

ALABAMA REPUBLICAN PARTY STATE EXECUTIVE COMMITTEE

RULES GOVERNING CONTESTS OF
PRIMARY ELECTIONS

REVISED: JUNE 25, 2022

ARTICLE I. GENERAL PROVISIONS.

Section 1. Definitions.

- (a) **“Alabama Trial Rules”** shall mean the Alabama Rules of Civil Procedure, the Alabama Rules of Evidence, and the Alabama Rules of Attorney Professional Conduct.
- (b) **“Appeal”** shall mean any appeal to the State Executive Committee from a final decision of a County Executive Committee, as provided by these Rules or Alabama Code § 17–13–82.
- (c) **“Commissioner”** shall have that meaning set out in Alabama Code § 17–13–89.
- (d) **“Contest”** shall mean any contest of a primary election nomination that is commenced under either Alabama Code § 17–13–80 or Alabama Code § 17–13–83.
- (e) **“Contestee”** or **“Contested Party”** shall mean any person whose nomination has been declared by his or her party office, and whose nomination has been contested under either Alabama Code § 17–13–80 or Alabama Code § 17–13–83.
- (f) **“Contestant”** or **“Contesting Party”** shall mean any person commencing a Contest of a primary election nomination under either Alabama Code § 17–13–80 or Alabama Code § 17–13–83.
- (g) **“Counsel of Record”** shall mean any attorney, properly barred and in good standing in the courts of the State of Alabama, who has provided written notice to the State Executive Committee or a County Executive Committee that they are representing a particular Party in a Contest before such committee.
- (h) **“County Executive Committee”** shall mean an Alabama Republican Party County Executive Committee that receives a contest of a primary election under Alabama Code § 17–13–80, or any person, agent, or subcommittee duly authorized to act on behalf of such Alabama Republican Party County Executive Committee, such as the Chair of such Alabama Republican Party County Executive Committee acting under Alabama Code § 17–13–74, *inter alia*.

- (i) **“Final Decision”** shall mean a written determination of any Contest or Appeal that is made by the State Executive Committee or a County Executive Committee in any Contest or Appeal, following a Hearing, that is transmitted to the Parties (whether by mail, electronically, by hand, or by any other common means of transmission), that resolves all issues duly presented by such Contest or Appeal, and that is clearly styled or otherwise denoted as a “Final Decision” or similar notation (such as, but not limited to a “Final Decision”, a “Final Judgment,” a “Determination,” etc.).
- (j) **“Hearing”** shall mean any meeting by the State Executive Committee or a County Executive Committee called for the purpose of hearing and trying a Contest pursuant to Alabama Code §§ 17–13–70, 17–13–81, and/or 17–13–85.
- (k) **“Hearing Officer(s)”** shall mean any person duly appointed by either the State Executive Committee or a County Executive Committee for the purpose of either managing or deciding a Contest.
- (l) **“Party”** or **“Parties”** shall mean any candidate or elector participating in any Contest.
- (m) **“Pre-Hearing”** shall refer to the period of time between the time that a Contest or Appeal is first commenced and the Hearing of any such Contest or Appeal.
- (n) **“Rules”** shall mean these Alabama Republican Party State Executive Committee Rules Governing Contests of Primary Elections & Other Matters of Party Procedure.
- (o) **“State Executive Committee”** shall mean the Alabama Republican Party State Executive Committee or any person, agent, or subcommittee duly authorized to act on behalf of the Alabama Republican Party State Executive Committee, such as the Chair of the Alabama Republican Party State Executive Committee acting under Alabama Code § 17–13–74, *inter alia*.
- (p) **“Statutes”** shall mean the provisions of Alabama Code Title 17, Chapter 13, including especially Article 3 concerning Contests of Primary Elections.

Section 2. Authority.

These Rules are adopted by the State Executive Committee pursuant to the authority vested in the State Executive Committee by Alabama Code, § 17–13–88. In the event of a conflict between these Rules and the Statutes, the Statutes shall be controlling. The State Executive Committee retains the sole discretion to alter or amend these Rules.

Section 3. Scope.

These Rules shall apply in all Contests and Appeals, whether brought before the State Executive Committee or a County Executive Committee.

Section 4. General Adoption of Alabama Trial Rules.

