

Cherokee Board of Elections  
Frequently Asked Questions

1. Does the law permit the Board to use hand-marked ballots instead of the machines?  
Only in *extraordinary* circumstances.
  - a. Under normal circumstances, NO:
    - i. O.C.G.A. § 21-2-300, which states that all voting be done uniformly across the state on ballot marking devices.
    - ii. Cost of providing paper ballots for every combination of ballot is prohibitive, especially in a primary. O.C.G.A. § 21-2-290 would require enough ballots for every active registered voter.
  - b. In *emergency* situations, the superintendent may switch to paper ballots, but it is a *very* high bar. O.C.G.A. § 21-2-379 (“not possible,” “impracticable” to use voting machines.) Athens-Clarke County attempted to use this statute to use hand-marked ballots when they felt that the BMDs did not provide enough privacy. The State Election Board issued them a \$2500.00 fine.  
<https://www.gpb.org/news/2020/03/11/athens-clarke-ordered-stop-using-hand-marked-paper-ballots-immediately>
2. Does the law permit ballots to be hand-counted at the precincts? NO.
  - a. O.C.G.A § 21-2-420 states that poll workers post the number of ballots cast at a precinct on the door of the precinct and then “immediately deliver all required documentation and election materials to the election superintendent” who shall then count the votes.
  - b. O.C.G.A. § 21-2- 483, 485 states that the ballots shall be tabulated using machines. Potentially could count the ballots at precincts but must use machines.
  - c. State Election Board Rule 183-1-12-.12, which provides specific instructions for poll managers after polls close, including extensive chain of custody requirements. Does not provide for hand count of ballots. Does not provide for tabulation of ballots at precincts.
3. Does the QR Code comport with Georgia law requiring that the voter be able to read their choices? YES. See Voter Ga. v. State of Georgia, Georgia Court of Appeals, A23A0004, June 13, 2023.

4. Can county boards of commissioners change the machines? The commissioners can purchase other BMDs. O.C.G.A. § 21-2-300(a)(3) requires the state to furnish a uniform system of electronic ballot markers and ballot scanners for each county. The provision further states that the county commissioners may acquire *additional* electronic ballot markers and ballot scanners *of the type furnished by the state*, at its own expense; see also O.C.G.A. § 21-2-366 (“optical scanning voting systems conforming to the requirements of this part”).
5. How often are audits required? Pre-certification audit of one contest in any election, primary, or runoff in which a federal or state-wide contest appears on the ballot. O.C.G.A. § 21-2-498 (amended by SB 129 (2023)).
6. Who has the authority to change the law? The General Assembly.
7. What could happen if the Cherokee BOER ignored/violated the law?
  - a. State Election Board could impose fines of up to \$5000/violation (see Athens-Clarke example, above). O.C.G.A. §21-2-33.1(a)(2).
  - b. Infraction could count towards a “takeover” of Board down the road. O.C.G.A. § 21-2-33.2(c).
  - c. Depending on type of violation, could be subject to criminal charges as well.
8. What happens if I think a Board member is not qualified to sit on the Board?
  - a. Board of Elections has no independent authority to remove a member. HB 642 (2023); HB 803 (1991).
  - b. Only a superior court judge can remove a member for cause, after notice and hearing. HB 642, §3(c), O.C.G.A. § 21-2-212(a).
  - c. Citizen could also file a quo warranto action in Superior Court.
  - d. However, once a Board member has taken the oath, all votes remain valid as long as he or she remain on the Board, even if an intervening factor would give rise for their removal. See Gates v. Taylor County School District, 346 Ga. App. 248 (2018); O.C.G.A. §45-2-1.