

RULES OF PROCEDURE
FOR THE
BOARD OF ELECTION COMMISSIONERS OF THE CITY OF CHICAGO
AS THE DULY CONSTITUTED ELECTORAL BOARD
FOR HEARING AND PASSING UPON OBJECTIONS
TO
NOMINATION PAPERS AND PETITIONS FOR QUESTIONS OF PUBLIC POLICY

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Pursuant to Section 10-10 of the Election Code (10 ILCS 5/10-10), the Board of Election Commissioners for the City of Chicago, constituting ex officio the Electoral Board for certain objectors' petitions as described in Section 10-9(6) of the Code, hereby adopts the following rules of procedure for the introduction of evidence and the presentation of arguments:

Rule 1 Scope of authority. The Electoral Board shall hear and pass upon objectors' petitions described in Section 10-8 of the Election Code coming within its jurisdiction.

(a) General powers. The Electoral Board will consider and decide:

- (i) Whether or not the certificate of nomination or nomination papers or petitions are in proper form;
- (ii) Whether or not the certificate of nomination or nomination papers or petitions were filed within the time and under the conditions required by law;
- (iii) Whether or not the certificate of nomination or nomination papers or petitions are genuine and are what they purport to be;
- (iv) Whether or not in the case of the certificate of nomination in question it represents accurately the decision of the caucus or convention issuing it; and
- (v) Generally, whether or not the certificate of nomination, nominating papers or petitions on file are valid or whether the objections thereto should be sustained.

(b) Specific 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 Electoral Board shall have all the powers necessary to conduct a fair and impartial hearing including, but not limited to:

- (i) Administer oaths and affirmations;
- (ii) Regulate the course of hearings, establish the order of proof, set the time and place for continued hearings, set times and deadlines for filing of documents and introduction of evidence, and, upon good cause shown,
 - (1) extend the time for filing any document or paper permitted or required by these rules or for the introduction of new and additional evidence, or
 - (2) re-open hearings;
- (iii) An Electoral Board member may attend a meeting by remote participation when a quorum is physically present, subject to the limitations in Section 7 of the Illinois Open Meetings Act ("OMA"). Pursuant to Public Act 101-0640 (eff. 6-12-

2020), in compliance with Subsection 7(e) of the OMA (5 ILCS 120/7(e)), and due to the Governor's issuance of a disaster declaration related to public health concerns caused by the ongoing novel coronavirus and COVID-19 pandemic, the Electoral Board may conduct its meetings by audio or video conference without the physical presence of a quorum of its members, and the Electoral Board may further authorize its Hearing Officers to conduct hearings by audio or video conference.

- (iv) Examine the witnesses and direct the witnesses to testify, limit the number of times any witness may testify, limit repetitive testimony, set reasonable limits to the amount of time that each witness may testify, provide for the taking of testimony by deposition, if necessary and so ordered by the Electoral Board, and in general conduct the proceedings according to the recognized principles of administrative law and the provisions of these rules;
- (v) Rule upon offers of proof and receive relevant evidence;
- (vi) Direct parties to appear and confer for the settlement or simplification of issues and otherwise conduct case management conferences;
- (vii) Dispose of procedural requests or similar matters;
- (viii) Require the parties to prepare written briefs and proposed findings of fact and conclusions of law;
- (ix) Consider and rule upon all motions presented in the course of the proceedings;
- (x) Issue subpoenas, rule upon objections to subpoenas, regulate discovery and enter orders of protection as may be deemed necessary to protect against any unwarranted intrusion upon privacy of any person affected by discovery in the proceedings;
- (xi) Consider such evidence as may be submitted, including but not limited to, documentary evidence, affidavits and oral testimony;
- (xii) Make a determination of the genuineness of a petition signature based upon a comparison with the signature on the voter registration record for the person who purportedly signed the petition or upon such other proven handwriting samples;
- (xiii) Enter any order that further carries out the purpose of these rules;
- (xiv) Waive strict compliance with these Rules when required in the interests of fairness, equity and substantial justice; and
- (xv) Prepare a record of its proceedings.
- (xvi) The Electoral Board may, on its own motion or upon motion of a party, require the objector to make a preliminary showing that certain of the factual allegations in the objector's petition are pled in good faith based on knowledge, information and/or belief formed after reasonable inquiry and strike any objection or any portion of an objection if it determines that the objection does not meet the requirements set forth in 10 ILCS 5/10-8 or is not well grounded in fact and/or law. Objections to individual signers and/or circulators must consist of a specific objection or objections to that particular signer or circulator.

Rule 2 Hearing officers. In view of the time limitations and the amount of evidence to be presented at the hearings, the Electoral Board may appoint a hearing officer in any case in which the Electoral Board deems such an appointment appropriate. At the discretion of the Electoral Board or the Hearing Officer, hearings may be conducted in two or more locations connected by telephonic or video conference; however, any witness who will provide verbal testimony must appear either from his or her own chosen location with video-conferencing capabilities or at a video-conferencing computer terminal provided by the Board at the Board's offices, unless otherwise agreed by such requesting party or their counsel and the Hearing Officer or Electoral Board.

(a) Powers and duties. A hearing officer shall have the duties and powers of the Electoral Board provided in these Rules, except that a hearing officer shall not have the power to make final findings or issue a final decision.

(b) Report. Upon the conclusion of a hearing and after consideration of the evidence and arguments, the hearing officer shall submit to the Electoral Board a final report containing proposed findings, conclusions of law and decision. However, the Electoral Board shall not be bound by the hearing officer's recommendations or proposed findings, conclusions of law and decision. A copy of the hearing officer's final report shall be served upon the parties in the case prior to any final action upon it by the Electoral Board and in sufficient time to allow any aggrieved party an opportunity to request review by the Electoral Board pursuant to Rule 20 herein.

(c) Record. If a hearing officer has been assigned to hear the objection, the entire record must be introduced and argued before the hearing officer. The Electoral Board may, in exceptional cases, entertain additional arguments or evidence in the interests of fairness, equity and substantial justice.

(d) Signature validity. On issues of signature validity, the hearing officer's authority shall only extend to objections filed against specific signatures and shall not include rulings upon the validity of signatures not specifically objected to unless otherwise authorized by the Electoral Board.

