for that office within 75 days after the day of the general primary. The circulation period for those petitions begins on the day the appropriate committee designates that person. The person shall file his or her nominating petitions, statements of candidacy, notice of appointment by the appropriate committee, and receipt of filing his or her statement of economic interests together. The State Board of Elections shall hear and pass upon all objections to nomination petitions filed by candidates under this paragraph.  
~~created, but no candidate of the party for the office shall be listed on the ballot at the general election unless such vacancy is filled in accordance with the requirements of this Section within 60 days after the date of the general primary.”~~

13. Public Act 96-848 (Senate Bill 146) further amended section 7-61 in the last sentence referenced above to add a requirement that “These documents shall be filed at the same location as provided in the Section 7-12” and that electoral boards having jurisdiction under section 10-9 of the Election Code to hear and pass upon objections to nominate petitions should, instead of the State Board of Elections, hear and pass upon objections to nominating petitions under section 7-61.

14. As regards the objection that the circulator’s affidavit on each of the Candidate’s nominate petition sheets fails to include a statement, certified by the circulator, that the signatures were gathered within the time period permitted by section 7-61 (i.e., beginning on the day the appropriate committee designates the candidate to fill the vacancy and ending not later than 75 days after the day of the general primary), the Hearing Officer has recommended that the Candidate’s motion to strike and dismiss the Objector’s Petition be denied. Each of the nominating petition sheets filed by the

Candidate contains a statement in the circulator's affidavit that all of the signatures were gathered "not more than 90 days preceding the last day for filing of petitions." The Objector argued that the circulator's affidavit failed to contain instead a statement that all of the signatures were gathered *not more than 75 days* preceding the last day for filing of petitions as required by section 7-61. Although section 7-61 is silent with regard to the form of the circulator's affidavit or the form of the petition itself, the Objector argues that section 8-8 of the Election Code requires each person circulating a nominating petition for a candidate for the General Assembly to execute an affidavit regarding the circulation that petition and that such affidavit must either (1) indicate the dates on which the petition was circulated, or (2) indicate the first and last dates on which the sheet was circulated, or (3) certify that none of the signatures on the sheet were signed more than 90 days preceding the last day for the filing of the petition. Section 8-8 does specify that, "No petition shall be circulated more than 90 days preceding the last day provided in Section 8-9 for the filing of such petition." The Objector contends that the purpose of this provision is to "guard against fraud and ensure that a candidate does not gain an unfair damage over his opponents by circulating his petition far in advance of the election" and that such requirement is mandatory, citing *Simmons v DuBose*, 147 Ill.App.3d 1077, 492 N.E.2d 586, 588 (1986). The Objector argues that the Candidate, instead of choosing to use the third option of certifying that the sheets were signed no more than 90 days preceding the last day for filing the petition, should have opted for either option (1) above (by indicating the dates on which the petition was circulated) or option (2) above (by indicating the first and last dates on which the sheet was circulated).

15. In *Simmons*, a candidate for Ward Committeeman filed nominating petitions for a special election ordered by the federal district court on December 30, 1985. The deadline for filing nominating petitions for the special election was January 17, 1986. The candidate filed his nomination papers by the statutory deadline but the electoral board determined that three of the candidate's nominating petition sheets were invalid because there was no indication on these sheets of the date on which they were circulated.<sup>1</sup> The candidate claimed that it was not mandatory for the petition to reflect the date on which was circulated, so long as the petition was in fact circulated within 90 days prior to the deadline for filing nominating papers. He contended that his petition must have been circulated within the acceptable time period because the federal court called the special election only 18 days prior to the filing deadline. The *Simmons* court rejected the candidate's argument as "unpersuasive," finding that it is a statutory requirement that each sheet of a nominating petition must contain a certification of either the dates upon which the sheets were circulated, or the first and last dates upon which the sheets restricted, or the voter must certify that none of the signatures on the sheets were made prior to 90 days before the filing deadline. Because three of the candidate's nominating petition sheets "failed to indicate the circulation date or that the sheets were circulated within the statutory period," (142 Ill.App.3d at 1080), the court found the sheets to be invalid. The court found that the purpose of the statute "is to ensure that nominating petitions will be circulated within 90 days prior to the deadline for filing petitions and that the circulator will verify compliance by indicating a circulation date." (Id.) These

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<sup>1</sup> The Objector mistakenly claims that the candidate's petitions in *Simmons* contained a statement that none of the signatures were gathered more than 90 days preceding the last day for filing petitions, but that does not appear to be the case. See Objector's Response to Motion to Strike and Dismiss, at 7.



measures were intended to “guard against fraud and ensure that a candidate does not gain an unfair advantage over his opponents by circulating a petition far in advance of the election.” (Id) The court found that “an intent to guard against fraud and ensure fairness indicates that the amendment to section 7–10 is *mandatory*.” (Italics added) The court went on to note that “even if the amendment to section 7–10 were considered a technicality, Simmons has not demonstrated his substantial compliance” because he offered “no direct proof that the three sheets in question were circulated within the statutory period.” 142 Ill.App.3d at 1081.

