

Policy Number: BRE-703

**Gwinnett County
Board of Registrations and Elections
Board Policy File**

Policy Title: Voter Challenges

Version: 2022-04

Effective Date: April 27, 2022

I. Authority:

The Gwinnett County Board of Registrations and Elections (Board) is empowered with all the powers and duties relating to the conduct of elections as election superintendents. 1988 Ga. Laws p. 4296 (Section 9).

II. Purpose:

The purpose of this policy is to establish standards for voter challenges under O.C.G.A. § 21-2-230.

III. Applicability and Scope:

This policy is designed to provide a simple and transparent process to ensure confidence in our county voter list and in compliance with the federal and state law where a registered voter of Gwinnett County challenges the right to vote of another registered voter of Gwinnett County pursuant to O.C.G.A. § 21-2-230

IV. Related Documents and References:

- A. O.C.G.A. § 21-2-229
- B. O.C.G.A. § 21-2-230

V. Policy:

1. A challenge to the right to voter of a Gwinnett County registered voter pursuant to O.C.G.A. § 21-2-230 may only be made by a registered voter of Gwinnett County. Challenges may not be made by voters who are not registered in the same county as the challenged voter or by private entities, businesses, political committees, PAC, political parties, or other organizations. Therefore, before acting upon a challenge submitted to the Gwinnett County Board of Registrations and Elections (hereinafter referred to as "the Board or the BRE") the BRE must determine whether the challenger is registered to vote in Gwinnett County and, if not, the BRE must reject the challenge on this basis.

2. Pursuant to O.C.G.A. §21-2-230(a), the BRE shall require the challenger, to specify in writing and specify distinctly the grounds of such challenge. The BRE shall develop a preferred challenge form for registered voters to use to help collect relevant information for the BRE to make a determination whether there is probable cause to uphold a challenge that a voter is not qualified to vote in Gwinnett County. Any challenge not submitted on the form provided will be reviewed, but the challenger will be required to ensure that all the required information is provided before any action is taken. If staff cannot discern the grounds for a challenge, then the challenger shall be afforded an opportunity to resubmit the challenge using the preferred challenge form or otherwise clarifying the grounds of the challenge.

3. Challenges that are not in writing or which consist of vague, generalized, speculative assertions or conjecture do not satisfy this standard and must be rejected. Residency-based challenges must allege facts sufficient to specifically and distinctly identify the grounds for the challenger's contention that a registered voter has not satisfied the residency requirements of O.C.G.A. § 21-2-217.

4. A challenge that relies solely on the presence of a voter's name on the United States Postal Service's National Change of Address ("NCOA") list without additional facts is insufficient because the NCOA does not contain personal identifying information like dates of birth and the list does not indicate whether a change of address is temporary or permanent. The BRE shall not hear any challenge based on a challenge alleging that they were properly registered to vote in Gwinnett County at the time of initial registration but may have moved from the address listed in their voter registration file. When such challenges are received, the BRE will send the challenger a letter, via first class mail, advising them of the requirements of the National Voter Registration Act (hereinafter referred to as NVRA) regarding removing a voter from the list based solely on change of address. The sole procedure to be followed in this circumstance is to send the voter a confirmation notice and wait two federal election cycles for the voter to either vote or update their information before removing them from the rolls as outlined under Section 8(d) of the NVRA.

(a) If written notice of the challenge to the challenged voter is returned marked "undeliverable" by the United States Postal Service, the BRE shall send the challenged voter a confirmation notice pursuant to O.C.G.A. § 21-2-234(b) and pursuant to that process a non-responsive voter

would be placed in inactive status and their voting record flagged to ensure that said voter provided updated address information prior to voting.

(b) If no response to the BRE's written notice of challenge is received from the challenged voter, the BRE shall inform the challenger that the NVRA precludes the voter from being removed but that there will be further inquiry of the voter if they apply for an absentee ballot or appear to vote.

(c) If the challenged voter responds to the written notice with a written confirmation of a change of address, the BRE shall update the voter's record to reflect such change, including the removal of such voter from the active voter list if such written confirmation from the challenged voter reflects that such voter is no longer qualified to vote in Gwinnett County.

5. To discharge its responsibility to consider such challenges in a timely manner as required by law, the Board will ensure that at least three members of the Board are available to meet and consider such challenges. All meetings at which the Board make determinations regarding whether probable cause exists to uphold a challenge shall comply with the Open Meetings Act with posted notice as required.

6. Staff shall present any evidence provided by the challenger and submit a recommendation for the Board to consider. Although the meeting is open to the public, the Board's deliberation shall be limited to discussion amongst the Board members with staff input as required.

7. In determining whether there is probable cause to uphold a challenge, the Board must consider whether there are facts and circumstances set forth in the written challenge which create a reasonable belief that the registered voter who is the subject of the challenge may not be qualified to vote.