- (a) Subject to paragraph (b), below, in general, all Pre-Hearing and Hearing proceedings shall be conducted pursuant to these Rules, the Alabama Trial Rules, Roberts Rules of Order, Newly Revised, the Bylaws of the Alabama Republican Party Executive Committee, and the 2022 Primary Resolution of the Alabama Republican Party Executive Committee, as interpreted by the Hearing Officer(s), the County Executive Committee, or the State Executive Committee, subject only to review on Appeal by the State Executive Committee or its delegates, as applicable.
- (b) In the event of a conflict between the sources of authority listed in paragraph (a), weight shall be given to each authority in the following order (with those listed earlier controlling over those listed later): (i) these Rules; (ii) the Bylaws of the Alabama Republican Party Executive Committee; (iii) the 2022 Primary Resolution of the Alabama Republican Party Executive Committee; (iv) the Alabama Trial Rules; and (v) Roberts Rules of Order, Newly Revised.
- (c) Further, in the event of a conflict between the Statutes and any of the sourced of authority listed in paragraph (a), the Statutes shall be controlling.

ARTICLE II. PRE-HEARING PROVISIONS.

Section 5. Timing.

- (a) As provided by the Statutes, the County Executive Committee or State Executive Committee, as applicable, shall meet within five (5) days of the commencement of any Contest to determine the facial validity thereof.
- (b) If the Contest is invalid or is of such a nature that it could not alter the outcome of the primary election, then the County Executive Committee or State Executive Committee shall so determine by issuing a Final Decision.
- (c) If, however, the Contest is facially valid and could alter the outcome of the primary election, then the County Executive Committee or State Executive Committee shall appoint a Hearing Officer(s) in accordance with Section 6 below, and shall set a date for a final Hearing to commence.
- (d) The final Hearing shall be set for a time as promptly as reasonably possible given the totality of the circumstances, including the statutory deadlines for certifying candidates for general elections, as determined in the sole discretion of the County Executive Committee or the State Executive Committee.
- (e) Notice of the time and place set for the final Hearing shall be provided to all Parties.
- (f) Notwithstanding the foregoing, if the Contest solely concerns a position within the Republican Party, and does not concern a nomination to election to a governmental position, then the provisions of this Section shall not apply.

Section 6. Hearing Officer(s).

- (a) Following the commencement of a Contest or Appeal, the County Executive Committee or the State Executive Committee, as applicable, shall designate one or more Hearing Officers to oversee the Pre-Hearing conduct of the Parties to the Contest or Appeal. Unless a contrary designation is made, the Hearing Officer shall be the Chair of the applicable Committee, or his designee.
- (b) The Hearing Officer(s) shall have all powers and rights in the conduct of Pre-Hearing activities that the County Executive Committee or the State Executive Committee, as applicable, would have to conduct the same activities, including, but not limited to, the issuance of subpoenas pursuant to Alabama Code § 17-13-74.
- (c) The Hearing Officer(s) shall, for good cause, have the power to adjust the date of the Hearing in accordance with the relevant provisions of these Rules, so long as notice of the time and place is provided to all Parties and the applicable committee members. If the Hearing Officer(s) choose a Hearing date that is sooner than the previously scheduled Hearing date, the Hearing Officer(s) shall provide notice at least six (6) days in advance of such newly selected Hearing date. If the Hearing Officer(s) choose a Hearing date that is later than the previously scheduled Hearing date, the Hearing Officer(s) shall provide notice at least three (3) days in advance of such newly selected Hearing date.

Section 7. Legal Counsel.

- (a) Any Party is entitled to be represented by legal counsel of their choice, at their own expense. Legal counsel shall be properly barred and in good standing in the courts of the State of Alabama.
- (b) Such legal counsel shall notify the Hearing Officer(s), in writing, that they are representing a Party to a Contest, and which Party they are representing. Upon providing such notification, counsel shall be deemed Counsel of Record.

Section 8. Communications.

- (a) All communications from a Party or its Counsel of Record to the Hearing Officer(s) shall be made in writing, with the other Part(ies) being provided with a copy of such communications.
- (b) Once the Hearing Officer(s) have been appointed – and unless otherwise specifically provided by the Hearing Officer(s) or the County Executive Committee or State Executive Committee, as applicable – the Parties shall not communicate with the County Executive Committee or the State Executive Committee or any member thereof regarding any matter related to the Contest or Appeal, except during the Hearing on such Contest or Appeal. Further, the limitations on communication contained in this paragraph (b) shall remain in effect for a period of one (1) month following the Final Decision of the State Executive Committee or, if no Appeal was taken, the Final Decision of the County Executive Committee.

