

1 08 NCAC 23 .0101 is adopted with changes as published in 40:14 NCR 1195-1196 as follows:

2
3 CHAPTER 23 – LIST MAINTENANCE

4
5 SECTION .0100 – NON-CITIZEN LIST MAINTENANCE

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7 **08 NCAC 23 .0101 DEFINITIONS**

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9 For purposes of this Section:

- 10 (1) “Chair” means a member appointed to be the chair of a county board of elections pursuant to G.S.
11 163-30.
- 12 (2) “Challenge” means a challenge entered by a county board under Rule .0102 of this Section.
- 13 (3) “Challenge hearing” means the hearing conducted under Rule .0104 of this Section.
- 14 (4) “Challenged voter” means a ~~presumptive~~ potential noncitizen whose eligibility to remain
15 registered to vote has been challenged pursuant to the procedures in this Section.
- 16 (5) “Director of elections” means the county director of elections for a county appointed pursuant to
17 G.S. 163-35.
- 18 (6) “Documentation of citizenship” means an original or copy of a document issued by a state,
19 federal, or tribal government showing the citizenship of the person to whom the document was
20 issued. Documentation of citizenship shall include, but is not limited to, a birth certificate, a
21 document showing place of birth issued by a vital records office, a passport or passport card issued
22 by the United States Department of State, a consular report of birth abroad issued by the United
23 States Department of State, ~~or~~ a certificate of citizenship or naturalization issued by the
24 Department of Homeland Security’s United States Citizenship and Immigration Services.
25 Documentation of citizenship shall also include documentation showing the citizenship of a
26 parent, when provided with documentation indicating the parental relationship to the person
27 presenting the documentation, to demonstrate citizenship derived from a parent pursuant to the
28 applicable provisions of 8 U.S.C. 1431 and 8 U.S.C. 1432 of the federal Immigration and
29 Nationality Act. 8 U.S.C. 1431 is incorporated by reference, including subsequent amendments
30 and editions, and is available for free at [https://www.govinfo.gov/app/details/USCODE-2024-
32 title8/USCODE-2024-title8-chap12-subchapIII-partII-sec1431](https://www.govinfo.gov/app/details/USCODE-2024-
31 title8/USCODE-2024-title8-chap12-subchapIII-partII-sec1431), 8 U.S.C. 1432 (repealed effective
33 February 27, 2001) is incorporated by reference and is available for free at
34 [https://www.govinfo.gov/app/details/USCODE-1999-title8/USCODE-1999-title8-chap12-
36 subchapIII-partII-sec1432](https://www.govinfo.gov/app/details/USCODE-1999-title8/USCODE-1999-title8-chap12-
35 subchapIII-partII-sec1432).
- 35 (7) “Notice of non-citizenship” means a written notice sent by the State Board of elections to a county
36 board of elections identifying a registered voter in the county as a ~~presumptive~~ potential

1 noncitizen. The notice of non-citizenship shall include the source of the information used to
2 identify the registered voter as a potential noncitizen.

3 (8) “Preliminary hearing” means the hearing conducted under Rule .0103 of this Section.

4 (9) ~~“Presumptive~~ “Potential noncitizen” means a registered voter who has been identified by the State
5 Board of Elections as potentially not being a United States citizen based on information obtained
6 by the State Board from official government records and databases and which identifies a
7 registered voter as not being a United States citizen, such as records related to obtaining a driver’s
8 license or databases maintained by U.S. Citizenship and Immigration Services. A potential
9 noncitizen does not mean a registered voter for whom the State Board has in its possession or
10 control any information or documents demonstrating that the voter has previously provided
11 documentation of citizenship, nor does it mean a registered voter who has previously been found
12 to be a United States citizen by a county board of elections.

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14 *History Note:* Authority G.S. 163-22; 163-82.14; 163-82.26; 163-85; 163-86;
15 Eff. ~~May~~ June 1, 2026.

