

**DeKalb County Board of Registrations and Elections**

**Procedures for Responding to Voter Challenges  
Submitted Pursuant to O.C.G.A. § 21-2-230**

1. **These procedures are intended to work in tandem with, and be consistent with federal law, including the National Voter Registration Act, 52 U.S.C.A. § 20501 et seq. (“NVRA”), and the Georgia Election Code, O.C.G.A. § 21-2-1, et seq. The DeKalb County Board of Registrations and Elections’ (“BRE”) disposition of voter challenges shall comply with the NVRA, including its requirements that any activity to ensure maintenance of an accurate and current voter registration roll shall be uniform and nondiscriminatory.**

2. To the extent that any state law conflicts with federal law, federal law shall control. To the extent any procedure herein conflicts with federal or state law, the statutes shall control.

3. Challenges to the right of a Dekalb County registered voter to vote in an election under O.C.G.A. § 21-2-230 must be in writing, must specify distinctly the grounds of such challenge, and must be filed with the BRE, in its capacity as registrar. 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.

4. Challenges to the right of a Dekalb County registered voter to vote in an election under O.C.G.A. § 21-2-230 may be made only by a registered voter of DeKalb County. Challenges may not be made by voters who are not registered in the same county or municipality 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 BRE, staff must determine whether the challenger is an individual elector and registered to vote in DeKalb County and, if not, the BRE must reject the challenge on this basis.

5. Challenges to the right of a Dekalb County registered voter to vote in an election under O.C.G.A. § 21-2-230 made within 45 days of a primary, run-off primary, election or run-off election shall be postponed until the certification of such primary, election or runoff is completed. Therefore, before acting upon a challenge submitted to the BRE, staff must determine whether the challenge is made within 45 days of a primary, primary run-off, election, or run-off, and if it is, the BRE shall postpone the challenge until after certification of said election on this basis.

6. If the challenge is made by a registered voter of DeKalb County and timely, the BRE should be prepared to convene a meeting to determine probable cause immediately upon receipt of a challenge under § 21-2-230.

7. The written challenge will be posted on the BRE website within three business days of receipt of the challenge by the BRE.

8. The challenger has the burden of proof to present probative and individualized evidence sufficient to meet the probable cause standard that the challenged voter does not have the right to vote in an election.

9. In determining whether there is probable cause to uphold a challenge, the BRE must consider whether there are facts and circumstances set forth in the written challenge which creates a reasonable belief that the challenged voter may not be qualified to vote in an election. The law provides several categories of probable causes, which shall include, but is not limited to:

- a. An elector who is deceased;
- b. An elector voting or registering to vote in a different jurisdiction;
- c. An elector obtaining a homestead exemption in a different jurisdiction; and
- d. An elector being registered at a nonresidential address as confirmed or listed by or in a government office, data base, website, or publicly available sources derived solely from such governmental sources.

The challenger shall still, however, put forward reliable and probative evidence to support a claim that the challenged voter falls within these enumerated “probable cause” categories.

10. Examples of challenges that would fail to meet the minimum standards required by Section 21-2-230 include, but are not limited to:

- a. Non-individualized or generalized claims;
- b. The presence of a challenged voter’s name on the National Change of Address database as having changed the voter’s residence to a different jurisdiction without additional evidence indicating the voter lost his or her residence; and
- c. Challenges to voters alleged to have gained or lost their residency due to (1) a presence or absence while enrolled as a student at any college, university or other institution of learning in Georgia, (2) being stationed on duty in this state as a member of the armed forces of the United States; and (3) moving to a federal territory, another state, or foreign country to engage in government service.

11. O.C.G.A. § 21-2-217(b) gives presumptive effect to the BRE’s decision in determining the residence of the challenged voter at the time the registration application is considered. Challengers bringing residency-based challenges must overcome this presumption.