16. The Candidate argued that the format requiring the statement that all the signatures were gathered not more than 75 days preceding the last day for filing of petitions is directory and not mandatory, that the Objector’s Petition does not assert that any signature was gathered before the 75 day time period, and that section 7–61, as amended, does not specify any format for the circulator affidavit. The Candidate cited *O’Connor v. Cook County Officers Electoral Board*, 281 Ill.App.3d 1101, 667 N.E.2d 672 (1<sup>st</sup> Dist. 1996) in support of the proposition that the statutory format of the nominating petition and circulator affidavit was merely suggestive and directory, but not mandatory. The Candidate further contended that even if there is a mandatory requirement to state in the circulator’s affidavit when the signatures were gathered, the Candidate substantially complied with such a requirement by using the format expressly prescribed by section 8-8 of the Code. Finally, the Candidate notes that the Objector made no allegation that any signature on the nominating petitions was actually gathered before the time period set forth in the statute and that the uncontroverted affidavit of Jonathan Blessing, the individual who created and printed the candidate’s nominating

petitions, demonstrates that no signature was obtained before the Candidate was designated by the appropriate Representative Committee on March 20, 2010, which was less than 75 days before the day of the primary election.

17. The Hearing Officer found that the case of *Simmons v. DuBose*, cited by the Objector, was persuasive and that the failure to contain an accurate statement that all the signatures were gathered within the period permitted by law, i.e., not more than 75 days preceding the last day for filing petitions, compel the conclusion that the Candidate's motion to dismiss as to this matter should be denied.

18. As regards the issue whether the failure to file with the State Board of Elections the resolution filling the vacancy in nomination within three days of its execution renders the nomination to fill the vacancy void, the Hearing Officer found relevant the language found in the third paragraph of section 7-61 providing that for "Any vacancy in nomination under the provisions of this Article 7... occurring on or after the primary and prior to certification of candidates by the certifying board or officer, must be filled prior to the date of certification" and that the "resolution filling the vacancy shall be sent by U.S. mail or personal delivery to the certifying officer or board within three days of the action by which the vacancy was filled ...." The Hearing Officer also noted, however, that section 7-61 as amended effective January 1, 2010 provides that the "person shall file his or her nomination petitions, statement of candidacy, notice of appointment by the appropriate committee, and receipt of filing his or her statement of economic interest together" within 75 days after the day of the general primary.

19. The Objector argued that the committee that nominated the Candidate filed its resolution to fill the vacancy in nomination on April 19, 2010, which was more

than three days after the action by which the vacancy was filled. In support of her argument, the Objector cited *Forcade-Osborne v. Madison County Electoral Board*, 334 Ill.App.3d 756, 778 N.E.2d 768 (5<sup>th</sup> Dist. 2002), a case that held that section 7-61 clearly imposes a three-day deadline from the date of the action filling the vacancy in nomination for the transmission of a certificate a resolution to fill the vacancy in nomination to the certifying officer. There, the candidate's resolution to fill a vacancy in nomination was not filed until seven days after the appropriate representative committee met to select the candidate to fill a vacancy in nomination. The court held that, "having failed to meet the deadline, petitioner lost the right to have her name placed on the election ballot as a candidate for the office of county treasurer" and that "when a statute specifies what result will follow if its terms are not complied with, then the statute is deemed mandatory." 334 Ill.App.3d at 759. The court noted, "we cannot fault the legislature for being specific on the manner in which one's name is placed on the ballot when one has chosen not to follow the single 'customary' procedure for nomination." 334 Ill.App.3d at 760.

20. Here, it was uncontested that the notice of appointment was filed on April 19, 2010, more than three days after the March 20, 2010 date that the representative committee met to select and nominate the Candidate.