Section 9. Consolidation of Contests.

- (a) Automatic Consolidation: Where two Parties commence a valid Contest of the same nomination, then those Contests shall, as a matter of course, be consolidated with each other by the County Executive Committee, the State Executive Committee, or the Hearing Officer(s), as applicable, and shall proceed as a single Contest.
- (b) Discretionary Consolidation: Where two Contests involve substantially similar issues, then those Contests may, in the sole discretion of the County Executive Committee, the State Executive Committee, or the Hearing Officer(s), as applicable, be consolidated with each other and proceed on such bases as the Hearing Officer(s) determine is efficient and just.

Section 10. Subpoenas for Testimony.

- (a) Counsel of Record for each Party to a Contest – or the Party themselves, in the event that the Party does not have Counsel of Record – is designated by these Rules and pursuant to Alabama Code § 17–13–74 as having the authority to issue up to five (5) subpoenas to summon witnesses to appear and give testimony at a Pre-Hearing deposition.
- (b) When the subpoena to be issued concerns either the receiving of illegal votes or the rejection of legal votes, the Party or Counsel of Record issuing the subpoena shall ensure compliance with all specificity and timing requirements of Alabama Code § 17–13–79.
- (c) The Parties or their Counsel of Record shall give notice to the Hearing Officer(s) any time they issue a subpoena pursuant to this Section 10.
- (d) Such deposition shall be taken under oath, and shall be recorded by a court reporter at the expense of the Party who issued the subpoena.
- (e) Any deposition conducted pursuant to this Section 10 shall be no more than four (4) hours in length, with each Party having up to two (2) hours in which they may ask questions of the witness.
- (f) In the event that a Party or their Counsel of Record believes that: (i) they need to issue more than five (5) subpoenas under this Section 10; or (ii) that any deposition needs to exceed four (4) hours, such Party or their Counsel of Record may request such relief from the Hearing Officer(s) as they believe is appropriate. Such request shall include specific details regarding the relevance and importance of the testimony sought.
- (g) Notwithstanding paragraph (a), above – and unless otherwise provided for by the Hearing Officer(s) – in the event that there is more than one Party contesting a nomination in a consolidated Contest, such Parties shall coordinate all subpoenas issued pursuant to paragraph (a) so as not to collectively exceed the limits provided for therein. In the absence of any agreement, the presumption shall be that the Parties will divide the subpoenas as equally as the provided limitations permit.
- (h) All rights contained in this Section 10 shall be in addition to the rights of the County Executive Committee, State Executive Committee, and/or the Hearing Officer(s) to issue such other subpoenas as they deem necessary or appropriate to decide any Contest or Appeal.

Section 11. Subpoenas for Documents.

- (a) Counsel of Record for each Party to a Contest – or the Party themselves, in the event that the Party does not have Counsel of Record – is designated by these Rules and pursuant to Alabama Code § 17–13–74 as having the authority to issue up to five (5) subpoenas for the production of documents that such Party believes is necessary to a rightful determination of the Contest.
- (b) The Parties or their Counsel of Record shall give notice to the Hearing Officer(s) any time they issue a subpoena pursuant to this Section 11.
- (c) In the event that a Party or their Counsel of Record believes that they need to issue more than five (5) subpoenas under this Section 11, such Party or their Counsel of Record may request such relief from the Hearing Officer(s) as they believe is appropriate. Such request shall include specific details regarding the relevance and importance of the information or documents sought.
- (d) Notwithstanding paragraph (a), above – and unless otherwise provided for by the Hearing Officer(s) – in the event that there is more than one Party contesting a nomination in a consolidated Contest, such Parties shall coordinate all subpoenas issued pursuant to paragraph (a) so as not to collectively exceed the limits provided for therein. In the absence of any agreement, the presumption shall be that the Parties will divide the subpoenas as equally as the provided limitations permit.
- (e) All rights contained in this Section 11 shall be in addition to the rights of the County Executive Committee, State Executive Committee, and/or the Hearing Officer(s) to issue such other subpoenas as they deem necessary or appropriate to decide any Contest or Appeal.

Section 12. Interrogatories, Requests for Documents, & Requests for Admission.