1 08 NCAC 23 .0102 is adopted with changes as published in 40:14 NCR 1196 as follows:

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3 **08 NCAC 23 .0102 ENTRY OF CHALLENGE**
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5 (a) No later than five business days after receiving a notice of non-citizenship from the State Board of Elections,
6 county board staff shall review the county board's records to determine if the ~~presumptive potential~~ noncitizen has
7 previously provided documentation of citizenship. If county board staff cannot locate information or documents in
8 the county board's records demonstrating that the potential noncitizen has provided documentation of citizenship,
9 ~~citizenship for the presumptive noncitizen in the county board's records,~~ then the director of elections for the county
10 board receiving the notice or their designee on the county board staff shall enter a challenge to the ~~presumptive~~
11 potential noncitizen's eligibility to remain registered to vote under G.S. 163-85(c)(7). The challenge shall be entered
12 by filing at the county board office a form provided by the State Board, which shall include the following:

- 13 (1) the physical address, mailing address, telephone number, and email address for the county board;
- 14 (2) the printed name and signature of the official entering the challenge;
- 15 (3) the date the challenge is entered;
- 16 (4) the challenged voter's name and current residential address contained in their registration record;
- 17 and
- 18 (5) the following statement: "The voter's eligibility to remain registered to vote in North Carolina is
19 being challenged because the county board of elections has been notified by the State Board of
20 Elections that information available from official government records or databases indicates that
21 the voter is not a U.S. ~~citizen.~~ citizen, and a review of information and documents in the county
22 board's records does not show that the voter has provided documentation of citizenship."

23 (b) Within three business days of the challenge being entered, the county board shall set a date for the preliminary
24 hearing in accordance with Rule .0103(a) of this Section and send notice of the challenge to the challenged voter
25 along with the date, time, and location of the preliminary hearing. The notice of the challenge shall be in writing and
26 sent by U.S. mail using a method of delivery that documents receipt. The notice shall also be provided by email
27 using any email address that the county board possesses for the challenged voter. The following shall be included
28 with the notice of the challenge:

- 29 (1) a copy of the entered challenge;
- 30 (2) the information contained within the notice of non-citizenship;
- 31 (3) information about the qualifications to vote in North Carolina;
- 32 (4) a copy of the rules in this Section;
- 33 (5) instructions for how the challenged voter may respond to the challenge, which shall include
34 examples of documentation of citizenship or information the challenged voter may submit for the
35 county board's consideration, how the challenged voter can submit such documentation or
36 ~~information,~~ information before or at the preliminary hearing, and how to voluntarily cancel their
37 registration should they desire to do so; and

1 (6) the following statement: “If the information we have that you are not a U.S. citizen is incorrect or
2 outdated, please contact the county board of elections to provide proof of citizenship, so that we
3 can update our records. If you are a U.S. citizen and meet all other qualifications to vote, then you
4 can remain registered and vote.”

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6 *History Note:* *Authority G.S. 163-22; 163-82.14; 163-82.26; 163-85;*

7 *Eff. ~~May~~ June 1, 2026.*

1 08 NCAC 23 .0103 is adopted with changes as published in 40:14 NCR 1196-1197 as follows:

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3 **08 NCAC 23 .0103 PRELIMINARY HEARING**
4

5 (a) A preliminary hearing shall be held no earlier than 10 business days and no later than 20 business days after
6 the notice of preliminary hearing is mailed to the challenged voter in accordance with Rule .0102 of this ~~Section-~~
7 Section, unless the challenged voter voluntarily cancels their registration before the date of the hearing. The
8 preliminary hearing shall be noticed as a special meeting in accordance with G.S. 143-318.12(b). The written notice
9 required by G.S. 143-318.12(b)(2) shall be emailed at least five business days before the preliminary hearing to the
10 county board's notice list and any other person who has requested that the county board give them notice of
11 proceedings under this ~~Section.~~ Section, and to the challenged voter by separate email if the county board possesses
12 an email address for the challenged voter.

