

08 NCAC 23 .0103 is proposed for adoption as follows:

08 NCAC 23 .0103 PRELIMINARY HEARING

(a) A preliminary hearing shall be held no later than 15 business days after the notice of preliminary hearing is mailed to the challenged voter in accordance with Rule .0102 of this Section. The preliminary hearing shall be noticed as a special meeting in accordance with G.S. 143-318.12(b). The written notice required by G.S. 143-318.12(b)(2) shall be emailed at least five business days before the preliminary hearing to the county board's notice list and any other person who has requested that the county board give them notice of proceedings under this Section.

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

(1) the notice of non-citizenship;

(2) official government documents and information from official government records and databases obtained by the county board; and

(2) any documentation of citizenship or information that can be used to determine the challenged voter's citizenship that is submitted to the county board by the challenged voter.

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

(1) If the county board determines that probable cause exists that the challenged voter is not a United States citizen, then the county board shall set a date for the challenge hearing and send notice of the challenge hearing to the challenged voter in accordance with Rule .0104(b) of this Section.

(2) If the county board determines that probable cause does not exist that the challenged voter is not a United States citizen, then the county board shall dismiss the challenge and proceed in accordance with G.S. 163-90.2(b). The grounds for the county board's decision shall be recorded in a written decision within ten business days of the preliminary hearing and a copy of the written decision shall be provided to the challenged voter using the same method of delivery used to send the notice of the challenge under Rule .0102(b) of this Section. The official entering the challenge shall have no right of appeal of the county board's dismissal of the challenge.

*History Note: Authority G.S. 163-22; 163-82.14; 163-82.26; 163-85; 163-90.1; 163-90.2;
Eff. May 1, 2026.*