- (a) In general, each Party to a Contest is entitled to serve on any other Party to a Contest up to: (i) twenty-five (25) interrogatories; (ii) twenty-five (25) requests for documents; and/or (iii) ten (10) requests for admission of certain facts.
- (b) Unless otherwise provided by the Hearing Officer(s) all such requests must be made at least five (5) days in advance of the Hearing on the Contest.
- (c) Upon receiving such requests, the receiving Party shall promptly respond to such requests, and shall respond at least two (2) day in advance of the Hearing on the Contest, unless otherwise provided by the Hearing Officer(s).
- (d) Notwithstanding paragraph (a), above – and unless otherwise provided for by the Hearing Officer(s) – in the event that there is more than one Party contesting a nomination in a consolidated Contest, such Parties shall coordinate all requests made pursuant to paragraph (a) so as not to collectively exceed the limits provided for therein. In the absence of any agreement, the presumption shall be that the Parties will divide the requests as equally as the provided limitations permit.
- (e) All rights contained in this Section 12 shall be in addition to the rights of the County Executive Committee, State Executive Committee, and/or the Hearing Officer(s) to issue such other interrogatories and/or requests as they deem necessary or appropriate to decide any Contest or Appeal.

Section 13. Statement of Undisputed Facts.

- (a) At least four (4) calendar days prior to the beginning of the Hearing, the Parties and/or their Counsel of Record shall confer with one another to draft a statement of undisputed facts for submission to the Hearing Officer(s).
- (b) The Parties shall work together in good faith to compile a list of undisputed facts and to narrow the issues that need to be considered and addressed by the County Executive Committee or State Executive Committee, as applicable.

- (c) The Parties shall submit a statement of undisputed facts to the Hearing Officer(s) at least two (2) calendar days prior to the beginning of the Hearing.

Section 14. Pre-Hearing Submissions.

- (a) At least four (4) calendar days prior the beginning of the Hearing, each Party shall have a right to file with the Hearing Officer(s): (i) an evidentiary submission; (ii) a list of proposed witnesses at the hearing, including a statement outlining why the witness needs to testify in-person at the Hearing, as opposed to through the presentation of recorded deposition testimony; and/or (iii) an opening statement or brief of no more than five (5) pages.
- (b) A Party shall have the right, prior to the Hearing, to object to the introduction of particular evidence or testimony at the Hearing, including by providing a written objection to the Hearing Officer(s) that, collectively, totals not more than five (5) pages. Any such objection shall be provided to the Hearing Officer(s) at least two (2) calendar days prior to the beginning of the Hearing.
- (c) The Hearing Officer shall have the authority to rule on any objections to evidence or testimony prior to the Hearing, and shall have the authority to determine what witnesses are or are not necessary to be present at the Hearing.

ARTICLE III. HEARING PROVISIONS.

Section 15. Time and Place of Hearing.

The Hearing shall begin at the time and place determined by the County Executive Committee or State Executive Committee, as applicable, in accordance with Section 5, unless otherwise adjusted by the Hearing Officer(s) pursuant to Section 6(c).

Section 16. Presentation of Evidence.

- (a) No oral opening statements or arguments will be accepted at the Hearing.
- (b) Each Party shall be allocated forty-five (45) minutes to present its case and answer questions from the Hearing Officer(s) and/or the County Executive Committee or the State Executive Committee, as applicable.
- (c) The Contestant shall proceed with his or her presentation of evidence first, and shall be allowed to reserve up to fifteen (15) minutes for rebuttal.
- (d) Redundant presentations of evidence will not be accepted or tolerated.
- (e) In the event that there is more than one Contestant in a consolidated Contest – and unless otherwise provided for by the Hearing Officer(s) – such Contestants shall coordinate their presentations of evidence and rebuttals so as not to collectively exceed the time allowed under paragraphs (b) and (c), above. In the absence of any agreement, the presumption shall be that the Parties will divide the requests as equally as the provided limitations permit.
- (f) The Hearing Officer(s), County Executive Committee, and/or the State Executive Committee, as applicable, shall have the authority to vary or extend any of the rules listed in this Section 16 as they deem necessary or appropriate to facilitate the efficient and effective presentation of evidence necessary for Hearing Officer(s), County Executive Committee, and/or the State Executive Committee, as applicable, to reach a Final Decision on any Contest or Appeal.

Section 17. Closing Statements.