(e) Substitution. Any party may request substitution of a hearing officer, provided such request is made in writing to the Electoral Board prior to the initial hearing before the hearing officer. If the substitution request is granted, the opposing party may file a written request for substitution prior to the time of the initial hearing before the hearing officer to whom the case was reassigned. Thereafter, any further such request shall only be granted only upon good cause shown. A party may file only one request for substitution of hearing officer per case. In addition, the Electoral Board may, on its own, substitute a hearing officer due to illness, unavailability or for other good cause, in which case the substituted hearing officer may accept the case "as is" or may, in his or her own discretion, order new or additional proceedings. In the event that a substitute is made, the Board's general counsel is authorized to re-assign the case to another hearing officer.

Rule 3 Appearance.

(a) Who may appear. Each objector and each candidate, or proponent of a question of public policy, as the case may be, (hereafter referred to as "party" or "parties") may

appear in person on his or her own behalf (“*pro se*”) and participate in any hearing or proceeding before the Electoral Board, or a party may be represented by an attorney licensed to practice law in the State of Illinois.

(b) Non-Attorneys. Except for a party appearing “*pro se*,” anyone who is not licensed to practice law in the State of Illinois may *not* (i) make an appearance on behalf of a party before the Electoral Board or its Hearing officers, (ii) call witnesses, (iii) elicit testimony from witnesses, (iv) cross examine witnesses, (v) make objections to witnesses’ testimony, (vi) prepare or sign pleadings, (vii) request or respond to discovery, (viii) advocate arguments made in pleadings, (ix) give oral argument before the Board or its Hearing officers, or (x) give advice that requires the use of some degree of legal knowledge or skill. However, non-attorneys may participate on behalf of a party at any record examination or record search conducted under Rules 6 and 7 hereof.

(c) Appearance form; Contact information. On or before the date of the initial meeting of the Electoral Board or the initial hearing/case management conference before a hearing officer, if one is appointed, each party must file with the Electoral Board and with all opposing parties a written appearance listing his or her name, address, telephone number and email address. Every party or their legal counsel shall provide an e-mail address and shall consent to be served with papers and notices via said e-mail address, unless the Hearing Officer or Board makes a finding of good cause for waiver of this e-mail requirement.

(d) Availability. The parties shall make themselves reasonably available by telephone and e-mail during the day and at least until 7:00 P.M. for receipt of notice from the Electoral Board or from opposing parties during the course of these proceedings. If the Electoral Board has made reasonable attempts to contact a party by telephone or by e-mail at the number(s) or address(es) provided by that party and the party cannot be contacted or fails to respond to such contacts, the party will be deemed to have waived notice of the proceedings and the proceedings may go forward without the presence of that party.

(e) Non-disclosure agreement. At the time of filing his or her appearance, each party or each party’s attorney shall complete, sign and file with the Electoral Board a Non-Disclosure and Confidentiality Agreement in the form prescribed by the Board whereby the party or his or her attorney on the party’s behalf agrees not to disclose confidential or personal identity information obtained during the course of the electoral board proceedings.

(f) Public comment. Public comment is allowed only to the extent required by section 2.06(g) of the Illinois Open Meetings Act and only at designated times during open meetings of the Electoral Board. Except as otherwise stated herein, public comment shall be limited and governed by the “Public Participation Rules for Board Meetings of the Board of Election Commissioners for the City of Chicago,” as adopted and amended. Public comment shall not be considered as evidence, testimony or argument in any case before the Electoral Board and it shall have no impact on any decision rendered by the Electoral Board. Public comment may not be transcribed and may not be included in any official Electoral Board record, case file or transcripts. The Electoral Board members have no duty to respond to public comment and are

discouraged from responding to comments related to any case pending before the Electoral Board. Public comment is not allowed during case hearings conducted by the Electoral Board's hearing officers.

Rule 4 Initial meeting; Case management conferences.

(a) Expedited proceedings. Due to impending statutory deadlines for the certification of candidates and the preparation and printing of ballots, proceedings before the Electoral Board must be conducted expeditiously.

(b) Mandatory attendance. Attendance at all meetings, hearings and proceedings is mandatory, unless otherwise specified by the Electoral Board or a hearing officer. For purposes of these rules, the term "hearing" shall mean any meeting of the Electoral Board or hearing before a hearing officer, if one has been appointed.

(c) No continuances. Generally, no continuances or resetting of scheduled hearings will be granted. Continuances will be granted only upon a showing of good cause and where the interests of justice require it.

(d) Initial hearing. On the date set for the initial hearing of the objector's petition, each party must appear and be prepared to proceed.

(e) Case management conferences. At the initial hearing, the Electoral Board or the hearing officer, as the case may be, shall conduct a case management conference to consider

- (i) the formulation and simplification of the issues;
- (ii) the possibility of obtaining admissions of facts and documents which will avoid unnecessary proofs;
- (iii) the limitation of the number of witnesses;
- (iv) the preparation and submission of written briefs and proposed findings of fact and conclusions of law;
- (v) the scheduling of hearings on motions;
- (vi) a proposed plan and schedule of discovery; and
- (vii) any other matters that may aid in the disposition of the objection hearing.

(1) The Electoral Board or a hearing officer may schedule additional case management conferences at any time, upon proper notice to the parties, if deemed necessary or helpful to the proceedings.

(2) A record of such case management conferences shall be made either by court reporter or by some electronic means.

(a) Case management conferences may also be conducted via telephone in the discretion of the Electoral Board or the hearing officer; no record of such conferences shall be required but a written order or report summarizing the issues discussed, points resolved and proceedings to follow shall be prepared, served upon the parties and placed in the Electoral Board's case file.

Rule 5 Answer not required; Preliminary motions; Timing.

