

## Part 2

### Poll Watchers and Challenges to Voters

#### 20A-3-201 Watchers.

- (1)
  - (a)
    - (i) For each regular general election or statewide special election, and for each regular primary and Western States Presidential Primary, each registered political party and any person interested in a ballot proposition appearing on the ballot may appoint one person to act as a voting poll watcher to observe the casting of ballots, another person to act as a counting poll watcher to observe the counting of ballots, and another person to act as an inspecting poll watcher to inspect the condition and observe the securing of ballot packages.
    - (ii) Each party poll watcher shall be designated, and his selection made known to the poll workers, by an affidavit made by the county chair of each of the parties.
    - (iii) Each issue poll watcher shall be designated, and his selection made known to the poll workers, by an affidavit made by the individual appointing him.
  - (b)
    - (i) For each municipal general election, municipal primary, local special election, or bond election that uses paper ballots, each candidate and any person interested in an issue appearing on the ballot may appoint one person to act as a voting poll watcher to observe the casting of ballots, another person to act as a counting poll watcher to observe the counting of ballots, and another person to act as an inspecting poll watcher to inspect the condition and observe the securing of ballot packages.
    - (ii) For each municipal general election, municipal primary, local special election, or bond election that uses ballot sheets, each candidate and any person interested in an issue appearing on the ballot may appoint one person to act as a voting poll watcher to observe the casting of ballots, another person to act as a counting poll watcher to observe the counting of ballots, and another person to act as an inspecting poll watcher to inspect the condition and observe the securing of ballot packages.
    - (iii) Each candidate poll watcher shall be designated, and his selection made known to the poll workers, by an affidavit made by the candidate appointing him.
    - (iv) Each issue poll watcher shall be designated, and his selection made known to the poll workers, by an affidavit made by the individual appointing him.
- (2) If an appointed poll watcher is temporarily absent for meals, or is sick or otherwise absent, that poll watcher may substitute some other watcher of similar political beliefs by informing the poll workers of the substitution by affidavit.
- (3) Voting poll watchers may watch and observe the voting process, and may make a written memorandum, but they may not interfere in any way with the process of voting except to challenge a voter as provided in this part.
- (4) The counting poll watcher shall remain in the counting room, except in the case of necessity, until the close of the polls and may not divulge the progress of the count until the count is completed.
- (5)
  - (a) It is unlawful for a counting poll watcher to communicate in any manner, directly or indirectly, by word or sign, the progress of the count, the result so far, or any other information about the count.
  - (b) Any person who violates this subsection is guilty of a third degree felony.

- (6) The inspecting poll watcher may be present in the office of the clerk or recorder to whom ballots are delivered after elections to:
  - (a) inspect the condition of the packages containing the ballots upon their arrival; and
  - (b) observe the placement of these packages in a safe and secure place.
- (7)
  - (a) Prior to each election in which a ballot sheet or electronic ballot is used, any interested person may act as a testing watcher to observe a demonstration of logic and accuracy testing of the voting devices prior to the commencement of voting.
  - (b) The election officer shall give prior notice of the logic and accuracy testing demonstration at least two days prior to the date of the demonstration by publishing notice of the date, time, and location of the demonstration:
    - (i) in at least one newspaper of general circulation in the jurisdiction holding the election; and
    - (ii) as required in Section 45-1-101.
  - (c) An election official shall provide, upon request, a copy of testing results to a testing watcher.

Amended by Chapter 388, 2009 General Session

**20A-3-201.5 Definitions.**

As used in this part:

- (1) "Challenged voter" means a person whose right to vote is challenged as provided in this part.
- (2) "Filer" means a person who files a written statement challenging another person's right to vote as provided in Section 20A-3-202.3.

Enacted by Chapter 83, 2010 General Session

**20A-3-202 Challenges to a voter's eligibility -- Basis for challenge -- Procedures.**

- (1) A person's right to vote may be challenged because:
  - (a) the voter is not the person whose name appears in the official register or under which name the right to vote is claimed;
  - (b) the voter is not a resident of Utah;
  - (c) the voter is not a citizen of the United States;
  - (d) the voter has not or will not have resided in Utah for 30 days immediately before the date of the election;
  - (e) the voter's principal place of residence is not in the voting precinct claimed;
  - (f) the voter's principal place of residence is not in the geographic boundaries of the election area;
  - (g) the voter has already voted in the election;
  - (h) the voter is not at least 18 years of age;
  - (i) the voter has been convicted of a misdemeanor for an offense under this title and the voter's right to vote in an election has not been restored under Section 20A-2-101.3;
  - (j) the voter is a convicted felon and the voter's right to vote in an election has not been restored under Section 20A-2-101.5; or
  - (k) in a regular primary election or in the Western States Presidential Primary, the voter does not meet the political party affiliation requirements for the ballot the voter seeks to vote.
- (2) A person who challenges another person's right to vote at an election shall do so according to the procedures and requirements of:
  - (a) Section 20A-3-202.3, for challenges issued in writing more than 21 days before the day on which voting commences; or

(b) Section 20A-3-202.5, for challenges issued in person at the time of voting.

