

RESOURCE

Georgia: Limits on Voter Eligibility Challenges

This resource details state and federal laws that guard voters against unfounded challenges to their eligibility.

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[Voting & Elections](#)

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Georgia, like many states, allows private individuals to challenge another person's eligibility to vote. This resource details state and federal laws that govern this process and protect challenged voters. Georgia's protections include requirements that the challenger reside in the same county as where they are bringing challenges, all challenges be in writing, and that the board of registrars find probable cause before they act on a challenge.

All challenges must be in writing, must state the specific grounds for the challenge, and must be filed directly with the board of registrars.

- Only a registered voter (called an “elector” in Georgia law [\[1\]](#)) from the same county or municipality can challenge another voter's eligibility before or on Election Day. [\[2\]](#)

- A person challenging another voter must submit the challenge in writing and specify distinctly the grounds for the challenge. [\[3\]](#)
- Challenges must be filed with the county's board of registrars, even if the challenge is on Election Day. [\[4\]](#) Poll managers and poll workers cannot accept challenges.
- All challenges filed within 45 days of an election cannot be heard until *after* certification of the election is completed. [\[5\]](#)
- The board of registrars can only accept challenges to absentee ballots until 5 p.m. the day before absentee ballot scanning and tabulation begins. [\[6\]](#)

Georgia law requires an immediate probable cause determination before any action can be taken on a challenge to an individual's right to vote.

- When a challenge is filed, the board of registrars must make an

immediate determination as to whether the challenger has shown probable cause to proceed on the challenge. [7] Poll managers and poll workers cannot make the probable cause determination. [8]

- Under Georgia law, probable cause requires more than “rumor, suspicion, speculation or conjecture.” [9]
- If the challenger cannot show probable cause for the challenge, the board of registrars must dismiss the challenge. [10]
- If the board of registrars determines there is probable cause for the challenge, the voter must be given an opportunity to respond. [11] If the board denies the challenge, the voter can cast a regular ballot. Even if the board grants the challenge, federal law requires that the voter be allowed to cast a provisional ballot if they sign an affirmation of their eligibility to vote. [12]

- If the board of registrars determines there is probable cause for the challenge, but there is insufficient time to conduct or complete a hearing, the voter must be allowed to vote a challenged ballot. In the case of a voter who has cast an absentee ballot, the absentee ballot will be treated as a challenged ballot. [13]
- If the board of registrars determines there is probable cause for the challenge and the challenged voter does not go to vote or cast an absentee ballot, and the grounds for the challenge are that the voter is not qualified to vote, then the registrar must send the voter notice and set a hearing date for the voter’s potential removal from the rolls. [14]

A voter always has a right to notice and a hearing before a finding of ineligibility.

- When a challenge is filed, the board of registrars must first assess whether there is even “probable cause” to proceed on the challenge.
- If the board finds probable cause to move forward on a challenge, it must send a notice by first class mail to the challenged voter within 10 days of the challenge being filed and set a hearing within 3–10 days of the notice being sent. [\[15\]](#)
- The challenger has the burden of proving that the challenged voter is not qualified to vote. [\[16\]](#)

Federal law prohibits systematic removals of voters within 90 days of an election and ensures that almost no challenge should result in the immediate removal of a voter from the voter rolls.

The National Voter Registration Act further limits when and how voters can be removed from the rolls. Under the act, states and counties

are permitted to remove a voter in just five circumstances:

- If the voter requests the change
- If state law requires removal for a criminal conviction or mental incapacity
- For the death of the voter
- If the voter confirms a change of residence in writing and
- Based on other evidence of a change of residence, *but only* after the state sends a notice and the voter both fails to respond *and* fails to vote in the next two federal general elections. [\[17\]](#)

These restrictions apply regardless of whether boards of elections are conducting their own list maintenance or responding to challenges.

The act also prohibits the systematic removal of voters within 90 days of a federal election.

[\[18\]](#) According to guidance from the U.S Department of Justice, “This 90-day deadline applies to

State list maintenance verification activities such as general mailings and door-to-door canvasses. This deadline also applies to list maintenance programs based on third-party challenges derived from any large, computerized data-matching process.” [\[19\]](#)

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Voters in Georgia have the right to vote free from intimidation under

federal and state law. Baseless challenges to a voter’s eligibility can harass and intimidate the voter being challenged. If a challenge is brought at the polling site, it could also intimidate other voters waiting to vote at the polls. More information on the federal and state laws that protect Georgia voters from intimidation can be found [here](#) [\[link-4\]](#) .

Endnotes

[1](#) Ga. Code § 21-4-3(4).

[2](#) Ga. Code §§ 21-2-229(a), 21-2-230(a).

[3](#) Ga. Code § 21-2-230(a).

[4](#) Ga. Code §§ 21-2-229(b), 21-2-230(b); see also Blake Evans (state elections director, Georgia Secretary of State) to County Election Officials and County Registrars, Re: Managing Challenged Voters at In-Person Voting Locations, October 13, 2022, <https://perma.cc/QU3S-88EN> (“sometimes a voter’s eligibility may be challenged by another voter at the time of voting . . .”).

[5](#) Ga. Code § 21-2-230(b)(1).

[6](#) Ga. Code § 21-2-230(a).

[7](#) Ga. Code § 21-2-230(b).

- 8** See Evans to County Election Officials and County Registrars, October 13, 2022 (“In any circumstance, when a voter’s eligibility is challenged, the challenge is considered and decided upon by the board of registrars.”).
- 9** Zimmerman v. State, 131 Ga. App. 739, 794, 207 S.E.2d 220, 221 (1974).
- 10** Ga. Code § 21–2–230(b).
- 11** Ga. Code § 21–2–230(b).
- 12** 52 U.S.C. § 21082(a).
- 13** Ga. Code §§ 21–2–230(e), 21–2–230 (i), 21–2–386(e).
- 14** Ga. Code §§ 21–2–230(f), 21–2–229(b).
- 15** Ga. Code § 21–2–229(b).
- 16** Ga. Code § 21–2–229(c).
- 17** 52 U.S.C. § 20507(a)(3), (d).
- 18** 52 U.S.C. § 20507(c)(2)(A).
- 19** U.S. Department of Justice, “Voter Registration List Maintenance: Guidance under Section 8 of the National Voter Registration Act, 52 U.S.C. § 20507,” September 2024, <https://perma.cc/H6MR-AVC3>.

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Links

link-1: Image </series/limits-voter-eligibility-challenges>

link-2: Limits on Voter Eligibility Challenges </series/limits-voter-eligibility-challenges>

link-3: Voter Suppression <https://www.brennancenter.org/topics/voting-elections/voter-suppression>

link-4: here <https://www.brennancenter.org/our-work/research-reports/georgia-protections-against-intimidation-voters-and-election-workers>