- (a) Answer. No written answer or response to the objector's petition is required.
- (b) Preliminary motions. Preliminary motions to challenge the legal sufficiency of the objector's petition in the nature of a motion to strike or dismiss the objector's petition in whole or in part may be filed and may be heard first.
 - (i) Such motions must be made in writing and filed with the Electoral Board and served upon other parties in the case by 5:00 p.m. on the first business day following the initial hearing.
 - (ii) A response, if any, to the motion, must be made in writing and filed with the Electoral Board and served upon the other parties in the case by 5:00 p.m. on the second business day after the initial hearing.
 - (iii) A reply in support of the motion, if any is to be filed, must be filed by 5:00 p.m. of the third business day following the initial hearing.
 - (iv) After the filing of a preliminary motion and any responses or replies, the motion may be considered without further presentation by the parties or the motion may be set down for further oral argument.
 - (v) If the motion to strike the objector's petition is sustained in whole or part, the objector's petition may be dismissed in whole or in part, as the case may be.
 - (vi) The Electoral Board or the hearing officer, as the case may be, may reserve ruling on any preliminary motions pending further hearings.
 - (vii) The objector's standing or qualifications to file the objector's petition may be challenged by the respondent, but the respondent has the burden of proof to establish that the objector lacks the requisite qualifications to file such objection (i.e., the objector is not a registered voter, or does not reside in the district in which the candidate seeks to be a candidate).
 - (viii) Any challenge to the sufficiency of the objector's petition or the standing of the objector to file an objector's petition must be filed timely or any such challenge shall be deemed waived.

Rule 6 Records examination.

- (a) Records examination directive. At the direction of the Electoral Board or a hearing officer, the parties may be directed to appear at an examination of computer-based voter registration records, or a "records examination." Notice of the date and time of the records examination shall be given to the parties no later than 7:00 p.m. on the day preceding the records examination. The records examination and all other provisions of this Rule 6 shall be conducted in accordance with and subject to the provisions of Rule 7 below. To any extent that any provision of this Rule 6 conflicts with any provision of Rule 7, the provisions in Rule 7 shall supersede and shall control the Electoral Board's procedures, factual findings and conclusions of law. The parties and any of their representatives, including legal counsel, shall be required to wear a face mask, as defined in the Governor's Executive Order 2020-32 or any subsequent or amended Executive Order, and to comply with the Board's social-distancing and PPE

(Personal Protective Equipment) requirements at all times when present in the Board’s offices or facilities.

(b) Purpose; Procedure. Employees and/or agents of the Chicago Board of Election Commissioners, including forensic handwriting experts, are authorized to act as “records examiners” to conduct records examinations and shall, in an orderly and expeditious manner, search for and examine the computerized voter registration records of the Chicago Board of Election Commissioners and of other election authorities in the State of Illinois as needed. Employees of the Cook County Clerk’s office and of other election authorities in the State of Illinois are also designated as agents authorized to act as records examiners. Records examinations may be conducted utilizing computer-based registration data from the election authority’s own system or systems, from the centralized statewide voter registration list created and maintained by the State Board of Elections (“IVRS”), or from other programs permitting access to such databases, including, but not limited to, the Joint Petition Project (“JPP”) program created jointly by the Chicago Board of Election Commissioners and the Cook County Clerk. Such examinations shall be conducted in accordance with procedures established by the Board of Election Commissioners; if such procedures are in conflict with a specific provision of these Rules, these Rules shall govern. Records examiners shall, based upon their examination of such records, make and announce a finding as to whether certain objections in the objector’s petition are sustained or overruled. The computerized voter registration records of the Chicago Board of Election Commissioners and/or of other election authorities, printouts of those records and the records examiners’ findings as to whether the objections are sustained or overruled may be considered as evidence, pursuant to Rule 10, with respect to objections pertaining to the following issues:

- (i) Whether a signer of a petition sheet is a registered voter.
 - (1) The failure to locate a computer-based voter registration record for the signer of a petition shall be presumptive evidence that the person is not a registered voter and any objection alleging that the person is not a registered voter shall be sustained.
 - (2) Objections alleging that the signer is not a registered voter because the registration is described as “inactive” shall be overruled at the records examination. To sustain such an objection, the objector must prove at an evidentiary hearing conducted pursuant to Rule 8 hereof that the person who signed the petition no longer resides at the address shown, has died, has been incarcerated by reason of a conviction of a crime or otherwise lacks the requisite qualifications to be a registered voter in the political subdivision or district in question.
- (ii) Whether a signer of a petition sheet is registered at the address shown beside his or her signature on the petition sheet in question;
- (iii) Whether the signature of a signer of a petition sheet is genuine and is that of the person whose name appears on the petition sheet.
 - (1) A computer-stored image of a registered voter’s signature shall be examined and compared with the signature on the petition by the records

examiner. If, in the records examiner's judgment, the two signatures were made by the same person, the objection shall be overruled; if not made by the same person, the objection shall be sustained.

(2) The Board of Election Commissioners may employ forensic handwriting experts to review decisions of the records examiners and to make findings as to whether signatures were made by the same person and are genuine when the decisions of the records examiners are appealed as provided below.

(3) If no registration record can be found for the person in question, or the registration record does not contain a computer-stored image of the person's signature, the objection shall be overruled at the records examination. To sustain such an objection, the objector must prove at an evidentiary hearing conducted pursuant to Rule 8 hereof with other evidence that the signature is not genuine.

(4) If a records examiner determines that a petition signature was made electronically by using a finger or a device such as a computer mouse or stylus as authorized by federal court order and by Rule 7(a)(iii) below, rather than a physical "wet" signature or an electronic copy of a handwritten "wet" signature, then said electronic signature made by using a finger or a device such as a computer mouse or stylus shall be deemed genuine and valid, subject to appeal and to the entry of additional evidence pursuant to Rule 6(h) and Rule 8 below.

(iv) Whether a signer of a petition sheet is a resident of the political subdivision or district involved.

(c) Number of records examiners. The Chicago Board of Election Commissioners shall assign a records examiner to conduct each records examination. The Board may, in the exercise of its discretion, assign additional records examiners to each records examination as deemed necessary. The Board shall notify each party of the number of records examiners assigned.

(d) Watchers. For each records examiner assigned, each party shall have the right to have not more than one (1) representative ("watcher"), including the party or the party's counsel, present during the records examination. Watchers are to participate as observers only, except that they may ask the records examiner to note such appeals of the records examiner's findings as described below. The records examiner shall not be required to solicit the opinion of any watcher as to any matter nor consider such opinions if offered.

(e) Removal. A watcher may be ordered removed from the records examination proceedings for any conduct that disrupts the orderly conduct of the proceedings. This includes the failure to wear a face mask, as defined in the Governor's Executive Order 2020-32 or any subsequent or amended Executive Order, or failure to comply with the Board's social-distancing and PPE requirements during the novel coronavirus/COVID-19 health pandemic. In the event of such removal, the records examiner shall continue with the records examination in the absence of the removed watcher.

