

CHAPTER 20 – ELECTION OBSERVERS

08 NCAC 20 .0101 CHALLENGE TO THE APPOINTMENT OF AN OBSERVER

(a) Filing of Challenges. A county board of elections, by a majority vote and documented through a written statement made by any board member, may challenge the appointment of any observer appointed to serve in that county, and a chief judge of a voting place may challenge the appointment of any observer who is eligible to serve in that voting place. The challenge shall be submitted electronically or in writing to the county board of elections office before the observer is scheduled to serve. The challenge shall contain the following information:

- (1) the name of the observer;
- (2) the party or unaffiliated candidate that appointed the observer; and
- (3) the basis for the challenge pursuant to G.S. 163-45.1(f).

The county board of elections office shall immediately provide a copy of the challenge to the chair of the political party or candidate that appointed the observer. A notification sent within three business hours of receipt of the challenge to an email address provided by the chair of the political party or by the candidate appointing the observer is a method of providing immediate notice.

(b) Hearing of Challenges. Upon receiving a challenge pursuant to Paragraph (a) of this Rule, the county board of elections shall hold a hearing and decide the challenge as expeditiously as possible but no later than two days after the challenge is filed. The chair of the county board of elections shall set the time of the hearing. The hearing may be held remotely, including by telephone. The county board shall provide notice of the hearing by electronic mail or telephone to the chair of the political party or the unaffiliated candidate that appointed the observer, in addition to providing the meeting notice required by G.S. 143-318.12. If notice is by telephone, the county board shall also provide the notice by electronic mail or text message. The notice shall inform the chair of the political party or the candidate that they may waive the hearing or decline to contest the challenge, in which case no hearing shall be held, and the county board may decide the challenge, as submitted, at a meeting held at the same time as the noticed hearing. At the hearing, the county board shall accept written or oral submissions from elections officials, observers, witnesses, and other individuals with pertinent information. The decision on the challenge shall be rendered at the meeting for which the challenge was noticed. The decision shall be reduced to writing and served within 24 hours of the meeting, either electronically or in person, to the chair of the political party or on the candidate appointing the observer.

(c) Appeals on Challenges. The decision by a county board of elections on a challenge to the appointment of an observer pursuant to Paragraph (b) of this Rule may be appealed only by the political party or candidate that appointed the observer. The county board's decision shall not be stayed pending appeal. The appeal shall be filed with the State Board of Elections via email to legal@ncsbe.gov no later than two hours after the county board's decision is served pursuant to Paragraph (b) of this Rule. The appeal shall contain an argument explaining why the county board's decision should be reversed on account of one or more of the grounds listed in G.S. 150B-51(b) and shall be signed by the person filing the appeal. A copy of the county board decision shall be filed with the appeal. Upon receiving an appeal, the State Board shall decide the appeal on the basis of the record and may permit oral argument on the appeal if the chair of the Board concludes that the written record alone is not legally sufficient to make a decision on the appeal. The appeal shall be decided as expeditiously as possible. The decision of the State Board shall be reduced to writing and served electronically on the chair of the political party or on the candidate appointing the observer within 24 hours of the decision having been made.

(d) An observer who is successfully challenged pursuant to this Rule shall not be permitted to serve as an observer in the primary or election during which they were challenged.

History Note: Authority G.S. 163-22; 163-22.2; 163-45.1;
Eff. October 1, 2018;
Amended Eff. September 1, 2021;
Temporary Amendment Eff. February 8, 2024.