Candidate Challenge Hearing Procedures

Presented by

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Hearing Overview

- Chair introduction of proceedings
- Opening statements
- Case in Chief: presentation of evidence
- Relevant audience testimony/evidence
- Closing statements
- Deliberation
- Decision

Chair Introduction

- The Chair will:
  - Announce all parties present at the hearing
  - Cover the allegation from the filed Candidate Challenge
  - Discuss who had the burden of proof (the candidate)
  - Explain the legal standard in this case (preponderance of the evidence)
  - Cover any other administrative details

Opening Statements

- Both the Challenged Candidate and the Challenger will be given three minutes to make an opening statement
- Opening statements are not evidence. They are a preview of the case, outlining what each side contends the evidence will show, serving to help the Board understand the upcoming testimony and exhibits
- An opening statement may be made by the either challenger or candidate or by either's attorney if present

Case In Chief

Both parties, Candidate First (Burden of Proof on Candidate)

Evidence

- Documents, affidavits, etc., may be presented at this time
- The Chair can then admit that evidence into the record or not
- The opposing party can object to evidence and the chair rules on the objection.
- The Board can also object if they disagree with the chair and then a vote is taken.

Witnesses

- All witness will be placed under oath (including candidate or challenger testimony if desired)
- The party that calls the witness will conduct direct-examination, the other party can then conduct cross-examination, then the Board may ask questions of the witness.
- The Challenger may not be questioned unless subpoenaed or volunteers to testify under oath

Relevant Audience Testimony/Evidence

- The Board may allow anyone who is present to present evidence
- If this occurs, it will happen after both sides have presented their case in chief
- The Chair will address this during her introduction
- Audience members will be asked to raise their hand, be given a piece of paper to state their name and what relevant testimony or evidence they wish to put on the record
- The Chair will determine the relevancy of each audience member's request

Closing Statements

- Both the Challenged Candidate and the Challenger will be given two minutes to make a closing statement
- Again, this is not to be considered evidence
- The challenger or challenged candidate's attorney may make this closing statement

Deliberation and Decision

- Once closing statements are finished, no more evidence may be admitted
- The Board will deliberate for as much time need, while still in the open session
- At any point, a member of the Board may call for a motion to decide on the case
- Once a motion carries, a written decision will be completed after the hearing and will be served on all parties

Legal Standards

- Once Challenged, the burden is on the candidate to show by a “preponderance of the evidence” that he or she is qualified to be a candidate for office
- Preponderance of the evidence: Preponderance of the evidence means proving something is more likely true than not, like tipping a scale slightly in your favor (over 50% probable). It's the standard of proof in most civil cases, requiring evidence that is more convincing, not necessarily absolute certainty, to show a fact is true

Questions?