(f) Failure to appear. The failure of a watcher to timely appear at the examination shall not delay nor affect the validity of the examination and the records examination shall proceed without a watcher.

(g) Findings. The records examiner shall note his or her findings as to each objection

on worksheets or within computer software application or applications designed for such purpose and shall prepare a report of such findings.

(h) Appeals. During the conduct of the records examination, a watcher may appeal a finding made by the records examiner. In order to preserve such appeal for future hearing, the watcher must immediately inform the records examiner of his or her appeal of the records examiner's finding at the time such finding is made and the appeal shall be noted by the records examiner on a worksheet or in the computer software application designed for that purpose. Any finding overruling or sustaining an objection that a signature appearing on the candidate's petition is not genuine that is timely and properly appealed by a party maybe reviewed by a handwriting expert employed by the Board of Election Commissioners. The handwriting expert may either affirm or reverse the finding of the records examiner and his findings shall be noted in a report to be provided to the parties. If the handwriting expert reverses a finding or findings of the records examiner, the results of the records examination shall be amended accordingly and any such reversal shall be deemed to have been automatically appealed by both parties. The parties will be given an opportunity to address all such appeals properly taken and noted to the Electoral Board or to the hearing officer, if one has been assigned, at the evidentiary hearing on the merits of the objection scheduled and conducted pursuant to Rule 8 hereof. The party making the appeal bears the burden of producing evidence proving that the records examiner's finding was in error.

IMPORTANT: If a party's watcher does not appeal a finding made by the records examiner at the time of the records examiner's entry of the finding during the records examination, that party shall not be allowed to present any evidence or argument of any kind with respect to the records examiner's finding or the issue to which it relates and any future appeal or reconsideration of the records examiner's finding is waived; provided, however, that if any finding of the records examiner is reversed by the Board's handwriting expert, both parties shall be deemed to have appealed the reversal of the finding of the records examiner and shall be allowed to present evidence and/or argument with respect to such reversal.

(i) Results; Reports. The Board of Election Commissioners shall make a report of every objection and finding of the records examiner, including those for which the records examiner's finding was appealed or reviewed by the handwriting expert and the expert's finding. When the results of the records examination have been finalized and totaled, the Board of Election Commissioners shall notify the parties of the results of the records examination and advise them that reports of the results are available via email to each party upon request; the records examination is considered completed on the date the Board provides such notice to the parties. The Board of Election Commissioners shall make a report of every objection and finding of the records examiner, including those for which the records examiner's finding was appealed or reviewed by the handwriting expert and the expert's finding.

(i) The report shall be marked by sheet and line number to correspond with the sheet and line number of the petition being objected to.

(ii) Except as provided below, no report released to a party shall contain or include a registered voter's social security number or telephone number or the

signature of the voter.

(iii) Upon completion of the records examination, such reports shall be placed in the Electoral Board's case file and preserved for examination in any future hearing or proceeding.

(iv) The Electoral Board file and its contents may be examined at any time and any party may request a copy of any report in the case file, except that no copies will be made or provided of any report, printout or record containing a registered voter's signature or a computer-stored image of such signature unless

(1) it is ordered by the Electoral Board or hearing officer after determining that providing such copies is absolutely necessary to the party's presentation or defense and that the party's presentation or defense will be materially prejudiced by denying such copies;

(2) the requesting party executes a nondisclosure or confidentiality agreement prepared by the Board of Election Commissioners agreeing not to disclose or provide a copy of such record to any unauthorized person and to return such record to the Board upon the conclusion of the case, including any appeals to any State or Federal court; and

(3) the party pays a reproduction fee of \$0.10 for each page copied.

(v) Any party may mark a report, printout or copy of an original record as an exhibit in preparation for a hearing as to such report, printout or record.

(j) No post examination record requests. Subsequent to the conclusion of the records examination, the Board will not entertain any requests, whether by subpoena or otherwise, for copies of records that were examined during the records examination except as otherwise ordered by the Electoral Board or the hearing officer.

(k) Suspension of examination. If at any time during the records examination it appears that (i) the number of valid signatures remaining on the petition is fewer than the number of valid signature required by law or (ii) the number of valid signatures on the petition will exceed the number of valid signatures required by law even if all of the remaining objections to be decided were to be sustained, the records examination may be suspended and the results of the records examination shall be forwarded to the Electoral Board or the hearing officer, as the case may. The records examination may be resumed if so ordered by the Electoral Board or the hearing officer.

(l) Partial or sample examinations. The Electoral Board or a hearing officer may, in their discretion, order that a partial or sample records examination be conducted in order to test the validity of certain objections in the objector's petition when it appears possible, viewing the face of the objections or upon other known facts, that the objections may not have been made as the result of a reasonable inquiry or investigation of the facts or were not made in good faith. The weight to be given to the results of such partial or sample records examination shall be within the discretion of the Electoral Board or the hearing officer, as the case may be.

Rule 7 Special Rules for the November 2020 General Election as Required by Order of the U.S. District Court for the Northern District of Illinois.

(a) Notwithstanding any Electoral Board Rule of Procedure or statutory provision to the contrary, pursuant to the Preliminary Injunction Orders entered by the United States District Court for the Northern District of Illinois in the matter of *Libertarian Party of Illinois, et al., v. J.B. Pritzker, et al.*, No. 20-cv-2112 (4/23/2020 and as amended), the following rules and procedures are in effect for all objections filed against new political party and independent candidates for the November 2020 General Election:

(i) The Electoral Board is enjoined from enforcing the in-person signature requirement, circulator statement, and notarization requirement of 10 ILCS 5/10-4 in regard to new political party and independent candidates, as defined in 10 ILCS 5/10-2 and 10 ILCS 5/10-3. Specifically, the Electoral Board is enjoined from enforcing the following portion of 10 ILCS 5/10-4:

At the bottom of each sheet of such [nominating] petition shall be added a circulator's statement, signed by a person 18 years of age or older who is a citizen of the United States; stating the street address or rural route number, as the case may be, as well as the county, city, village or town, and state; certifying that the signatures on that sheet of the petition were signed in his or her presence; certifying that the signatures are genuine; and either (1) indicating the dates on which that sheet was circulated, or (2) indicating the first and last dates on which the sheet was circulated, or (3) certifying that none of the signatures on the sheet were signed more than 90 days preceding the last day for the filing of the petition; and certifying that to the best of his knowledge and belief the persons so signing were at the time of signing the petition duly registered voters under Articles 4, 5 or 6 of the Code of the political subdivision or district for which the candidate or candidates shall be nominated, and certifying that their respective residences are correctly stated therein. Such statement shall be sworn to before some officer authorized to administer oaths in this State.