13 (b) The county board shall follow the procedures in G.S. 163-85(d) for the receipt of evidence at the preliminary
14 hearing. ~~hearing, but the official entering the challenge shall not be required to present sworn testimony.~~ At the
15 conclusion of the preliminary hearing, the county board shall make the probable cause determination required under
16 G.S. 163-85(d) as to whether the challenged voter is a United States citizen. The county board's determination of
17 probable cause shall be based on only the following:

- 18 (1) the notice of ~~non-citizenship;~~ non-citizenship and any related documentation or information
19 provided by the State Board;
20 (2) official government documents and information from official government records and databases
21 obtained by the county board; and
22 (3) any documentation of citizenship or information that can be used to determine the challenged
23 voter's citizenship that is submitted to the county board by the challenged ~~voter.~~ voter, whether
24 submitted before or at the preliminary hearing.

25 When reviewing documentation of citizenship provided by the challenged voter, the county board shall determine
26 whether the name on the documentation is the same as or substantially equivalent to the name contained in the
27 voter's voter registration record by applying the standards in 08 NCAC 17 .0101(a)(3).

28 (c) The county board's determination of probable cause under Paragraph (b) of this Rule shall be announced at the
29 preliminary hearing and the county board shall then proceed as follows:

- 30 (1) If the county board determines that probable cause exists that the challenged voter is not a United
31 States citizen, then the county board shall set a date for the challenge hearing and send notice of
32 the challenge hearing to the challenged voter in accordance with Rule .0104(b) of this Section.
33 (2) If the county board determines that probable cause does not exist that the challenged voter is not a
34 United States citizen, then the county board shall dismiss the challenge and proceed in accordance
35 with G.S. 163-90.2(b). The grounds for the county board's decision shall be recorded in a written
36 decision within ten business days of the preliminary hearing and a copy of the written decision
37 shall be provided to the challenged voter using the same method of delivery used to send the

1 notice of the challenge under Rule .0102(b) of this Section. The official entering the challenge
2 shall have no right of appeal of the county board's dismissal of the challenge.

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4 *History Note: Authority G.S. 163-22; 163-82.14; 163-82.26; 163-85; 163-90.1; 163-90.2;*

5 *Eff. ~~May~~ June 1, 2026.*

1 08 NCAC 23 .0104 is adopted with changes as published in 40:14 NCR 1197-1198 as follows:

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3 **08 NCAC 23 .0104 CHALLENGE HEARING**
4

5 (a) A challenge hearing shall be held no earlier than 10 business days and no later than 20 business days after the
6 county board has ordered the challenge to proceed to a challenge hearing under Rule .0103(d)(1) of this ~~Section.~~
7 Section, unless the challenged voter voluntarily cancels their registration before the date of the hearing. If the county
8 board is unable to confirm that the challenged voter received the notice of the challenge hearing, then the county
9 board shall continue the hearing to a date no earlier than 10 business days from the date of the original challenge
10 hearing. The challenge hearing shall be noticed as a special meeting in accordance with G.S. 143-318.12(b). The
11 written notice required by G.S. 143-318.12(b)(2) shall be emailed at least 10 business days before the challenge
12 hearing to the county board's notice list and any other person who has requested that the county board give them
13 notice of proceedings under this Section.

14 (b) The county board shall send written notice of the challenge hearing to the challenged voter by the deadline to do
15 so in G.S. 163-86(b) and no later than three business days after the county board has ordered the challenge to
16 proceed to a challenge hearing under Rule .0103(d)(1) of this ~~Section.~~ Section or has continued the hearing as
17 provided in this Rule. The notice to the challenged voter shall include the information required under G.S. 163-86(b)
18 and shall be sent by U.S. mail using a method of delivery that documents receipt. The notice shall also be provided
19 by email to the challenged voter using any email address that the county board possesses for the challenged voter.