Amended by Chapter 251, 2012 General Session

**20A-3-202.3 Pre-election challenges to a voter's eligibility in writing -- Procedure -- Form of challenge.**

- (1)
  - (a) A person may challenge the right to vote of a person whose name appears on the official register by filing with the election officer, during regular business hours and not later than 21 days before the date that early voting commences, a written statement that:
    - (i) lists the name and address of the person filing the challenge;
    - (ii) for each voter who is challenged:
      - (A) identifies the name of the challenged voter;
      - (B) lists the last known address or telephone number of the challenged voter;
      - (C) provides the basis for the challenge, as provided under Section 20A-3-202;
      - (D) provides facts and circumstances supporting the basis provided; and
      - (E) may include supporting documents, affidavits, or other evidence; and
    - (iii) includes a signed affidavit, which is subject to penalties of perjury, swearing that:
      - (A) the filer exercised due diligence to personally verify the facts and circumstances establishing the basis for the challenge; and
      - (B) according to the filer's personal knowledge and belief, the basis for the challenge under Section 20A-3-202 for each challenged voter is valid.
  - (b) The challenge may not be based on unsupported allegations or allegations by an anonymous person.
  - (c) The election officer may provide a form that meets the requirements of this section for challenges filed under this section.
- (2)
  - (a) If the challenge is not in the proper form or if the basis for the challenge does not meet the requirements of this part, the election officer may dismiss the challenge and notify the filer in writing of the reasons for the dismissal.
  - (b) A challenge is not in the proper form if the challenge form is incomplete.
- (3) Upon receipt of a challenge that meets the requirements for filing under this section, the election officer shall, at least 14 days before the day on which early voting commences, attempt to notify each challenged voter:
  - (a) that a challenge has been filed against the challenged voter and the challenged voter may be required to cast a provisional ballot at the time of voting;
  - (b) of the basis for the challenge, which may include providing a copy of the written statement to the challenged voter; and
  - (c) that the challenged voter may submit information, a sworn statement, supporting documents, affidavits, or other evidence supporting the challenged voter's right to vote in the election to the election officer no later than seven days before the day on which early voting commences.
- (4)
  - (a) Before the day on which early voting commences, the election officer shall determine whether each challenged voter is eligible to vote.
  - (b)
    - (i) The filer of the challenge has the burden to prove, by clear and convincing evidence, that the basis for challenging the voter's right to vote is valid.

- (ii) The election officer shall resolve the challenge based on the available facts and information submitted, which may include voter registration records and other documents or information available to the election officer.
- (5) A person who files a challenge under the requirements of this section is subject to criminal penalties for false statements as provided under Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.
- (6)
  - (a) A decision of the election officer regarding a person's eligibility to vote may be appealed to the district court having jurisdiction over the location where the challenge was filed.
  - (b) The district court shall uphold the decision of the election officer unless the district court determines that the decision was arbitrary, capricious, or unlawful.
  - (c) In making the district court's determination, the district court's review is limited to:
    - (i) the information submitted under Subsection (1)(a) by the person challenging the voter's eligibility;
    - (ii) the information submitted under Subsection (3)(c) by the challenged voter; and
    - (iii) any additional facts and information used by the election official to determine whether the challenged voter is eligible to vote, as indicated by the election official.
- (7) A challenged voter may register to vote or change the location of the voter's voter registration if otherwise legally entitled to do so.
- (8) All documents pertaining to a voter challenge are public records.

Amended by Chapter 19, 2015 General Session

**20A-3-202.5 Challenges to a voter's eligibility at time of voting -- Procedure.**

- (1)
  - (a) A poll worker or a person who lives in the voting precinct may challenge a voter's right to vote in that voting precinct or in that election if:
    - (i) the person making the challenge and the challenged voter are both present at the polling place at the time the challenge is made; and
    - (ii) the challenge is made when the challenged voter applies for a ballot.
  - (b) A person may make a challenge by orally stating the challenged voter's name and the basis for the challenge, as provided under Section 20A-3-202.
- (2) The poll worker shall record a challenge in the official register and on the challenge sheets in the pollbook, including:
  - (a) the name of the challenged voter;
  - (b) the name of the person making the challenge; and
  - (c) the basis asserted for the challenge.
- (3) If a voter's right to vote is challenged under this section, the poll worker shall follow the procedures and requirements of Section 20A-3-105.5.

Enacted by Chapter 83, 2010 General Session

**20A-3-203 Officer or watcher revealing vote.**

- (1) It is unlawful for any election official or watcher to reveal to any other person the name of any candidate for whom a voter has voted or to communicate to another his opinion, belief, or impression as to how or for whom a voter has voted.
- (2) Any person who violates this section is guilty of a class A misdemeanor.

Enacted by Chapter 1, 1993 General Session