21. The Candidate argued that the newly amended ninth paragraph of section 7-61 requires that the notice of appointment be filed *together* with the nominating petitions, statement of candidacy and receipt of filing certificate of economic interest within 75 days of the day of the primary. Candidate argued that the "3-day rule" does not apply to filling vacancies in nomination where no candidate's name is printed on the primary ballot at the general primary and that the legislature impliedly repealed the rule

for vacancies occurring when no candidate name is on the primary election ballot.

Furthermore, the Candidate contends that requiring that the committee file a resolution filling a vacancy in nomination within three days of designating a candidate would lead to an absurd result.

22. The Hearing Officer concluded that in order to construe the statute, insofar as possible, to preclude an implied repeal of the 3-day rule, it is necessary to conclude that the process of “designation” and “nomination” are separate. The Hearing Officer looked to *Black’s Law Dictionary* for the definitions of “nominate” and “designate.”<sup>2</sup> Accordingly, Hearing Officer stated the amendment to section 761 should be construed to contemplate two separate acts on the part of the nominating committee: “(1) the designation of a candidate to fill a vacancy, which requires no notice, and after which the candidate is free to solicit nominating petitions, and (2) the nomination of a candidate by the committee, which requires notice of a certificate of nomination transmitted within a three-day deadline and the date of the action.” The Hearing Officer concluded that the Candidate’s nomination papers violated the requirement in section 7-61 that the resolution to fill a vacancy in nomination be filed with the State Board of Elections within three days of the date of its taking action to nominate the Candidate.

23. The Electoral Board is mindful of its earlier decision in *Santos v. Ledford*, 06-EB-RES-01, finding that the case of *Forcade-Osborn*, cited above, is dispositive for the principal that the failure of a nominating committee to file its resolution to fill a vacancy in nomination within three days of the committee’s action nominating a

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<sup>2</sup> Interestingly, *Black’s* definition of the word “nominate” even includes the word “designate,” stating that the word “nominate” is defined as “to name, designate or propose for election or appointment.” Hearing Officer’s Recommended Findings of Fact and Recommended Decision, at 8.

candidate renders such nomination void. One of the questions presented by the instant case is whether the January 1, 2010 amendments to section 7-61 changed the 3-day rule upheld in *Forcade-Osborn* as applied to vacancies occurring where no candidate name was printed on the general primary ballot and no write-in candidate was nominated.

24. Where the language of a statute is plain, there is no need for interpretation. *Totten v. State Board of Elections*, 79 Ill.2d 288, 403 N.E.2d 225 (1980). Here, however, the statute is less than “plain.” The interpretation of section 7-61 advanced by the Objector is seemingly contradictory. Taking language found in the third paragraph of section 7-61 dealing with any vacancy in nomination occurring on or after the primary and prior to certification of candidates, Objector claims that a resolution to fill such vacancy must be mailed or delivered to the certifying officer or board within 3 days of the action taken by which the vacancy was filled. Objector claims the 3-day rule still applies, notwithstanding the fact that the new January 1, 2010 amendments to section 7-61 (a) allow candidates to file their nominating petitions up to 75 days after the general primary, and (b) requires that the candidate shall file the “notice of appointment by the appropriate committee” *together* with his or her nominating petitions, statement of candidacy and receipt of filing his or her statement of economic interests. Ignored by Objector is other language in section 7-61 that requires that “the resolution to fill a vacancy in nomination shall be accompanied by a Statement of Candidacy \*\*\* and a receipt indicating that such nominee has filed a statement of economic interests as required by the Illinois Governmental Ethics Act.” Thus, if the Objector’s interpretation of section 7-61 is to be accepted, a candidate must file the resolution to fill the vacancy in nomination/notice of appointment, his/her statement of candidacy and his/her statement

of economic interests receipt at least twice – once within 3 days after the nominating committee takes action to fill the vacancy, and again when the candidate files his/her nominating petitions within 75 days of the primary.

25. Where interpretation of a statute is required, courts will “select the construction which leads to a logical result” and “must consider the object to be attained and the result of various interpretations of the act.” *Jones v. Municipal Officers Electoral Board*, 112 Ill.App.3d 926, 929, 446 N.E.2d 256, 259 (1<sup>st</sup> Dist. 1983).

26. Presumably, the purpose of filing the nominating committee’s paperwork designating a candidate as the nominee of that committee is so that the certifying authority may determine if the person selected to fill the vacancy in nomination, or the original candidate (if there was one), is to be certified to the election authority authorized to prepare the ballot. *Zerante v. Bloom Tp. Electoral Bd.* 287 Ill.App.3d 976, 980, 679 N.E.2d 459, 462 (1<sup>st</sup> Dist.,1997). There is no apparent or logical purpose served by requiring that such paperwork be filed twice. Rather, it should be sufficient that such paperwork be filed once with the certifying authority so that it can fulfill its statutory duty in certifying candidate names to be printed on the ballot and putting all interested persons on notice who the nominee will be.

