

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: State Board of Elections

RULE CITATION: 08 NCAC 23 .0101

**DEADLINE FOR RECEIPT: May 19, 2026**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*On line 28, “applicable provisions of the federal Immigration and Nationality Act” is not sufficiently clear. Several changes relate to this issue:*

*“Applicable” usually requires the rule to explain how you would determine what applies. Are there specific provisions you intend not to apply? You may be able to just delete “applicable provisions of the” without changing your meaning.*

*If state and county boards are determining the application of the Immigration and Nationality Act to specific people, the portions of the law you intend to apply will need to be incorporated. See G.S. 150B-21.6 and relevant RRC guidance.*

*Alternatively, if state and county boards are applying, a determination made by some other organization (a federal entity for example) that needs to be specified, but the law may not need to be incorporated into your rule.*

*Either way, providing a U.S. code cite for the federal law you are referring to would also be helpful.*

*On line 36, what “official government records and databases” are you referring to? The only specific one referenced in statute is the jury recusal record referenced in G.S. 9-6.2. Are there others? What others?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Seth Ascher  
Commission Counsel

Date submitted to agency: May 5, 2026

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

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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 the federal Immigration and Nationality Act.
- 29        (7)        “Notice of non-citizenship” means a written notice sent by the State Board of elections to a county  
30                    board of elections identifying a registered voter in the county as a ~~presumptive~~ potential  
31                    noncitizen. The notice of non-citizenship shall include the source of the information used to  
32                    identify the registered voter as a potential noncitizen.
- 33        (8)        “Preliminary hearing” means the hearing conducted under Rule .0103 of this Section.
- 34        (9)        ~~Presumptive~~ “Potential noncitizen” means a registered voter who has been identified by the State  
35                    Board of Elections as potentially not being a United States citizen based on information obtained  
36                    by the State Board from official government records and databases and which identifies a  
37                    registered voter as not being a United States citizen. A potential noncitizen does not mean a

1 registered voter for whom the State Board has in its possession or control any information or  
2 documents demonstrating that the voter has previously provided documentation of citizenship, nor  
3 does it mean a registered voter who has previously been found to be a United States citizen by a  
4 county board of elections.

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: State Board of Elections

RULE CITATION: 08 NCAC 23 .0102

**DEADLINE FOR RECEIPT: May 19, 2026**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*Regarding paragraph (a), lines 9 through 12, what is the State Board of Elections authority to direct the director of elections for the County to challenge a voter's eligibility?*

*Regarding line 11, G.S. 163-85 gives "registered voters of the county" the right to challenge a voter's registration. Since the State Board is not a "registered voter" of any county, how is this the appropriate mechanism for the State Board to challenge a voter's registration?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Seth Ascher  
Commission Counsel  
Date submitted to agency: May 5, 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.*