

CHEROKEE COUNTY BOARD OF ELECTIONS AND REGISTRATION
Procedures for Addressing Voter Challenges
Submitted Pursuant to O.C.G.A. § 21-2-229

1. General Guidelines.

(a) Who may file a challenge. Challenges to the qualifications of a Cherokee County registered voter to remain on the list of electors under O.C.G.A. § 21-2-229 may be made only by a registered voter of Cherokee County. See O.C.G.A. § 21-2-229(a). Challenges may not be made by private entities, businesses, political committees, PACs, political parties, or other organizations, or by individuals who are acting in their capacity as agents or employees of those entities. Therefore, before acting upon a challenge submitted to the Cherokee County Board of Elections and Registration (hereinafter, the "BOE"), the BOE shall determine whether the challenger is registered to vote in Cherokee County and is acting in their individual capacity. If not, the BOE shall reject the challenge on this basis.

(b) Contents of the Written Challenge. O.C.G.A. § 21-2-229(a) requires that a challenge "be in writing and specify distinctly the grounds of the challenge." Challenges that are not in writing or which consist of vague, generalized, unsupported, or speculative assertions or conjecture do not satisfy this standard and shall be rejected.

(i) To help facilitate the review of challenges and ensure that the information presented relates to the correct voter, a challenge shall provide: (A) the full name of the voter being challenged; (B) the address at which the voter is currently registered; (C) the year of birth of the challenged voter; (D) the specific basis for the challenge – that is, death, mental incapacity, insufficient age, felony conviction status, or change of residence of the voter; (E) under what statute the challenge is brought (i.e., O.C.G.A. § 21-2-229); and (F) clear and concise detail of the factual evidence offered to support the challenge.

(ii) Challenges based on residency: for any challenge to a voter's eligibility based upon the allegation that the challenged voter does not reside in Cherokee County or in one of its municipalities, the challenger shall specify whether the challenge is based on the challenged voter's current residency status or the voter's residency status at the time the voter initially registered. If the challenger does not specifically identify the basis of a challenge based on residency, the challenge shall be rejected and the BOE shall inform the challenger of this requirement pursuant to written notice to the challenger at the address provided in the written challenge. A copy of this policy shall be included with the notice.

(iii) Once a challenge is received, the Elections Office shall determine whether the challenged voter remains on the Cherokee County active voter rolls. If the voter is not located on the active rolls, the BOE shall reject the challenge and shall so inform the challenger.

(c) Filing Requirements. Challenges shall be submitted to the Board (i) via hand delivery to the BOE at 193 Lamar Haley Parkway, Canton, GA 301114; (ii) via regular mail to that same address; or (iii) via email delivery to the attention of the Elections Director at adover@cherokeega.com. For reasons of computer and network security, the BOE cannot accept USB drives, CDs or other storage media that must be uploaded and retrieved by the BOE Staff. Submitted documents also shall not include website "links" that are intended to be accessed to provide information supporting the challenge. All information submitted for consideration by the Board shall be completely set forth within the submitted challenge documents. The Board shall not access website links for the purposes of tracking down information to support a challenge.

(d) Challenges based on change of residency. Pursuant to Section 8(d)(1) of the National Voter Registration Act, 52 U.S.C. 20501 et. seq., no voter shall be removed from the list of electors on the ground that the voter has changed residence unless the voter (i) confirms in writing that the voter has

changed residence to a place outside Cherokee County; or (ii) (A) has failed to respond to notice as required by the NVRA and (B) has not voted or appeared to vote for two general elections for Federal office after the date of the notice. Accordingly, in the event of any challenge based on a voter's alleged change of residence, the BOE may send the voter a confirmation notice as prescribed in Section 8(d)(2) of the NVRA but shall not remove the voter from the list of electors unless the requirements of Section 8(d)(1) of the NVRA are met. The BOE may direct the Elections Director to mark these challenged voters as "challenged" so that if the voter appears to vote, the poll worker will flag the voter and contact the Elections Office for further direction.

(e) Notice of Hearing. As to any challenge set for hearing, pursuant to O.C.G.A. § 21-2-229(b):

(i) The BOE shall send a written notice within 10 business days of receiving the challenge informing the challenged voter and the challenger of the date, time, and place of the hearing along with a copy of the challenge and a copy of this policy, and shall state that either party may, but is not required to, be represented by counsel or another representative at the hearing. The notice shall be sent by first-class mail or in the manner provided in O.C.G.A. § 21-2-228(c). The notice shall also provide the challenged voter the opportunity to provide information in response to the challenge within ten (10) business days of the date of the notice. The notice shall be mailed sufficiently in advance of the hearing to provide the person being challenged at least three days' notice of the date, time, and place of the hearing. The BOE shall set the hearing within 10 business days of the date of the notice.

(ii) If the voter supplied a phone number or email address on the registration form or in other writings such as an absentee ballot application received by the BOE, then in addition to the notice provided for above, as soon as possible after receiving the challenge, the BOE will attempt to contact the challenged voter by

phone and/or email to determine if the issue raised by the challenge can be resolved quickly, efficiently, and informally. The BOE will send at least one email to the voter (if an email address is available) and make at least two reasonable attempts to contact the voter by phone (if a phone number is available), including at least one attempt after 5:00 pm. If the BOE is unable to reach the voter by phone but is able to leave a voicemail, the BOE will leave a voicemail for the voter. If the challenged voter confirms in writing that they are no longer qualified to vote in Cherokee County, the hearing will be cancelled and notice will be sent to the challenger by first class mail.

(iii) If the BOE determines that the volume of voter challenges, whether from a single challenger or from multiple challenges, cannot be adjudicated in the time allotted for the scheduled hearing, the BOE shall continue the challenges to an additional hearing date, and all challengers and challenged voters shall be notified in writing and by phone and email, in the manners as specified above.