(ii) The Electoral Board is enjoined from enforcing the requirement in 10 ILCS 5/10-4 that a new political party or independent candidate must file the "original sheets which have been signed by the voters and by the circulator, and not photocopies or duplicates of such sheets."

(iii) The effect of enjoining the portions of 10 ILCS 5/10-4 listed in Paragraphs 7(a)(i) and 7(a)(ii) above is that a physical "wet" signature would still be permitted but not required on the candidate's petition. Petition signers may have physically signed a copy of a candidate's petition, or they may have electronically signed their handwritten signatures to the petition using a finger or a device such as a computer mouse or stylus.

(iv) The filing deadline for new political party and independent candidates, as set forth in 10 ILCS 5/10-2, 10-3, 10-5 and 10-6, was extended to July 20, 2020. The filing period for new party and independent candidates ran from July 13, 2020, to July 20, 2020.

(v) Candidates nominated by the Libertarian Party of Illinois (“LPIL”) and the Illinois Green Party (“GPIL”) shall qualify for placement on Illinois’ November 3, 2020 general election ballot for each office for which the respective party placed a candidate on Illinois’ general election ballot in either 2018 or 2016. The Electoral Board is enjoined from requiring that such candidates submit petitions to qualify for placement on Illinois’ 2020 general election ballot.

(vi) [Reserved.]

(vii) Candidates nominated by LPIL and GPIL, or any other new political party as defined by 10 ILCS 5/10-2, who do not qualify for placement on Illinois’ 2020 general election ballot under the terms set forth in Paragraph 7(a)(v) above, and any independent candidate as defined in 10 ILCS 5/10-3, shall, in the alternative, qualify for the Illinois 2020 general election ballot provided that they submit a petition with valid signatures equal in number to 10 percent of the original signature requirement specified for the applicable office in the State of Illinois 2020 Candidate’s Guide issued by the Illinois State Board of Elections and available at <https://www.elections.il.gov/>.

(viii) [Reserved.]

(ix) The U.S. District Court for the Northern District of Illinois has retained jurisdiction over the matters set forth in this Rule 7 for enforcement purposes or to enter further orders as necessary and appropriate. Therefore, this Rule 7 remains subject to amendment by the Electoral Board, if necessary and appropriate for compliance with any future orders of said District Court. This shall not be deemed to alter the requirements set forth in 10 ILCS 5/10-10 or 10 ILCS 5/10-10.1 for judicial review of the Electoral Board’s final decision.

Rule 8 Evidentiary hearings.

(a) Written motion. On the written motion of any party, the Electoral Board or the hearing officer, as the case may be, may conduct hearings for the purpose of receiving evidence and hearing argument relevant to the issues presented by the objections raised in the Objector’s petition, including evidence and argument relating to the findings made during a records examination or by the forensic handwriting expert conducted under Rule 6 which the moving party contested and timely appealed during the records examination.

(b) Burden of proof. With regard to the substance of the objections, generally the objector must bear the burden of proving by operation of law and by a preponderance of the relevant and admissible evidence (“the burden of proof”) that the objections are true and that the candidate’s nomination papers or the petition to submit a public question is invalid. If fraud is alleged, it must be proved by clear and convincing evidence.

(c) Timing.

(i) A motion requesting an evidentiary hearing concerning the results of a Rule 6 records examination must be filed with the Electoral Board and served upon the opposing party

- (1) not later than 5:00 p.m. on the first business day following completion of the records examination (i.e., the day on which the parties were notified of the results of the Rule 6 records examination), or
 - (2) by such other date and time established by the Electoral Board or the hearing officer.
- (ii) A motion requesting an evidentiary hearing concerning any other contested matter may be filed with the Electoral Board and served upon the opposing party on or before deadline for doing so established by the Electoral Board or the hearing officer.
- (d) Contents. A motion requesting an evidentiary hearing shall contain a written statement or outline sufficient to advise the other parties of the factual and/or legal issues to be addressed by moving party at such hearing.
- (i) A motion requesting an evidentiary hearing concerning the results of a Rule 6 records examination must identify the petition sheet and line number for any signature that was examined and objected to during the Rule 6 records examination and concerning which the moving party wishes to challenge the ruling on such signature. It is NOT acceptable to merely incorporate, adopt or use the Board's Petition Summary Report, Petition Detail Report or other Board record examination report as the party's Rule 8 motion.
 - (ii) **IMPORTANT:**
 - (1) **A party shall not be allowed to present any evidence or argument of any kind with respect to the records examiner's finding or the issue to which it relates and any future appeal or reconsideration of the records examiner's finding is waived unless such party's watcher appealed the records examiner's finding at the time the records examiner entered his or her finding in the system during the records examination or unless the records examiner's finding was reversed by the Board's handwriting expert.**
 - (2) **A party shall, in presenting any evidence or argument relating to any signature examined in a records examination, be limited to those signatures identified by petition sheet and line number in the party's written motion and shall not be permitted to present evidence or argument as to any signature not contained in such written motion.**
- (e) Order of proceeding. The Electoral Board or the hearing officer, as the case may be, shall establish the order in which the parties must present their evidence and/or argument.
- (i) Generally, the objector will present his/her evidence and/or argument ("case in chief") first.
 - (ii) The respondent (i.e., the candidate or the proponent of the public question, as the case may be) shall be given the opportunity to cross-examine the objector's witnesses, present his or her own witnesses or present evidence (the "defense").
 - (iii) After respondent has completed his or her defense, the objector shall be given the opportunity to present testimony and/or evidence to limited to rebutting the

testimony and/or evidence presented during the respondent’s defense (the “rebuttal”).

(iv) If, however, the results of any records examination conducted pursuant to Rule 6 hereof indicates that the petition contains fewer valid signatures than the number of valid signature required by law, the Electoral Board or the hearing officer, as the case may be, may reverse the order of proofs, in which case

(1) The respondent (i.e., the candidate or the proponent of the public question, as the case may be) may be assigned the burden of going forward first and presenting evidence and argument why the findings made by the records examiners at the records examination and timely and properly appealed by the party and/or the party’s watchers at such examination should be reversed.