8. If the Board does not find probable cause, then the challenge shall be denied

9. If the Board vote to uphold the challenge, then the Board shall notify the polls officials of the challenged voter's precinct and otherwise, by the appropriate entry in the voter registration system indicating the voter as a challenged voter. Additionally, if practical, notice shall be sent to the challenged voter advising them of the challenge and providing directions regarding how to secure a hearing before the Board for any ballot cast by the challenged voter will be counted. If there is an available email address for the challenged voter on the registration form or in other writings such as an absentee ballot application received by the BRE, then said notice shall also be sent via email and mailed.

10. If the challenged voter casts a ballot before appearing before the Board to address the challenge, then the challenged voter shall be permitted to vote by casting a challenged ballot on the same type of ballot that is used by the county for provisional ballots has been addressed

11. The notice referred to in paragraph 9 above shall provide the challenged voter with all available times, dates and places at which the Board is available to hear from the challenged voter to address the challenge and the Board is available to hear the challenge until immediately prior to the certification of the consolidated returns and must reach a

determination on all pending challenges prior to certifying the results and deciding which challenged ballots can be counted and included in the consolidated returns.

12. Where a voter is a legal resident of Gwinnett County and otherwise qualified to vote within the meaning of O.C.G.A. §§ 21-2-216 and 21-2-217, the BRE shall not find such individual not qualified to vote on the basis that the voter faces circumstances causing them to live on the streets or in shelters, vehicles, trailers, transitional housing, non-traditional housing or at businesses serving homeless, ill, displaced, economically challenged or other Gwinnett County residents in need of housing assistance in the county. When adjudicating such challenges, the BRE shall consider the particular circumstances of the voter.

13. If the Board upholds the challenge, the name of the challenged elector shall be removed from the list of electors, and any challenged ballot cast rejected, not counted and excluded from the returns. Pursuant to O.C.G.A. § 21-2-230 (i), any notice sent to a challenged voters indicating that the BRE has upheld a challenge shall inform the voter that they have a right to appeal the decision by filing a petition with the clerk of the superior court within ten days after the date of the decision of the registrars and that such petition must be served upon the other parties to the challenge and the registrars. The notice shall also include contact information for the other parties to the challenge and the registrars to effectuate such service.

14. If the challenged voter does not appear to vote in person during early voting, on Election Day or submit an absentee ballot by mail, then pursuant to O.C.G.A § 21-2-230 (f), notice shall be sent to the challenged voter and the challenger to appear before the Board for a hearing to be conducted in accordance with O.C.G.A § 21-2-229 as required by law.

15. A copy of each written challenge upon which the BRE acts will be appended to the Minutes of the BRE meeting at which the action was taken.

16. If any members of the BRE or employees or agents of the Gwinnett County Voter Registrations and Elections division challenge the eligibility of voters in their individual capacity while they remain in that position or have a personal or business interest in the mounting of such a challenge, they must recuse themselves from deliberating, voting or otherwise participating in any way in the BRE's consideration of such challenges.

17. The BRE will process all voter challenges expeditiously and objectively.

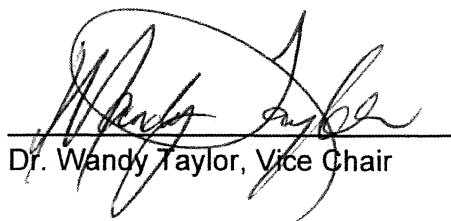
Approved, this 27th day of April 2022.

GWINNNETT COUNTY
BOARD OF REGISTRATIONS AND ELECTIONS

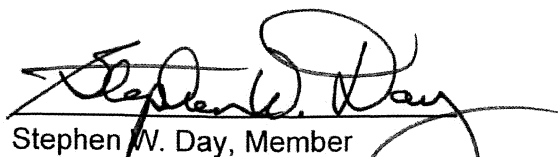
By:



Alice O'Lenick, Chair



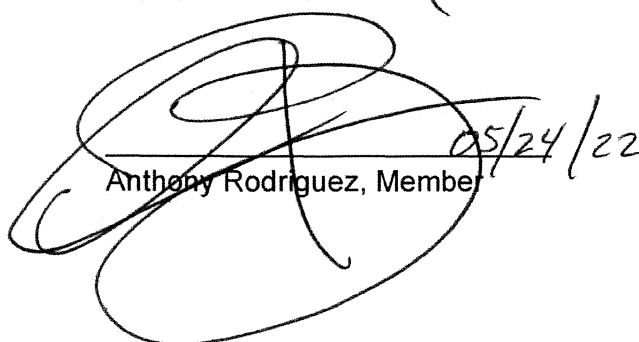
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05/24/22