20 (c) The county board shall conduct the challenge hearing using the procedures in G.S. 163-86(c) and (d) as well as
21 the following additional procedures:

- 22 (1) The challenge hearing shall be recorded by a court reporter or by mechanical means.
- 23 (2) Upon request by the challenged voter, the chair or any two members of the county board shall
24 issue subpoenas for witnesses or documents, when the chair or two members of the county board
25 conclude that the witnesses or documents are likely to provide information that is both relevant
26 and material to the challenged voter's citizenship, the information sought is not unnecessarily
27 duplicative of other available evidence, and the subpoena is not likely to subject the recipient to
28 undue burden or expense. Such subpoenas shall be served in the same manner as allowed in the
29 North Carolina Rules of Civil Procedure. The county board shall continue the hearing to a date no
30 earlier than 10 business days from the date of the challenge hearing if the county board is unable
31 to confirm service of the subpoenas.
- 32 (3) After the challenged voter has been administered the first oath under G.S. 163-86(c), the county
33 board shall provide the challenged voter with the information and documents included with the
34 notice of the challenge under Rule .0102(b) of this Section as well as any additional information
35 and documents considered by the county board at the preliminary hearing.
- 36 (4) The challenged voter shall be permitted the opportunity to present documentation of citizenship
37 and sworn testimony as to their citizenship before being tendered the second oath under G.S. 163-

1 86(c). If the challenged voter submits documentation of citizenship, then the county board shall,
2 when reviewing the documentation of citizenship, determine whether the name on the
3 documentation is the same as or substantially equivalent to the name contained in the voter's voter
4 registration record by applying the standards in 08 NCAC 17 .0101(a)(3).

5 (5) _____ The county board shall continue the challenge hearing to a later date upon oral or written request
6 to do so by the challenged voter if that request is accompanied by documentation showing the
7 challenged voter has made a request to a government agency to obtain documentation of
8 citizenship. In setting the date of the continued challenge hearing, the county board shall consider
9 information from the government agency regarding the time needed to process the challenged
10 voter's request.

11 (5) (6) If the challenged voter or an authorized representative does not appear at the challenge hearing,
12 and the challenged voter has not submitted any documentation of citizenship for the county
13 board's consideration, then the notice of non-citizenship shall be treated by the county board as
14 affirmative proof necessary to sustain the challenge under G.S. 163-90.1(b).

15 (6) (7) If the challenged voter has not submitted documentation of citizenship but has provided sworn
16 testimony or other evidence regarding their citizenship, then the county board shall consider that
17 testimony or other evidence when determining whether to sustain or overrule the challenge.

18 (d) The county board's decision on the challenge shall be announced at the conclusion of the challenge hearing and
19 the grounds for the county board's decision shall be recorded in a written decision within five business days of the
20 challenge hearing. A copy of the written decision shall be sent to the challenged voter using the same method of
21 delivery used to send the notice of the challenge under Rule .0102(b) of this Section. In making its decision on the
22 challenge, the county board shall do one of the following:

23 (1) If the challenged voter refuses to take the second oath under G.S. 163-86(c) or submit to the
24 county board the affidavit required by G.S. 163-86(d), or if the county board finds that the
25 challenged voter is not a United States ~~citizen,~~ citizen by the greater weight of the evidence, then
26 the county board shall sustain the challenge and proceed in accordance with G.S. 163-90.2(a). The
27 time in which the voter has the right to appeal under G.S. 163-90.2(c) shall be measured from the
28 date on which the written decision is recorded and sent to the challenged voter in accordance with
29 this Paragraph.

30 (2) If the county board decides that the challenge cannot be substantiated by the greater weight of the
31 evidence, affirmative proof, or finds that the challenged voter is a United States ~~citizen,~~ citizen by
32 the greater weight of the evidence, then the county board shall overrule the challenge and proceed
33 in accordance with G.S. 163-90.2(b). The official entering the challenge shall have no right of
34 appeal of the county board's decision to overrule the challenge.

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36 *History Note:* Authority G.S. 163-22; 163-82.14; 163-82.26; 163-86; 163-90.1; 163-90.2;
37 *Eff. ~~May~~ June 1, 2026.*