12. Where a voter is a legal resident of DeKalb 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 sustain a challenge on the basis that the voter currently lives on the streets or in shelters, vehicles, trailers, transitional

housing, non-traditional housing or at businesses serving homeless, ill, displaced, economically challenged or other DeKalb County residents in need of housing assistance in the county.<sup>1</sup> When adjudicating such challenges, the BRE shall consider the particular circumstances of the voter and the fact that the burden of proof is on the voter who brought the challenge to prove ineligibility.

13. If the BRE does not find probable cause, then the challenge shall be denied.

14. If the BRE finds probable cause exists to uphold the challenge, the BRE shall proceed as set forth below.

**Where Probable Cause is Found:**

15. Where probable cause is found, the BRE must provide the list of the challenged voters, with the basis of the challenges noted thereon, to the poll officers at the challenged voters' precincts and advance voting locations, and to the absentee ballot clerk.

16. Where a hearing is scheduled pursuant to the procedures below, staff shall notify the challenged voter of the challenge and both the challenger and challenged voter of the hearing date via certified mail, regular U.S. mail, e-mail, and telephone (if available) as soon as possible after scheduling said hearing and no later than three business days prior to the hearing, where possible

17. If the challenged voter (1) submits a timely absentee ballot or (2) appears to vote in person after the BRE has determined that probable cause exists, and it is practical to conduct a hearing on the challenge prior to the close of the polls, that hearing will dictate whether the voter can vote in the election.

- a. If the challenge is denied, the voter shall be permitted to vote. An in-person voter shall be permitted to vote notwithstanding the fact the polls may have closed prior to the time the registrars render a decision, as long as the voter proceeds to vote immediately after the registrars' decision.
- b. If the challenge is upheld, the voter shall not be permitted to vote. If the challenge is based on the grounds that the voter shall not be permitted to remain on the list of electors, the challenged voter's name shall be removed.

18. If the challenged voter (1) submits a timely absentee ballot or (2) appears to vote in person after the BRE has determined that probable cause exists, and it is not practical to conduct a hearing on the challenge prior to the close of the polls, the challenged voter must be permitted to vote by casting a challenged ballot, with the ballot then sealed in double envelopes.

- a. For an absentee ballot, the absentee ballot clerk receiving the sealed ballot must write the word "Challenged," the voter's name, and the alleged cause

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<sup>1</sup> Note that this is a non-exclusive list of possible alternative locations where DeKalb County's eligible voters may be living in the county.

of the challenge on the back of the outer envelope. The ballot should then be deposited into a secure, sealed ballot box.<sup>2</sup>

- b. For an in-person ballot, the challenged voter may cast a challenged ballot on the same type of ballot that is used for provisional ballots. The poll worker must write the word “Challenged,” the voter's name, and the alleged cause of the challenge on the back of the outer envelope. The challenged voter should then be directed to deposit the ballot into a secure, sealed ballot box.

19. If the challenge is based on grounds other than the challenged voter’s right to remain on the electors’ list, no further action by the BRE is required, and the challenged vote will be counted as valid but may be voided in the event of an election contest.

20. If the challenge is based on the challenged voter’s right to remain on the electors’ list, the BRE must complete the challenge hearing before the deadline for certification of the election results. If the BRE upholds the challenge, the name of the challenged voter must be removed from the list of electors and the ballot of the challenged voter must be rejected and not counted. Challenges to a voter’s right to remain on the list of electors must be conducted pursuant to the BRE’s adopted Procedures for Responding to Voter Challenges Submitted Pursuant to O.C.G.A. § 21-2-229, with the exception of timing.

21. The procedures set forth herein shall apply to challenges to voter qualifications initiated pursuant to O.C.G.A. § 21-2-230.

22. Any challenge of a voter that occurs during a primary or general election shall continue through the run-off primary or run-off election of such primary or general election unless resolved.

23. 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.

24. If any members of the BRE or employees or agents of the DeKalb County Department of Voter Registration and Elections 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.

25. The BRE will process all voter challenges expeditiously and objectively, while erring in all instances on the side of preserving the voter’s right to vote in an election, in recognition of the statutory requirement that the challenger has the burden of proving ineligibility.

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<sup>2</sup> See O.C.G.A. § 21-2-386(e) for absentee ballots cast during advance voting.