



NORTH CAROLINA

State Board of Elections & Ethics Enforcement

Mailing Address:
P.O. Box 27255
Raleigh, NC 27611-7255

Phone: (800) 522-4723
Fax: (919) 715-0135

NUMBERED MEMO 2018-07

TO: County Boards of Elections
FROM: Kim Strach, Executive Director
RE: Court Order Affecting Voter Challenges
DATE: August 8, 2018 (revised November 5, 2018)

On August 7, a federal judge [ruled](#) that North Carolina's voter challenge statute violates federal law when a challenge is based on the voter's change of residency. In granting partial summary judgment to the plaintiffs in *NC. Conf. of NAACP v. State Board*, 1:16-CV-01274, Judge Biggs of the U.S. District Court for the Middle District of North Carolina held that G.S. §§ [163A-911 et seq.](#) violate the National Voter Registration Act's (NVRA) prohibition on removal of a voter from the rolls based on change of residency absent a written request by a voter or providing notice and waiting two federal election cycles with no contact from the voter.

As the chief state elections official, it is my duty to ensure statewide compliance with the NVRA and applicable court orders. Accordingly, all county boards of elections are hereby instructed as follows:

1. **No voter challenges based on change of residency.** Do not remove a voter from the rolls when a voter challenge is brought based on change of residency. Do not hold a hearing or take any other action to consider a voter challenge based on a voter's change of residency.¹
2. **No voter challenges based on other qualifications without individualized knowledge within the 90 days before an election.** Do not remove a voter from the rolls within the 90 days preceding a federal election based on a voter challenge brought without an "individualized inquiry as to the circumstances of each voter." Do not hold a hearing or take any other action to consider a voter challenge that is brought without an individualized inquiry by the challenger. *Today, August 8, marks the start of the 90-day period prior to*

¹ *Exception:* A voter may be removed only if (1) the county board has received written confirmation from the voter of a change of residency outside the county, or (2) the county board has already complied with the NVRA's notice requirement and the voter has had no subsequent contact with the county board for two federal election cycles.

the general election.

The judge explained in her order that, a county board’s removal of voters based on “generic evidence [that] conveyed no information about each challenged voter’s specific circumstance” violated the NVRA’s prohibition on systematic removal. The judge contrasted generic evidence with “reliable first-hand evidence specific to the voters challenged.” [Order](#) at 14.²

The order applies to voter challenges, whether filed before the election or on Election Day. This means you must ensure all precinct judges receive training that they are not permitted to entertain voter challenges brought based on change of residency or based on non-individualized evidence.

Please note that this order does not affect statutes governing candidate challenges. County boards should continue to hear candidate challenge brought on the basis that the candidate does not meet the required residency period or does not reside in the jurisdiction.

Additionally, the Order provides that challenges based on criminal conviction, death, and mental incapacity may continue.

² *Exception:* A county board may remove a voter if requested by the voter or required by state law due to felony conviction, mental incapacity, or death of the voter. See G.S. § [163A-877](#) for regular list maintenance procedures.