

Effective 5/12/2015

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