- (a) Following each Party's presentation of evidence, each Party shall be allowed up to fifteen (15) minutes to make a closing statement.
- (b) The Contesting Party shall making his or her closing statement first, and may reserve up to five (5) minutes for a rebuttal.
- (c) If rebuttal time is desired, then the Hearing Officer(s) must be notified of that desire before the Contestant begin presenting his or her closing statement.
- (d) If rebuttal time is desired, then the Hearing Officer(s) must be notified of that desire before the Contestant begin presenting his or her case.
- (g) In the event that there is more than one Contestant in a consolidated Contest – and unless otherwise provided for by the Hearing Officer(s) – such Contestants shall coordinate their presentations of evidence and rebuttals so as not to collectively exceed the time allowed under paragraphs (a) and (b), above. In the absence of any agreement, the presumption shall be that the Parties will divide the requests as equally as the provided limitations permit.
- (h) The Hearing Officer(s), County Executive Committee, and/or the State Executive Committee, as applicable, shall have the authority to vary or extend any of the rules listed in this Section 17 as they deem necessary or appropriate to facilitate the efficient and effective presentation of evidence necessary for Hearing Officer(s), County Executive Committee, and/or the State Executive Committee, as applicable, to reach a Final Decision on any Contest or Appeal.

Section 18. Post-Hearing Submissions.

- (a) In general, neither Party shall be entitled to submit any additional evidence or briefing following the Hearing.
- (b) While being mindful of the necessity to promptly issue a Final Decision, however, the Hearing Officer(s), the County Executive Committee, or State Executive Committee may specifically request such additional filings or briefing as they believe are necessary to a proper determination of the Contest or Appeal.

- (c) In the event that any post-Hearing filing or briefing is requested, the Parties shall have no more than two (2) calendar days in which to make their submission the Hearing Officer(s).
- (d) The Hearing Officer(s), County Executive Committee, and/or the State Executive Committee, as applicable, shall have the authority to vary or extend any of the rules listed in this Section 18 as they deem necessary or appropriate to facilitate the efficient and effective presentation of evidence necessary for Hearing Officer(s), County Executive Committee, and/or the State Executive Committee, as applicable, to reach a Final Decision on any Contest or Appeal.

Section 19. Final Decision.

The Hearing Officer(s), County Executive Committee, or State Executive Committee, as applicable shall issue its Final Decision in any Contest or Appeal within two (2) calendar days of the close of the Hearing or the receipt of the final post-hearing submission, whichever comes later.

ARTICLE IV. APPELLATE PROVISIONS.

Section 20. Applicability of These Rules to Appeals.

- (a) In general, these Rules shall also apply to Hearings for Appeals.
- (b) Notwithstanding paragraph (a), above, Sections 5, 10 (except for Section 10(h)), 11 (except for Section 11(e)), and 12 (except for Section 12(e)) shall not apply to Appeals. All other Sections shall apply.

Section 21. Taking an Appeal.

Appeals from a Final Decision of a County Executive Committee shall be taken in accordance with Alabama Code § 17-13-82.

Section 22. Timing for Hearing on Appeal.

The Hearing on any Appeal shall be commenced within five (5) calendar days of the filing of an Appeal.

Section 23. Initial Hearing.

- (a) When the State Executive Committee commences the initial Hearing on any Appeal, the State Executive Committee may – in its sole discretion and as it believes is prudent and just – reach a Final Decision on any Appeal at such initial Hearing by upholding the decision of the County Executive Committee without additional proceedings.
- (b) In the event that the State Executive Committee believes additional proceedings are appropriate, however, the State Executive Committee shall appointing Hearing Officer(s) in accordance with Section 6, above, and shall set a date for a final Hearing to commence.
- (c) The final Hearing shall be set for a time as promptly as reasonably possible given the totality of the circumstances, including the statutory deadlines for certifying candidates for general elections, as determined in the sole discretion of the State Executive Committee.
- (d) Notice of the time and place set for the final Hearing shall be provided to all Parties.

Section 24. Evidence & Arguments on Appeal.

- (a) Unless otherwise explicitly permitted by the State Executive Committee or the Hearing Officer(s), when presenting evidence and/or arguments to the State Executive Committee and/or Hearing Officer(s), the Parties to the Appeal shall be restricted to presenting the evidence and arguments that were presented to the County Executive Committee who initial decided the Contest.