(2) If the respondent is successful in reversing the findings of the records examiners and thus “rehabilitates” enough signatures so that the petition has more than the number of valid signatures required by law, the burden of proof shall shift back to the objector.

Rule 9 General procedures.

(a) Confined to points raised. All argument and evidence must be confined to the points raised by the objector’s petition or to the motion to strike the objector’s petition, if one is filed.

(b) No amendments. Amendments to the objector’s petition raising additional objections and points will not be allowed.

(c) Time limitations. The amount of time allocated to each party for presentation of his or her case shall be determined by the hearing officer or by the Electoral Board as the case may be. Any party who desires may submit arguments in writing.

Rule 10 Evidence.

(a) Generally. For matters not covered herein, the Electoral Board will generally follow rules of evidence and practice which prevail in the Circuit Court of Cook County, Illinois, including the Code of Civil Procedure and the Rules of the Illinois Supreme Court, but because of the nature of these proceedings, the Electoral Board shall not be bound by such rules in all particulars. However, evidence not admissible under such rules of evidence may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonable prudent men in the conduct of their affairs or in matters relevant to the issues in the hearing.

(b) Judicial notice. The Electoral Board may take “judicial notice” of matters of which Circuit Courts of this State may take judicial notice. In addition, notice may be taken of generally recognized technical or scientific facts within the Electoral Board’s specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The Electoral Board’s experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

(c) Types of evidence. Except as otherwise provided in these Rules, the Electoral

Board may consider all evidence relevant to the issues presented by the objections, including, but not limited to, documentary evidence, affidavits, oral testimony and reports from its forensic handwriting expert. Affidavits may be considered in determining whether signatures found not to be genuine during a records examination are, in fact, the genuine signatures of those signing the petition. ALL AFFIDAVITS MUST BE SWORN TO, SIGNED, AND NOTARIZED BEFORE A NOTARY PUBLIC OR OTHER OFFICER AUTHORIZED TO ADMINISTER OATHS IN THE STATE OF ILLINOIS – VERIFICATIONS UNDER SECTION 1-109 OF THE CODE OF CIVIL PROCEDURE (735 ILCS 5/1-109) ARE NOT ACCEPTABLE.

(d) Witnesses. Unless evidence may be accepted by affidavit, the proponent of evidence is under a duty to exercise good faith and reasonable diligence to secure the presence of witnesses at the date and time of hearing and shall be otherwise prepared to proceed with the presentation of evidence and argument at such scheduled hearing. Continuances or re-scheduled hearings are strongly disfavored.

(i) No witness shall be compelled to testify if any portion of his or her testimony is to be broadcast or televised or if any motion picture or videotape is to be taken of him or her while he or she is testifying. However, this rule shall not excuse any witness from attending hearings conducted by audio or video conferencing.

Rule 11 Signatures in excess of statutory maximum. Whenever a statute places a limit on the maximum number of signatures that may appear on a petition and the nominating petition contains more than the statutory maximum number of signatures, the number of signatures on the petition shall be counted from the first signature on the first petition sheet (excluding any signature that was properly stricken in the manner provided by statute) and no signatures after the maximum number is attained shall be counted or used for any purpose.

Rule 12 Failure to appear; Default.

(a) Failure to appear. The failure of a party to appear at the initial meeting of the Electoral Board, or at any subsequent meeting of the Electoral Board or at any hearing before a hearing officer without good cause shown shall be sufficient grounds to default such party provided that the party was served with notice of the hearing.

(b) Default. In the case of a defaulted objector, the objections may be stricken and dismissed. In the case of a defaulted candidate or proponent of a question of public policy, the nomination papers or the petition, as the case may be, may be declared invalid, provided, however, that the Electoral Board may, in its sole discretion, require a preliminary showing that the objections, if taken as true, are sufficient to invalidate the nomination papers or petition, as the case may be.

Rule 13 Withdrawals.

(a) Candidate. A candidate may withdraw as a candidate by filing a notarized statement in the office where the candidate originally filed his or her nomination papers and by filing a date-stamped copy of such statement with the Electoral Board. Any objector's petition filed against such candidate will be dismissed as moot.

(b) Objector. The objector may withdraw his or her objector's petition by filing a motion to withdraw with the Electoral Board. The Electoral Board has the sole discretion whether to grant or deny a motion to withdraw an objection petition.

Rule 14 Failure to follow Rules or directives. Failure to adhere to these Rules or to a directive of a hearing officer or the Electoral Board may be grounds for dismissal of the objector's petition or for default of the candidate or proponent of a question of public policy or the Electoral Board or hearing officer may order that any motion or other paper filed in violation of these Rules be stricken in whole or in part.

Rule 15 Sessions. After the Electoral Board convenes, it will be in session continuously until all objections shall have been considered and ruled upon, provided, however, the Electoral Board may recess from time to time.

Rule 16 Filing and service of documents.

(a) Where to file. Unless otherwise specified by these Rules or permitted by the Electoral Board or a hearing officer, all documents to be filed with the Electoral Board shall be filed via email transmission to the office of the Board of Election Commissioners in Room 600, 69 West Washington Street, Chicago, Illinois. All documents filed with the Electoral Board shall be stamped by the Board to indicate the time and date of filing.

(b) How to file. Documents shall be filed with the Electoral Board via a PDF attachment to an email sent to electoralboard@chicagoelections.GOV, unless an exception for good cause shown is found by the Electoral Board or hearing officer, and provided:

- (i) all documents are received by the time and date required by these Rules or by a hearing officer;
- (ii) each document sufficiently identifies the case to which it relates;
- (iii) the document is legible; and
- (iv) parties filing by email should submit attachments in PDF format and may set their email software to request a “read receipt.”

(c) Service on opposing parties. A true and complete copy of all documents filed with the Electoral Board must be served by the filing party upon every other party to the proceedings in a manner reasonably calculated to provide actual and prompt notice to that party.

(i) Each document filed with the Electoral Board must be accompanied by the filing party's proof of service setting forth the time, date and manner of service on his or her opponent(s).

(ii) If a party is able to be served via email, service on that party shall be made via email.