27. The interpretation of section 7-61 advanced by the Objector does not appear to serve any legitimate purpose. Instead, it seems more likely that the legislature intended to carve out a new set of requirements for nominating committees and candidates when no candidate is nominated at the general primary. Those requirements included the additional burden of circulating and filing nominating petitions signed by a number of registered voters in the district equal to the number that would have been

required by a candidate seeking to get on the primary ballot within 75 days of the primary election. The new amendments also required that such nominating petitions be filed *together* with the candidate's statement of candidacy, the statement of economic interests receipt and the notice of appointment by the appropriate committee.

28. It is a general rule of statutory construction that statutes should be construed so that no sentence, clause or word is superfluous. *Jones v. Municipal Officers Electoral Board, supra*, 112 Ill.App.3d at 930. If the Objector's theory that the resolution to fill the vacancy must be filed within 3 days after the committee selects a nominee is accepted, the word "together" as it appears in section 7-61 as amended would be rendered superfluous and meaningless.

29. A statute is ambiguous if it "is capable of being understood by reasonably well-informed persons in two or more different senses." *Preuter v. State Officers Electoral Board*, 334 Ill.App.3d 979, 988, 779 N.E.2d 322, 330 (1<sup>st</sup> Dist. 2002). Here, the Electoral Board believes that the legislature did not intend to apply the 3-day rule to instances where no candidate was nominated at the general primary, but rather intended that the resolution or notice of appointment by the nominating committee be filed together with the nominating petitions and other nomination papers up to 75 days after the primary election. For these reasons, the Electoral Board respectfully disagrees with the Hearing Officer and finds that the Candidate's motion to strike and dismiss paragraph 7 of the Objector's Petition should be, and is, granted and said paragraph is dismissed.

30. As regards paragraph 5 of the Objector's Petition, the Electoral Board finds that, while section 7-61 of the Election Code, as amended, declares that the circulation period for petitions to be filed under that section begins on the day the

appropriate committee designates a nominee, nothing in that section prescribes the form or substance of the circulator's affidavit at the bottom of each petition sheet. Instead, the candidate must rely upon other sections of the Election Code to inform him or her as to the form and substance of such petitions.

31. Here, because the Candidate is seeking nomination to the General Assembly, section 8-8 of the Election Code governs the form of the petition for nomination.<sup>3</sup> Section 8-8 does not prescribe a particular petition form, but it does require that, "In the affidavit at the bottom of each petition sheet, the petition circulator shall either (1) indicate the dates on which he or she circulated that sheet, or (2) indicate the first and last dates on which the sheet was circulated, or (3) certify that none of the signatures on the sheet were signed more than 90 days preceding the last day before the filing of the petition." Thus, candidates have available to them three different options for complying with section 8-8 requirements.

32. The Electoral Board finds that the requirement that the circulator's affidavit contain a statement indicating when the petition sheet was circulated is mandatory, and not directory. *Simmons v. DuBose, supra*. However, substantial compliance can satisfy even a mandatory provision of the code. *Jakstas v. Koske*, 352 Ill.App.3d 861, 817 N.E.2d 200 (4<sup>th</sup> Dist. 2004).

33. Here, the Candidate, presumably relying upon section 8-8, opted to use the third option available to candidates and circulators – i.e., certify that none of the signatures on the sheet were signed more than 90 days preceding the last day for the

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<sup>3</sup> Although the first sentence of section 8-8 states that the name of no candidate shall be printed upon the *primary* ballot unless a petition is filed as provides in that section, presumably the same requirements apply to candidates seeking to fill a vacancy in nomination and to have their names printed on the *general* election ballot.



filing of the petition. Not only did the Candidate substantially comply with the requirements of section 8-8, he strictly complied with the language of that section. Arguably, the Candidate should have varied from the statutory language set forth in section 8-8 by substituting 75 days for 90 days, but instead, the Candidate literally adopted the 90-day statutory language.

34. No allegation is made here that the Candidate actually obtained signatures on his petition prior to his designation by the nominating committee on March 20, 2010. The only objection is to the form of the petition.

