

[PROPOSED]

TOWNSHIP OF DEKALB ELECTORAL BOARD RULES

1. **APPEARANCE** A candidate or objector may appear before the Board in person or by an attorney-at-law admitted to the bar of the Supreme Court of Illinois. The party must file a written appearance listing his/her name, address, and telephone numbers. The Board highly recommends that parties provide a cell phone and fax number, and email address if possible. The parties shall be reasonably available by telephone during the day and night to receive Board communications during the course of the proceedings. Because of the expedited nature of the hearings, failure to monitor or be available at the numbers provided may result in waiver of rights.

2. **HEARING DATE** On the date set in the Call, both the objector and the candidate may be required to proceed to present their cases. The Board will not grant any continuance, except for good cause shown, or except on the Boards own direction.

3. **ELECTORAL BOARD POWERS** The Electoral Board shall conduct and preside over all hearings and take necessary action to avoid delay, maintain order, ensure compliance with all notice requirements and ensure the development of a clear and complete record. The Board shall have all the powers necessary to conduct a fair and impartial hearing including, but not limited to:

(a) Administer oaths and affirmations;

(b) Regulate the course of hearings, set the time and place for continued hearings, set times for filing of documents, provide for the taking of testimony by evidence deposition if necessary and in general conduct proceedings according to the recognized principles of administrative law and these rules;

(c) Examine the witnesses and direct the witnesses to testify, limit the number of times any witness may testify, limit repetitive testimony and set reasonable limits to the amount of time that each witness may testify. The Board members and the Board's attorney may also examine witnesses;

(d) Rule upon offers of proof and receive relevant evidence;

(e) Direct parties to appear and confer for the settlement or simplification of issues and otherwise conduct pre-hearing conferences;

(f) Dispose of procedural requests or similar matters;

(g) Require the parties to prepare written briefs and proposed findings of fact and conclusions of law;

(h) Consider and rule upon all motions presented in the course of the proceedings;

(i) Consider such evidence as may be submitted, including but not limited to, documentary evidence, affidavits and oral testimony;

(j) Prepare a record of its proceedings. The Clerk/Secretary of the Board's parent governmental body, or his/her designee, shall serve as ex-officio Clerk of the Board and keep minutes of the Board's proceedings;

(k) Enter any order that further carries out the purpose of these rules.

(l) Consolidate hearings on cases as helpful for their prompt disposition.

4. CASE MANAGEMENT CONFERENCE The Board may direct the parties or their attorneys to appear at a conference with the Board or its attorney at any time, for the purpose of considering:

(a) the formation and simplification of the issues;

(b) the possibility of obtaining admissions of fact and of documents to avoid unnecessary proof;

(c) the limitation of the number of witnesses;

(d) the preparation and submission of written briefs and proposed findings of fact and conclusion of law;

(e) scheduling of hearings on motions;

(f) a proposed plan and schedule of discovery;

(g) any other matters which may aid in the disposition of the objections.

5. ORDER OF PRESENTATION The Board will first hear preliminary motions in the nature of a motion to dismiss under section 2-615 of the Illinois Code of Civil Procedure. The Board may, in its discretion, reserve rulings on such motions pending further hearings.

The objector shall present his/her case-in-chief after the consideration of such preliminary motions. The objector shall bear the burden of presenting evidence sufficient to support a decision sustaining the objection. The applicable evidentiary threshold on issues of fact shall be a "preponderance of the evidence". The Board, in its discretion, may entertain a motion for a directed finding at the close of the objector's case-in-chief. After the conclusion of the objector's case-in-chief, the candidate may present his/her case-in-chief.

At the close of candidate's case-in-chief, the objector may offer a case in rebuttal. Matters in rebuttal will be strictly limited to matters raised by the issues then before the Board. Surrebuttal is disfavored and may be allowed by the Board only upon showing of compelling grounds.

In the interest of brevity, the Board may terminate evidence or argument on repetitive matters or matters plainly beyond the scope of the case. The Board may refuse to hear, with or without an objection of a party, evidence or argument it determines not germane to the electoral board hearing.

The objector need not adduce proof that the objector is a registered voter within the political subdivision at issue. The candidate may raise the lack of the objector's standing or eligibility as an affirmative defense in his/her own case-in-chief. The objector's motivation or personal knowledge of the factual basis for the objections are not relevant to the Board and shall not be considered.

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

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

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

The objector and candidate shall have the right to have an attorney and one designated representative ("watchers") present at the record check. The record check will proceed at the scheduled time. The failure of any party to appear at the comparison shall not delay nor affect the validity of the record check. The results of the record check shall be noted by the election authority's clerks on a form provided by the Board. Failure or refusal of the watcher to sign the form does not affect the accuracy of the form. Blank copies of the form used shall be furnished to each watcher on request, so that the watcher may note the results of the comparison. The election authority or the Board's representative(s) may order a watcher removed for misconduct which

materially hampers the businesslike proceedings of the record check. If a watcher is removed, the record check will proceed immediately without that watcher.

