



## Forsyth County Voter Registrations and Elections

**MANDI SMITH**, Director

### **FORSYTH COUNTY BOARD OF VOTER REGISTRATIONS AND ELECTIONS SUPPLEMENTAL PROCESS-GUIDANCE FOR VOTER CHALLENGES SUBMITTED PURSUANT TO O.C.G.A. § 21-2-229 AND O.C.G.A. § 21-2-230**

Approved 05/12/2022

#### **Purpose**

The Forsyth County Board of Voter Registrations and Elections (“BRE”) adopts this supplemental process-guidance policy<sup>1</sup> so that Forsyth County electors wishing to challenge electors under either O.C.G.A. § 21-2-229 or O.C.G.A. § 21-2-230 better understand the requirements for submission of such challenges. Under this policy, any reference to *challenges* shall mean challenges under either O.C.G.A. § 21-2-229 or O.C.G.A. § 21-2-230, unless the policy makes express that it is only referring to a single code section.

1. Challenges may only be filed by a Forsyth County elector. A Forsyth County elector is any person possessing all necessary qualifications for voting now or otherwise prescribed by Georgia law, including applicable charter provisions, and shall have registered to vote in Forsyth County in accordance with all legal requirements.
2. Challenges must be in writing and shall specify distinctly the grounds of the challenge. There are no limits to the number of electors that may be challenged but challenged electors must be on the Forsyth County list of electors as of the date of the challenge.
3. Any challenge must be submitted to the Forsyth County BRE (1) via hand delivery to the Department of Voter Registrations and Elections at 1201 Sawnee Drive, Cumming, GA 30040; (2) via regular mail to that same address; or (3) via email delivery to the attention of the Department Director at [FCBRE@forsythco.com](mailto:FCBRE@forsythco.com).
4. The submitted documents supporting a challenge should contain clear and concise detail regarding why the challenger is (1) challenging the elector’s right to appear on the elector list (for a challenge under O.C.G.A. § 21-2-229) or (2) the elector’s right to vote in the next upcoming election (for a challenge under O.C.G.A. § 21-2-230). Documentation or information supporting a challenge that is vague, generalized, speculative, or the product of conjecture will not satisfy the standards of the pertinent Code sections or the requirements of the BRE.

---

<sup>1</sup>This policy document is intended to work in tandem with, and be fully consistent with, O.C.G.A. §§ 21-2-229 and 21-2-230. To the extent any part of this policy conflicts with either of the referenced statutes, the statutes shall control. This policy document is not intended as providing legal advice. Any person considering bringing a challenge under O.C.G.A. §§ 21-2-229 or 21-2-230, should consult with an attorney of their choosing.

5. For reasons of computer and network security, the Elections Department cannot accept USB drives, CDs or other storage media that must be uploaded and retrieved by Elections Department staff. Submitted documents also should not include website “links” that are intended to be accessed to provide information supporting the challenge. All information submitted for consideration by the BRE must be completely set forth within the submitted challenge documents. While challengers are strongly encouraged to provide references to source information, the pertinent data that the BRE is expected to review must be clearly set forth within the tendered documents. The BRE will not access website links for the purposes of tracking down information to support a challenge.
6. Challenges filed under O.C.G.A. § 21-2-230
  - a. Pursuant to the Code, the BRE will *immediately* consider whether there is probable cause to sustain the challenge.
  - b. In order to *immediately* consider the challenge, the BRE may set aside an extra meeting date each month [over and above the regularly scheduled BRE monthly meeting] that may be used if challenges are submitted during a period where more than two (2) weeks’ until the BRE’s next scheduled meeting. The challenger is encouraged to be present at the meeting when their challenge is considered, but it is not required.
  - c. Probable cause to uphold the challenge will exist when the facts and circumstances before the BRE would lead a reasonable person to believe that the challenged elector should not vote in the next upcoming election<sup>2</sup>.
  - d. If the BRE finds no probable cause, the challenge will be dismissed.
7. Challenges filed under O.C.G.A. § 21-2-229
  - a. Pursuant to the Code, the BRE will set a date, time, and place for a hearing and notify the challenged electors in writing at their registered address. Notice for a hearing will be set within ten (10) business days of a challenge being received and the BRE will provide the challenged elector(s) at least three (3) days’ notice of the challenge hearing.
  - b. The burden of proof to support the challenge shall rest on the elector making the challenge. The challenger must provide sufficient information to the BRE to prove that the person being challenged is not qualified to remain on the list of electors. Given that the challenger has the burden of proof, the challenger is strongly encouraged to attend the hearing where their challenge is considered.
  - c. The BRE has the authority to issue subpoenas for the attendance of witnesses and the production of books, papers, and other material upon application by the person whose qualifications are being challenged or the elector making the challenge. The party requesting subpoenas shall be responsible to serve such subpoenas and, if necessary, to enforce the subpoenas by application to the superior court. Any subpoenaed witness, after attending, shall be allowed and paid the same mileage and fee as allowed and paid witnesses in civil actions in the superior court.

---

<sup>2</sup> See *Adams v. Carlisle*, 278 Ga.App. 777, 782 (2006)

- d. The BRE will determine whether the challenger has demonstrated by a preponderance of the evidence, that a reasonable and impartial mind would find that the challenged elector should no longer appear on the list of electors<sup>3</sup>.
- e. If the BRE finds that the challenger has not demonstrated by a preponderance of the evidence that the challenged elector should not be on the list of electors, the challenge will be dismissed.
- f. The BRE will decide upon their recommended deadline for considering voter challenges prior to an election. This information will be published to the department's webpage.

---

<sup>3</sup> See O.C.G.A. § 24-14-3; *Zwiren v. Thompson*, 276 Ga. 498 (2003)