35. Unlike the candidate in the *Simmons* case, the Candidate here produced uncontroverted evidence in the form of an affidavit that none of the signatures on his petition were obtained prior to the commencement of the statutory circulation period. This alone distinguishes this case from the *Simmons* case and demonstrates substantial compliance with the statutory circulation period. There is no evidence that the integrity of the election process has been compromised or that the Candidate gained an unfair advantage over his opponents by circulating his petition in advance of the circulation period.

36. The Electoral Board finds that the Candidate should not be penalized for relying upon and using the language in section 8-8 of the Election Code that permitted his circulators to state that none of the signatures on his petition were signed more than 90 days before the last day for the filing of the petition. See, e.g., *Merz v. Volberding*, 94 Ill.App.3d 1111, 1117, 419 N.E.2d 628 (1<sup>st</sup> Dist. 1981) (“it would be a great injustice to penalize any candidate for failure to understand a provision in the Election Code which we ourselves have had considerable difficulty in interpreting”); *Preuter v. State Officers*


*Electoral Board*, 334 Ill.App.3d 979, 779 N.E.2d 322 (1<sup>st</sup> Dist. 2002). For these reasons, the Electoral Board respectfully disagrees with the Hearing Officer and finds that the Candidate's motion to strike and dismiss paragraph 5 of the Objector's Petition should be, and is, granted and said paragraph is dismissed.

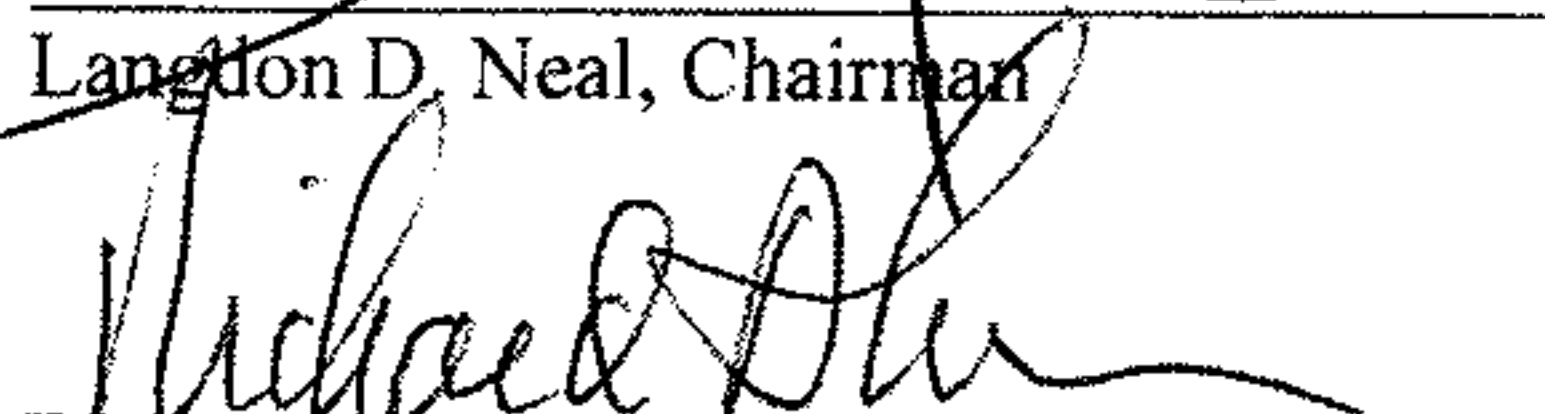
37. Due to the stipulations entered into by counsel for the parties, the remaining paragraphs and objections in the Objector's Petition are overruled.

38. The Electoral Board finds that the Candidate's Nomination Papers are valid.

IT IS THEREFORE ORDERED that the Objections of Melissa Rabb to the Nomination papers of Dave Lenkowski, candidate for nomination of the Republican Party for the office of Representative in the General Assembly, 12th Representative District, State of Illinois, are hereby OVERRULED and said Nomination Papers are hereby declared VALID and the name of Dave Lenkowski, candidate for nomination of the Republican Party for the office of Representative in the General Assembly, 12th Representative District, State of Illinois, SHALL be printed on the official ballot for the General Election to be held on November 2, 2010.

Dated: Chicago, Illinois, on June 4, 2010.

  
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Langdon D. Neal, Chairman

  
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Richard A. Cowen, Commissioner

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Marisel A. Hernandez, Commissioner

**NOTICE:** Pursuant to Section 10-10.1 of the Election Code (10 ILCS 5/10-10.1) a party aggrieved of this decision and seeking judicial review of this decision must file a petition for judicial review with the Clerk of the Circuit Court of Cook County within 10 days after the decision of the Electoral Board.