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

7. (Blank).

8. **TIMING OF OBJECTIONS TO RECORD CHECK** Any party may object to the results of the record check by filing a written request for further hearing before the Board. This request shall indicate the specific name(s) objected to by sheet and line of the election document and the ground(s) for the request. This request shall be filed no later than 24 clock hours following the ruling on the last signature examined at the record check, or by noon the next business day, whichever is later.

The request shall be filed with the Board and the other parties to the case. No request will be considered if the party did not make an objection to the election authority's finding at the time of the election authority's clerk entered his/her finding on the form.

At a Rule 8 hearing before the Board, the ruling made by the clerks shall be deemed valid, and the moving party shall have the burden of demonstrating the ruling was incorrect by a preponderance of the evidence.

9. **SUBPOENAS** At the request of any party or on its own motion, the Board may issue subpoenas requesting the attendance of witnesses and subpoenas duces tecum requiring the production of such books, papers, records and documents as may be evidence of any matter before the Board. A majority vote of the Board is necessary to issue a subpoena. The party requesting the subpoena shall serve the subpoena, with the appropriate fee, in the same manner as for subpoenas used in the Circuit Court of the county in which the board sits,

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

10. **GENERAL CONSIDERATIONS** The Board will consider only objections to the objector's petition and to the nomination papers. All arguments and evidence must be confined to those matters. Any party may submit arguments in writing. The objector's petition may not be amended. The Board will be governed by applicable Illinois statutory and case law.

11. **EVIDENCE** The Board will consider such other evidence as may be submitted, including, but not limited to, other documentary evidence, affidavits, and oral testimony. Because the Board must consider objections within a limited time, extended examination and cross-

examination of witnesses will be subject to the discretion of the Board. The Board will, where practicable and appropriate, follow (but will not be bound by) rules of evidence which prevail in Illinois courts of law. The Chair, with the assistance of the Board's attorney, shall make all necessary evidentiary rulings, subject to appeal to the entire Board. The Board may overrule the Chairman's rulings on such evidentiary matters by a majority vote of the Board.

12. FAILURE TO FOLLOW DIRECTIVES Failure to adhere to these Rules shall be grounds for dismissal of the objector's petition or default of the candidate.

13. FINDINGS The Board shall state its findings in writing, noting the objections which have been sustained. The Board shall not default a candidate until after a finding that the objections constitute sufficient grounds for removal from the ballot.

14. GENERAL PROCEDURES For matters not covered herein, the Board will generally follow rules of practice which prevail in the Circuit Court of the county in which the board sits and the Illinois Code of Civil Procedure. Because of the nature of these proceedings, the Board shall not be bound by such rules in all particulars. Mandatory discovery is not permitted. The Board's rules of order shall be Robert's Rules of Order, Newly Revised, 10th Edition, Perseus Publishing.

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

Any public member serving on the Board by appointment of the Chief Judge shall receive compensation as set forth by court rules.

The Board designates David W. McArdle, Zukowski, Rogers, Flood & McArdle, 50 Virginia Street, Crystal Lake, IL 60014 as its attorney. The Board's attorney is authorized and directed to defend the Board's decision at the circuit court level if a petition for judicial review is filed and to defend the Board in any litigation that may arise. The Board directs the appropriate officials of the Board's parent governmental body to pay the reasonable and necessary costs of the Board's operation, including attorney's fees, court reporting fees and similar expenses, from its general funds.

15. SESSIONS After the Board convenes, it will be in session continuously until all objections are disposed of. The Board may recess from time to time.

16. NOTICE OF FILING AND SERVICE Any party filing any document must give notice of that filing and a copy of the document being filed to all other parties to the case. If a party or his/her attorney has a fax machine or email address, service may be made to the fax machine or by email. Service shall be effectuated in a manner reasonably calculated to provide actual and prompt notice to the party. The party filing the document shall file a sworn Proof of

Service with the Board. The Proof of Service shall set forth the time, date and manner of service. The Proof of Service shall be filed with the ex-officio clerk or his/her designee. All documents shall be filed with the ex-officio clerk or his/her designee during regular office hours, or with the Board in open session.

Copies of any documents filed with the ex-officio clerk should also be sent by hand-delivery, facsimile transmittal, or email to the Board Attorney, (815)459-2050; Fax (815) 459-9057; email: jgibson@zrfnlaw.com

Adopted _____, 2020:

ELECTORAL BOARD

Chairman

Member

Member