

**1606 PETITION CHALLENGES**

1606.1 The Executive Director or his or her designee shall post nominating petitions, or facsimiles thereof, in the Board's office for public inspection and opportunity for challenge on the basis of an insufficient number of valid signatures or any other grounds by any qualified elector(s) for ten (10) days, including Saturdays, Sundays, and holidays, beginning on the third (3rd) calendar day after the petition-filing deadline required by law. A challenge to a nominating petition that is not properly submitted to the Board within the challenge period shall not be accepted.

1606.2 Except as provided in this section, the Board shall adjudicate the validity of each properly filed challenge in accordance with the procedures prescribed in Chapter 4 of this title. A challenge to the validity of the signatures on the petition is properly filed if:

- (a) It cites the alleged signature or circulator requirement defects, as set forth in the signature validity rules of this chapter, by line and page;
- (b) It is signed and submitted in-person at the Board's office by a qualified elector by no later than 5:00 p.m. on the 10<sup>th</sup> day of the challenge period;
- (c) It alleges the minimum number of signature defects which, if valid, would render the prospective candidate ineligible for ballot access; and
- (d) It appears on its face to be based on a good faith review of each signature and circulator affidavit. An absence of good faith may be determined where the Board's preliminary review of the challenge indicates that the defect(s) alleged for a substantial number of signatures and/or circulator affidavits could not reasonably be found to apply to such signatures and/or circulator affidavits.

A challenge on grounds other than the alleged invalidity of any petition signature will be properly filed if it concisely sets forth a procedural or other defect.

1606.3 Upon the receipt of a properly filed challenge, the General Counsel or his or her designee shall promptly serve a copy of the challenge upon the candidate in-person, by first-class mail, or by email. In addition, the Board's General Counsel may schedule a pre-hearing conference between the parties.

1606.4 After the receipt of a properly filed challenge that is based on allegedly invalid signatures, the Board's staff shall search the Board's permanent registration records to prepare a recommendation to the Board as to the validity of the challenge. The scope of the search shall be limited to matters raised in the challenge. In the event Board staff discovers a fatal defect either on the face of a petition or pursuant to a record search concerning a specific allegation or

challenge, the Board may, on its own motion, declare any signature(s) invalid, notwithstanding the defect was not alleged or challenged; alternatively, the Board, in its discretion, may waive any formal error.

- 1606.5 The Board shall receive evidence in support of and in opposition to the challenge and shall rule on the validity of the challenge no more than twenty (20) days after the challenge has been filed. The Board shall consider any other evidence as may be submitted, including but not limited to, documentary evidence, affidavits, and oral testimony.
- 1606.6 The Board, in view of the fact that it shall hear and determine the validity of the challenge within a limited time, may limit examination and cross-examination of witnesses to the following:
- (a) Objections and specifications of such objections, if any, to the nominating petition; and
  - (b) Objections and specifications of such objections, if any, to the petition challenge.
- 1606.7 Based upon the evidence received, the Board shall either reject or uphold the challenge, and accordingly grant or deny ballot access to the candidate whose petition was challenged.
- 1606.8 If a one (1)-member Board panel makes a determination on the validity of a challenge, either the challenger or any person named in the challenged petition as a nominee may apply to either the full Board or the District of Columbia Court of Appeals for a review of such determination within three (3) days after the announcement of the one (1)-member panel determination; provided that any appeal to the full Board must be made in time to permit the Board to resolve the matter by no later than twenty (20) days after the challenge has been filed. An appeal from a full Board determination to the Court of Appeals shall be made within three (3) days.
- 1606.9 If at the expiration of the challenge period referred to in this section, no challenge has been filed with respect to a nominating petition, the Executive Director, or his or her designee, shall certify the candidate, and the candidate's name shall be printed on the ballot.

SOURCE: Final Rulemaking published at 27 DCR 2763 (June 27, 1980), incorporating the text of Proposed Rulemaking published at 27 DCR 1929, 1949-50 (May 9, 1980); as amended by Final Rulemaking published at 36 DCR 8364, 8366 (December 15, 1989); as amended by Final Rulemaking published at 48 DCR 11722 (December 28, 2001); as amended by Final Rulemaking published at 49 DCR 2737 (March 22, 2002); as amended by Final Rulemaking published at 61 DCR 625 (January 24, 2014); as amended by Final Rulemaking published at 70 DCR 012730 (September 22, 2023); as amended by Final Rulemaking published at 70 DCR 015793 (December 15, 2023).