(iii) If there is no other practicable method of service that is likely to provide actual and prompt notice to another party to the proceeding, service of documents may be made upon that party by filing a copy of the document and an executed proof of notice, as defined below, with the Electoral Board which will hold the document for the party to whom it is addressed.

(1) Proof of service shall contain a verified statement that telephone notice or personal notice of the filing was given to the party, or that a good faith effort to

give telephone notice to the party was made by attempting to telephone the party at least three times with no less than a 2-hour interval between attempts.

(iv) Failure by a party to provide timely service of documents as required by these Rules or to otherwise comply with the service requirements may be sufficient grounds to strike such party's filing and to disregard it for purposes of these proceedings.

(v) If requested by the hearing officer, parties shall give copies of motions, responses or other papers to the hearing officer at the fax number email address specified by the hearing officer at the time of filing with the Electoral Board.

(d) Personal identity information. Parties shall not, unless ordered by the Board or by a hearing officer, include personal identity information in documents filed with the Board or served upon other parties, including exhibits thereto, whether filed electronically or in paper. If personal identity information is contained within a document to be filed or served, such information shall, before filing or serving the document, be completely redacted so that such information is not visible. If a document or exhibit is filed containing personal identity information, a party or any other person whose information has been filed may move for an order requiring redaction of such information. Subpoenas shall request that the person or entity subpoenaed redact personal identity information before providing any document in response to the subpoena.

(i) Personal identity information is defined to include, but is not limited to:

- (1) Social Security numbers;
- (2) Birth dates;
- (3) Mother's maiden names;
- (4) Driver's license numbers;
- (5) Financial account numbers; and
- (6) Debit and credit card numbers.

(ii) The Board or a hearing officer may order other types of information redacted or filed confidentially, consistent with the purpose and procedures of this rule.

Rule 17 Business days and working hours.

(a) Business days. Monday through Friday of each week during which the Electoral Board is in session, except for State holidays, are designated as business or working days of the Electoral Board, unless otherwise posted by the Electoral Board. In the discretion of the Electoral Board and upon notice to all parties with then-pending matters before the Electoral Board or a hearing officer, State holidays may also be designated as business or working days.

(b) Working hours. The working hours for the Electoral Board shall be 9:00 A.M. to 5:00 P.M. Monday through Friday, unless otherwise posted by the Electoral Board.

(c) Changes. These business days or working hours may be amended from time to time and such amendment shall be effective upon posting on or near the front door of the

Board of Election Commissioners' office: Rooms 600 and 800, 69 West Washington Street, Chicago, Illinois. Such notice may also be posted upon the Board's Internet Web Site at www.chicagoelections.gov.

Rule 18 Notice of hearings and records examinations.

(a) Updated schedule. By 7:00 p.m. daily on Monday through Friday, the Board will post on or near the front door of its offices in Rooms 600 and 800, 69 West Washington Street, Chicago, Illinois, an updated schedule listing all cases to be heard and records examinations or record searches to be commenced on the following day or days. Such schedules may also be posted on the Board's Internet Web Site (www.chicagoelections.gov). Parties desiring to determine whether their case is on the schedule for the next day may also telephone the Board at 312-269-1627 before 5:00 p.m. each week day. The Board will make an effort to give additional notice by e-mail to parties affected by changes to scheduled events, but the failure to do so will not invalidate the posted notice nor will it invalidate the results of any such event.

(b) Responsibility of parties; Failure to receive notice. PARTIES SHALL BE RESPONSIBLE FOR PERIODICALLY CHECKING WITH THE BOARD TO KEEP APPRISED OF SCHEDULED EVENTS IN THEIR CASE. THE FAILURE OF A PARTY TO RECEIVE ACTUAL NOTICE OF AN EVENT IN THEIR CASE SHALL NOT PREVENT SUCH EVENT FROM PROCEEDING AS SCHEDULED NOR SHALL IT INVALIDATE ANY ACTION TAKEN AT SUCH EVENT.

Rule 19 Subpoenas.

(a) Issuance. At the request of any party, the Electoral Board may authorize the Chairman or a hearing officer to issue subpoenas requiring the attendance of witnesses and subpoenas *duces tecum* requiring the production of such books, papers, records and documents as may be relevant evidence of any matter under inquiry before the Electoral Board in the same manner as witnesses are subpoenaed in the circuit courts. Such subpoenas shall be subject to Rule 16(d) herein regarding personal identity information.

(i) Subpoenas for Board records are not required. Instead, requests or notices to produce Board records should be made in writing to the Electoral Board or to the hearing officer, if one has been appointed. The Electoral Board or the hearing officer, as the case may be, shall issue a written order finding whether the requested records are necessary and relevant to the proceedings and, and if so, submit such order to the Board's general counsel, who may authorize the production of records in whole or in part or deny such request, stating the reasons for the denial. A party may appeal a hearing officer's or general counsel's order denying any request for Board records, in whole or in part, to the full Electoral Board. A party receiving such records shall be responsible for providing copies to his or her opponent of any Board record the receiving party intends to use in any proceeding before the hearing officer or Electoral Board.

(b) Witness fees. Pursuant to the Circuit Courts Act (705 ILCS 35/4.3), every witness attending pursuant to a subpoena is entitled to receive the sum of \$20 for each day's attendance and \$0.20 per mile each way for necessary travel. The party requesting the subpoena shall be responsible for payment to the witness of such fees.

(c) Request for subpoena; Approval. The party requesting the subpoena must submit such request in writing to the hearing officer (or, if none has been appointed, to the Chairman of the Electoral Board) not later than five (5) business days after the first hearing before the hearing officer (or the Electoral Board, if no hearing officer was appointed). The request must identify the person or entity being subpoenaed, the purpose of the subpoena and why it is relevant to the issues presented by the objection. A copy of the proposed subpoena shall be attached to such request. A copy of the request and proposed subpoena shall be served upon the opposing party at the same time it is submitted to the Chairman or the hearing officer, as the case may be. The opposing party shall have until the next business day to serve upon the Chairman or the hearing officer, as the case may be, with a copy to the requesting party, a response in opposition to the subpoena request. The Chairman or the hearing officer, as the case may be, shall, within two business days after receipt of the request for subpoena, prepare and submit to the Electoral Board a recommendation whether the subpoena should be issued. The Electoral Board shall, at a meeting of the Board, hear any argument concerning a request for subpoena and shall, upon a majority vote of the Board, approve or deny, in whole or in part, the request for subpoena, provided the Board may authorize that a category of persons or entities be subpoenaed with specific persons and/or entities to be identified at a later time by appropriate rider(s) to the subpoena and the Board may leave the return date open for later determination by the Chairman or hearing officer. If approved by the Board, the Chairman or the hearing officer, as the case may be, shall issue the subpoena in accordance with the Board's approval and authorization.

