

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**
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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.