

Post-Election Challenge Rules OFNHP 2020 Election

1. Per the OFNHP bylaws, challenges must be submitted within five days of the vote count. The vote count for offices not involving a runoff election is on March 26, so challenges must be submitted by **March 31**. The vote count for any runoff elections is April 23, so challenges for elections involving a runoff must be submitted by **April 28**.
2. If your concern is about a race that involves a runoff, you do **not** need to submit it by March 31 deadline, even if it involves conduct relating to the first phase of the elections. Submit it by April 28.
3. If you have submitted a pre-election complaint this does **not** satisfy the requirement to submit a post-election challenge. You must submit a new post-election challenge with documentation.
4. You may submit your challenge by email (elections@ofnhp.org). Do **not** fax, mail or hand-deliver your complaint. The OFNHP office will be on reduced staffing due to COVID-19 at least for the first deadline and perhaps for the second.
5. Your challenge must include:
 - a. A statement of **supporting reasons**. You must explain what rules were broken and why the violation might have affected the results of the election.
 - b. **Specific facts**. Think: Who, What, When Where. You must provide enough information that the candidate whose election you are challenging has a fair chance to put together their rebuttal.
 - i. Insufficient: Candidate Chris campaigned on employer time.
 - ii. Sufficient: Candidate Chris handed out flyers in front of the KSMC Emergency Department from 3-4 pm on Sunday March 15 while she was being paid by Kaiser to cover the mental health hotline. She handed out about one inch of flyers, and she won by only five votes, so the number of flyers was greater than her margin of victory.
 - c. **Documentation**. Witness statements and exhibits to show your facts are true. If you do not provide support for each fact, the Election Committee may reject your challenge without a hearing.
 - i. In the example above, you should have witness statements from one or more people who saw Candidate Chris campaigning, and a witness statement or document to show she was on Kaiser time when she did it, such as a statement from someone at the mental health hotline who saw the schedule.
6. The Election Committee will forward the challenge and documentation to the “prevailing candidate” (the individual whose election is challenged).
 - a. **The prevailing candidate will have until 5 pm on April 4 to send a rebuttal** to the Election Committee. For runoff elections, the deadline will be **5 pm May 2**.

- b. The rebuttal must include supporting reasons, specific facts and documentation as described above.
7. The Election Committee will forward the rebuttal to the challenger.
8. The Election Committee will decide whether to hold a hearing and the scope of the hearing. The Election Committee reserves the right to decide issues without a hearing if either side fails to provide support for its position. However, given the tight deadlines, all parties should prepare to present all issues at a hearing.
9. Any hearing will be held at **1 pm Sunday April 5** for non-runoff elections and at **1 pm Sunday May 3** for runoff elections.
10. If the OFNHP office is closed or on reduced staffing due to COVID-19, the hearing will be held telephonically. Regardless of whether the OFNHP office is closed, any party or witness may request to appear telephonically.
11. Both the challenger and the prevailing candidate will have a right to appear themselves, to have another OFNHP member present their arguments for them, or both.
12. The hearing will proceed in the following order
 - a. Opening statement by the challenger, then the prevailing candidate.
 - b. The challenger presents their evidence.
 - i. The challenger may present documents. However, the challenger must obtain Election Committee permission to present documents other than those submitted with their challenge. Any such documents must be emailed to the Election Committee as soon as the challenger obtains them or becomes aware they are needed.
 - ii. The challenger may call witnesses. After the challenger has questioned each witness, the prevailing candidate and Election Committee may ask the witness questions. Questioning will continue until all sides have asked all the questions they feel necessary or the Election Committee finds no further questioning is needed.
 - c. The prevailing candidate presents their evidence as described for the challenger above.
 - d. The challenger and then the prevailing candidate may present rebuttal evidence.
 - e. The prevailing candidate and then the challenger will present closing statements.
 - f. The Election Committee may alter this sequence and make rulings as needed to ensure a fair and efficient hearing.
13. The challenger has the burden of proof to show that a violation of the LMRDA (see [Election Central](#) or [Department of Labor](#) websites), AFT Constitution ([here](#)), OFNHP Bylaws ([here](#)) or OFNHP Election Rules ([here](#)) has occurred. The challenger has the burden to show the violation might have affected the election.
14. The Election Committee will issue a written decision within ten days of the challenge having been filed.

15. Any appeal of the Election Committee's decision to the American Federation of Teachers is handled by the AFT and governed by the AFT Constitution, which can be found [here](#).