(f) Evidence at the hearing. The burden shall be on the elector making the challenge to prove that the person being challenged is not qualified to remain on the list of electors (O.C.G.A. § 21-2-229(c)). Accordingly, the evidence presented in support of the challenge shall include credible evidence that substantiates the specifics of the challenge.

(i). Hearsay, including but not limited to the following, shall not be sufficient to sustain the challenger's burden of proof:

A. Address data on file with the Georgia Department of Driver Services ("DDS") and other government or utility databases.

B. National Change Of Address registry data (see SB 189).

C. Information gathered from social media posts or from door-to-door surveys.

- D. Records showing only a registered voter's name and year of birth because of the substantial risk of a false positive identification with another person possessing the same name and year of birth.
- E. Any government or business documents that are not certified as accurate by the government body or business entity.
- F. Affidavits or other written statements submitted by the challenger

(ii). Compliance with the National Voter Registration Act's 90-Day Prohibition. Additionally, any challenge raised within 90 days of a primary or election for federal office shall comport with the National Voter Registration Act. Pursuant to Section 8(c)(2)(A) of the Act, any multiple-voter challenge process shall be completed 90 days prior to the date of a primary or general election for Federal office; therefore, multiple-voter challenges submitted such that the challenge cannot be completed according to the 90-day rule shall be rejected. This 90-day rule would be applicable, for example, to a challenge against multiple voters which was created by a data-matching process that compares non-personalized data from one database with information with another database.

(iii) For challenges involving residency at the time the challenged voter submitted his or her voter registration application:

A. this fact alone shall not be sufficient to meet the burden of proof to sustain a challenge, in the absence of other credible evidence that the voter is not currently a resident of Cherokee County.

B. O.C.G.A. § 21-2-217(b) gives presumptive effect to the registrar's decision in determining the residence of the challenged voter at the time the registration application is considered. Challengers bringing residency-based challenges shall produce evidence sufficient to rebut

this presumption in order to sustain their burden of proving that the challenged voter is not qualified to remain on the rolls. If the challenger fails to do so, the challenge shall be rejected by the BOE.

(g) Post-Determination Procedures

(i). Pursuant to O.C.G.A. § 21-2-229(d), the BOE shall notify the challenger and the voter as to its decision in writing by first class, forwardable mail.

(ii). This notification letter shall specify in detail the basis for upholding the challenge, and shall inform the parties that they have the right to appeal the decision to the superior court by filing a petition with the clerk of the superior court within ten days after the date of the decision of the BOE; and that such petition shall be served upon the other parties to the challenge and the BOE. The notice shall also include contact information for the other parties to the challenge and the registrars to effectuate such service.

(iii). The BOE will notify the challenged voter by telephone and email (if available), of any change in registration status resulting from challenge proceedings.

2. Miscellaneous provisions.

(a) Subpoenas. Pursuant to O.C.G.A. 21-2-229(c), either party may request subpoenas from the BOE to compel the attendance of witnesses and the production of documents. The party requesting such subpoena shall be responsible to serve and enforce the subpoenas. The party requesting the subpoena shall also be responsible for mileage and witness fees.

(b) Segregation of Clerical Errors and Similar List Discrepancies. Working with the Secretary of State's Staff, the BOE and its Staff constantly strive to ensure the accuracy of voter information on the list of

electors. Voters may bring to the attention of the Board any alleged discrepancies and clerical errors in the list of electors – but the voter challenge procedures of Section 229 are not the appropriate avenue for identifying these potential issues. Technical and clerical errors or discrepancies shall not be processed under the procedures of Sections 229, but shall be reviewed and, if appropriate, acted on by the Staff. It is the responsibility of challengers to separate any alleged clerical issues from challenges related to voter eligibility under Section 229. Failure to do so shall result in the challenge being rejected with a written notice to the challenger attaching a copy of this policy.

(c) Voters with housing insecurity. Where a voter is a legal resident of Cherokee County and otherwise qualified to vote within the meaning of O.C.G.A. §§ 21-2-216 and 21-2-217, the BOE shall not remove such individual from the voter roll on the basis that the voter currently lives on the streets or in shelters, vehicles, trailers, transitional housing, non-traditional housing or at businesses serving homeless, ill, displaced, economically challenged or other Cherokee County residents in need of housing assistance in the county. When adjudicating such challenges, the BOE shall consider the particular circumstances of the voter and the fact that the burden of proof is on the elector who brought the challenge to prove ineligibility.

(d) Challenges by BOE Member/Employee. If any members of the BOE or employees or agents of the BOE challenge the eligibility of voters in their individual capacity while they remain in that position or have a personal or business interest in the challenge, they shall recuse themselves from deliberating, voting or otherwise participating in any way in the BOE's consideration of such challenges.

3. Public Notice. A copy of any challenge brought under O.C.G.A. § 21-2-229 shall be posted on the BOE website within three business days of receipt of the challenge by the BOE.

4. Effect of Guidelines. This policy document is intended to work in tandem with, and be consistent with, the NVRA and O.C.G.A. §§ 21-2-229. To the extent any part of this policy conflicts with the referenced statutes, the statutes shall control. This policy document is not intended as legal advice and does not purport to summarize all of the requirements and procedures of the relevant laws. Any person considering bringing a challenge under O.C.G.A. § 21-2-229 should consult with an attorney of their choosing.

Adopted April 1, 2024



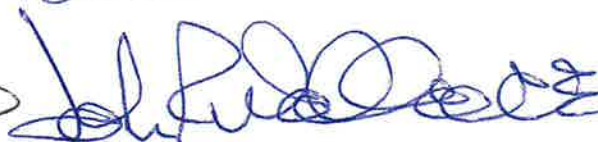
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