

TRURO BOARD OF REGISTRARS

PROCEDURES FOR HEARINGS ON FALL 2023 RESIDENCY OBJECTIONS

I. Procedural Posture

- A. Objections to the residency of 66 voters were filed with the Truro Board of Registrars. See G.L. c.51, §§47, 48, 49.
- B. The Board of Registrars met on October 21, 2023 at a properly posted meeting to examine into the objections and determine if enough evidence was presented to warrant holding a public hearing concerning the allegations. The Board determined that all such objections were in proper form and scheduled hearings on all objections to be held and set forth the time, date and place of the formal hearing on the objections, and these rules are an exhibit to that document.
- C. Hearings are scheduled for November 6, 7, 8 and 9, and, as needed, any other dates as determined by the Board of Registrars.

II. Burden of proof

- A. The Board's findings are based on substantial evidence, defined as "such evidence as a reasonable mind might accept as adequate to support a conclusion." G. L. c. 30A, §1(6); Capezzuto v. State Ballot Law Board, 407 Mass. 949, 952 (1990); Hershkoff v. Registrars of Voters of Worcester, 366 Mass. 570, 574 (1974).
- B. In proceedings before the Board, the Objector has the burden of going forward. Hamill v. Sawyer, SBLC 90-14 (June 27, 1990).
- C. The Objector must meet their burden of proof by proving their allegations by a preponderance of the evidence. DeJong v. Owens, SBLC 90-10 (June 22, 1990). A preponderance of the evidence has been described as just enough evidence to make it more likely than not that the fact the claimant seeks to prove is true. See, e.g., Stapleton v. Nyhan, 3 Mass. L. Rptr. 423 (Super. Ct. Feb. 3, 1995) (stating, "The severe time constraints ... and the principal objective of the election laws to ensure that the public will may be expressed through the electoral process, by permitting access by a candidate to the ballot, require that the burden of proof ...to challenge ... an original nomination petition be placed on the objector to the signatures.").

III. Motions/Evidence

- A. The objector shall have the right to present their position first through evidence and testimony, followed by the Respondent. 801 CMR 1.01(10)(f).
- B. All parties have the opportunity to present evidence, including calling and cross-examining witnesses, introducing documentary evidence, and presenting arguments of law. 801 CMR 1.01(f). Redirect and recross may be allowed where appropriate.

- C. All witnesses shall be sworn. 950 CMR 59.05(1)(d)(3).
- D. The formal rules of evidence need not be observed, but the Board shall observe the rules of privilege recognized by law. Evidence may be admitted and given probative effect only “if it is the kind of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs.” Weight to be given evidence is determined by the Board in its discretion. 950 CMR 59.05(1)(g)(1)-(3).
- E. The Board will not admit in evidence affidavits bearing directly on an ultimate fact in dispute, here, residency, except upon good cause shown. 950 CMR 59.05(1)(g)(2)(c).

IV. Decisions

- A. The Board may issue a decision by taking any of the following actions:
 - 1. Dismiss an objection for lack of timeliness, jurisdiction, standing, failure to state a claim upon which relief may be granted, or for any other legal reason;
 - 2. Sustain an objection on the merits, and order the name of the Respondent to be removed from the list of registered voters;
 - 3. Overrule an objection on the merits; or
 - 4. Make informal disposition of an objection, such as by voluntary withdrawal of objection, voluntary removal of the Respondent from the Truro voter rolls, stipulation, or settlement as may be appropriate.

VI. Timing of Final Decision

- A. A final decision will be issued contemporaneously, and a statement of reasons shall be prepared thereafter.

VII. Judicial Review

- A. A party may ask a court to review the Board’s decision and statement of reasons. See G.L. c.30A, §14.