

Burgos, Alexander N

From: Jay DeLancy <jay.delancy@gmail.com>
Sent: Friday, May 29, 2026 10:25 AM
To: Ascher, Seth M
Cc: Wakely, Lindsey; Burgos, Alexander N; SBOE_Grp - Legal
Subject: Re: [External] Addressing the RRC May 28
Attachments: Rule NCAC 23 challenge (2.0).docx

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Hi Seth.

Thank you again for helping make this happen.

I've attached a written copy of my comments below.

Jay

On Wed, May 27, 2026 at 4:48 PM Ascher, Seth M <seth.ascher@oah.nc.gov> wrote:

Mr. DeLancy,

Pursuant to 26 NCAC 05 .0105, requests to speak should've been filed by 5 PM yesterday. The Commission can waive that requirement and allow you to speak, and I will make sure the chair is aware of your request.

Are you intending to speak in opposition of or in favor of these rules?

Additionally, I went ahead and cc'ed a representative from the Board of Elections here, since there are circumstances where you would have been required to notify them of your request to speak.

Seth Ascher

Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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From: Jay DeLancy <jay.delancy@gmail.com>
Sent: Wednesday, May 27, 2026 3:47 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Subject: [External] Addressing the RRC May 28

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Hi Seth.

I would like the chance to address the RRC tomorrow, at the appropriate time during discussions over the State Board of Elections proposed rules. Would this request cause any problems?

Thanks,

--

Jay DeLancy, Lt Col (Ret) USAF

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Author of [Aliens Among US](#) -- the definitive book on detecting non-citizen voters in your state.

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Rule NCAC 23 .0104

Good morning Commissioners,

I am Jay DeLancy, founder of Voter Integrity Project – NC, an organization that has been analyzing and researching NC’s election laws for more than 15 years. I’m also currently a member of the Lee County Board of Elections.

When the critics get up here and tell you non-citizen voting is rare, we beg to differ. One of our first research projects, in 2012, revealed over 500 Wake County registered voters who had proven to (then) Clerk of Courts Lorrin Freeman... that they were NOT US citizens. Let that sink in.... of those 500, around 230 of them had voted and about half of THOSE had voted BEFORE being disqualified from jury duty. There’s more to that story, but you’ll have to read the book!

Today, I need to make sure you see a glaring ambiguity woven into 08 NCAC 23 .0104.

NC law clearly delineates how election officials must afford due process to persons deemed ineligible to vote, based on information received from outside entities.

In the case of NCGS §163, Article 8 **voter challenges**, the burden of proof is on the challenger, but the law stipulates, “if the challenged registrant refuses to take the tendered oath or submit to the board the affidavit required . . . the challenge shall be sustained.”

In the case of **convicted felons**, NCGS §163-82.14(c) (3) after election boards inform the voter, the law says “if the voter makes no objection, [they shall] remove the person’s name from its registration records.”

And one final example, more closely related to this matter involves jury disqualifications. Per G.S. 9-6.2, based on information provided by the NC AOC, election officials must send notice to both the voter’s registration address and, if different, the voter’s mailing address, adding this exact language §163-82.14(c1)(2)a: “If the voter makes no objection, the county board of elections shall remove the person's name from its registration records and shall provide written notice of the removal to the voter in the same manner as notice was previously provided under this sub-subdivision.”

In today's proposed rules, the SBE throws out such clear statutory guidance and replaces it with loopholes wide enough for County election boards to retain presumed non-citizen voters on the rolls indefinitely.

Specifically, in 08 NCAC 23. 0104, starting at the end of line 7, they wrote, "If the county board is unable to confirm that the challenged voter received the notice of the challenge hearing, then the county board shall continue the hearing to a date no earlier than 10 business days from the date of the original challenge hearing."

Any *honest* election director might interpret that sentence to allow the use of certified mail, but that's not required under this guidance. Further, I see no language directing the inclusion of a pre-paid pre-addressed envelope sent to the voter, which would satisfy the requirements stipulated in both the NVRA and NCGS §163-82.14(d)(2)a.

Perhaps the most disturbing aspect of this ambiguous rule sitting before you is what would happen if a more nefarious director or agency counsel ordered the mailings via standard postage. In many cases, the notice of hearing would be returned as undeliverable or simply thrown away by the recipient.

The language of the proposed rule .0104 would allow the CBE to defer the hearing indefinitely. As a result, any such voter identified by the federal government as a non-US citizen would remain on the voter rolls.

The best solution I could suggest is first, to set a maximum delay period of 30 days. Second, is to apply the same remedy as in the three sections of law I referenced above. For all of these cases, the information source is an outside entity. The SAVE Database reports should be treated the same and the voter's non-response should lead to their prompt removal.

Thank you again for your hearing me today.
Respectfully,

Jay DeLancy. Lt Col USAF (Ret)