(d) Service. If approved by the Electoral Board, the party requesting the issuance of a subpoena shall be responsible for proper service of the subpoena upon the person or entity to whom it is directed. Service of such subpoenas shall be made by any sheriff or other person in the same manner as in cases in before the Circuit Courts and the fees of such sheriff shall be the same as is provided by law, and shall be paid by the party who causes the issuance of the subpoena.

(e) Failure to obey. In case any person or entity so served shall knowingly neglect or refuse to obey any such subpoena, or to testify, the Electoral Board may at once file a petition in the Circuit Court of Cook County for enforcement of the subpoena as provided by law, provided, however, that the party seeking the enforcement of the subpoena must first provide to the Electoral Board satisfactory evidence that the subpoena was properly served upon the person or entity against whom enforcement is sought and that all fees were paid.

Rule 20 Request for review by the Electoral Board.

(a) Right to appeal; Discretion to allow review. Any party disagreeing with the recommended findings and proposed decision of a hearing officer may move to have the Electoral Board review the hearing officer's recommendations and hear additional argument from the parties. Such motion may be granted in the discretion of the Electoral Board. In deciding whether to grant such motion, the Electoral Board may consider whether the issues presented have not been previously ruled upon by the Electoral Board or whether further argument or evidence from the parties would assist the Electoral Board in rendering its decision.

- (b) Deadline; Contents. Such motion must
 - (i) be filed in writing with the Electoral Board not later than 5:00 p.m. on the first day following notification of the hearing officer's written recommended findings and proposed decision,
 - (ii) be accompanied by a proof of service as provided by Rule 16, and
 - (iii) state the specific grounds for the request.
- (c) Notice of hearing. If such motion is granted, the Electoral Board shall set a prompt hearing date with notice to the parties.
- (d) No new evidence. The hearing shall not be considered a trial *de novo* and the parties will, in general, be bound by the record from the proceedings before the hearing officer unless the Electoral Board determines that the interests of fairness, equity or substantial justice permit the presentation of new or additional evidence, the re-opening of the hearing, or additional information from its forensic handwriting expert.
- (e) Time limits. The Electoral Board shall have the power to set a limit upon the time for argument or the presentation of new or additional evidence.
- (f) Not jurisdictional. A request for review by the Electoral Board under this Rule is not jurisdictional for purposes of judicial review of a decision of the Board under Section 10-10.1 of the Election Code.

Rule 21 Written decision. The Electoral Board shall prepare and issue a written decision stating its findings and which objections, if any, it has sustained. The Electoral Board shall also state in writing whether the candidate's nomination papers or petition for the question of public policy, as the case may be, are valid. A copy of the Electoral Board's findings and decision shall be served upon the parties in open proceedings before the Electoral Board, which service may be made via email to the parties or their attorneys if open proceedings are conducted via telephonic or video conferencing as authorized by 5 ILCS 120/7(e). If a party does not appear before the Board at the time the decision is made, a copy of the decision shall be deemed to have been served upon the absent party when a copy is personally delivered or on the date when a copy of the decision is deposited in the United States mail, in a sealed envelope or package, with postage prepaid, addressed to each party or such party's attorney of record, if any, at the address on record for such persons in the Electoral Board's files.

Rule 22 Record of proceedings.

- (a) Transcript. A transcript of all proceedings before the Electoral Board or hearing officer, if one has been appointed, will be made by a certified court reporter. Copies may be purchased from the reporter and will not be furnished by the Board unless a petition for judicial review is filed pursuant to Section 10-10.1 of the Election Code. Any audio or video recording of hearings or Electoral Board meetings are not deemed to be a part of the record of proceedings.
- (b) Record for judicial review. If a party aggrieved by the decision of the Electoral Board timely files with the Circuit Court and timely serves upon the Electoral Board a proper petition for judicial review pursuant to Section 10-10.1 of the Election Code, the Electoral Board shall prepare an electronic record of proceedings before the Electoral Board and file it with the Clerk of the Court on or before the date of the hearing on the

petition or as ordered by the Court. The parties to a judicial review proceeding are encouraged to limit the record of proceedings to be filed with the Court to only those records material and relevant to the issues on judicial review so that the preparation and filing of unnecessary records is avoided.

(i) The Electoral Board will serve an electronic copy of the record of proceedings upon the petitioners and respondents in the judicial review proceedings.

(1) If such record includes copies of voter registration records containing a registered voter's signature or a computer-stored image of such signature, the receiving party must execute a nondisclosure or confidentiality agreement prepared by the Board agreeing:

- (a) not to disclose or provide a copy such records to any unauthorized person; and
- (b) to seek an appropriate protective order of court, if an appeal or action is taken in any Federal or State court, limiting unauthorized access to such record and/or an order permitting the party to remove such records from the court records upon the conclusion of all court proceedings or appeals; and to return such records to the Board upon the conclusion of the case.

Rule 23 Board attorney.

(a) The Electoral Board hereby designates the Board of Election Commissioners' general counsel to serve as its attorney, who shall be authorized to appoint and assign a new hearing officer in the event of a substitution, disqualification or unavailability of a hearing officer, re-schedule hearings as needed, examine witnesses and interpose questions of counsel for the parties, assist the Chair and the Electoral Board on procedural and evidentiary rulings, issue orders on subpoenas, requests for Board records and requests for review by the Electoral Board, prepare written decisions for the Electoral Board, prepare or supervise the preparation of the record of proceedings and the filing of such record in the event of a judicial review, represent and defend the Electoral Board in a judicial review proceeding in the Circuit Court or any appeal thereof or in any federal court, and take such other actions to assist the Electoral Board as deemed necessary and appropriate consistent with these Rules.

Adopted this 7th day of August 2020

MARISEL A. HERNANDEZ, CHAIR

WILLIAM J. KRESSE, COMMISSIONER

JONATHAN T. SWAIN, COMMISSIONER

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CONSTITUTING THE
ELECTORAL BOARD