

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R103-25

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: § 1, NRS 293.124, 293.247 and 293.535; § 2, NRS 293.124, 293.247, 293.303 and 293.547.

A REGULATION relating to elections; establishing requirements for affidavits filed to allege certain claims regarding the citizenship or residency of a registrant; revising the definition of “personal knowledge” that applies to certain voter challenges; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the county clerk to notify a registrant if any elector or other reliable person files an affidavit with the county clerk stating that the registrant: (1) is not a citizen of the United States; or (2) has moved and established residence outside of the boundaries of the county where he or she is registered to vote with the intention to remain there indefinitely and abandon his or her residence in the county. (NRS 293.535) Existing regulations establish requirements for the form and content of certain written challenges for the right to vote of a person. (NAC 293.416) **Section 1** of this regulation establishes such requirements for an affidavit filed with the county clerk by an elector or other reliable person to challenge the registration of a voter on the grounds of citizenship or residency by requiring the affidavit to be on a form prescribed by the Secretary of State and contain certain information. **Section 1** additionally requires a county clerk, upon receipt of the affidavit, to conduct an assessment to determine whether the person who filed the affidavit is an “elector” or “other reliable person.” **Section 1** requires a county clerk to maintain certain records relating to this assessment for at least 2 years and authorizes the county clerk to share such a record with the Office of the Secretary of State or another county clerk or a city clerk upon request. Finally, **section 1** defines the term “personal knowledge.”

Existing law authorizes a registered voter to submit a written challenge to the right to vote of another person if: (1) he or she is registered to vote in the same precinct as the person whose right to vote is challenged; and (2) the challenge is based on the personal knowledge of the registered voter who submits the challenge. (NRS 293.547) Existing law further authorizes a person applying to vote to be challenged under certain circumstances. A registered voter who initiates such a challenge must submit an affirmation that is signed under penalty of perjury and in the form prescribed by the Secretary of State stating that the challenge is based on the personal knowledge of the registered voter. (NRS 293.303) Existing regulations define the term “personal knowledge” for these purposes. (NAC 293.416) **Section 2** of this regulation revises the definition of the term “personal knowledge” for these purposes.

Section 1. Chapter 293 of NAC is hereby amended by adding thereto a new section to read as follows:

1. An affidavit filed with a county clerk pursuant to NRS 293.535 must be on a form prescribed by the Secretary of State and contain, in addition to any other required information:

- (a) The address and, if known or readily available, the telephone number of the registrant;*
 - (b) The number of the precinct in which the registrant is registered to vote;*
 - (c) The name, address and telephone number of the person filing the affidavit;*
 - (d) The date of the filing of the affidavit;*
 - (e) A statement of the facts upon which the affidavit is based;*
 - (f) A statement that the affidavit is based on personal knowledge of the facts upon which the affidavit is based;*
 - (g) Any documentation or evidence supporting the facts upon which the affidavit is based;*
- and*
- (h) If the person who filed the affidavit is not a registered voter in this State but qualifies as an elector, a statement that he or she is an elector.*

2. Upon receipt of an affidavit filed pursuant to NRS 293.535, the county clerk shall determine whether the person is an elector or other reliable person who is eligible to file the affidavit. For the purposes of making this determination, the county clerk shall determine the person is eligible as:

- (a) An elector, if the person:*
 - (1) Is a registered voter in this State; or*
 - (2) Includes in his or her affidavit, the statement required pursuant to paragraph (h); or*

(b) A reliable person, if the person:

(1) Files the affidavit with all information required pursuant to subsection 1; and

(2) Is determined by the county clerk to be credible based on an assessment conducted by the county clerk pursuant to subsection 3.

3. When conducting an assessment pursuant to subparagraph (2) of paragraph (b) of subsection 2, the county clerk shall determine whether the person who filed the affidavit has personal knowledge of the facts upon which the affidavit is based. If the person does not have personal knowledge, the person is not a reliable person. If the county clerk determines the person does have personal knowledge, the county clerk shall also consider any factors relevant to the credibility of the information contained in the affidavit or the person who filed the affidavit, including, without limitation, whether the affidavit contains inconsistent statements or if the person who filed the affidavit has a reputation for untruthfulness or any potential bias towards the registrant. The county clerk may update this assessment as new information becomes available.

4. A county clerk shall maintain a record of the assessment conducted pursuant to subparagraph (2) of paragraph (b) of subsection 2 for at least 2 years and may share the assessment with the Office of the Secretary of State or another county clerk or a city clerk upon request.

5. As used in this section, “personal knowledge” means that the person who files the affidavit has knowledge through firsthand experience or firsthand observation that:

(a) The registrant is not a citizen of the United States; or

(b) The registrant has:

(1) Moved outside the boundaries of the county where he or she is registered to vote to another county, state, territory or foreign country, with the intention of remaining there for an indefinite time and with the intention of abandoning his or her residence in the county where registered; and

(2) Established residence in some other state, territory or foreign country, or in some other county of this State.

↪ The term does not include speculation, hearsay or knowledge obtained from a third party, including, without limitation, information obtained from the review of data in a database or other compilation of information.

Sec. 2. NAC 293.416 is hereby amended to read as follows:

293.416 1. A written challenge authorized by NRS 293.547 must:

- (a) Be on a form prescribed by the Secretary of State;
- (b) Be filed with the county clerk after the 30th day but not later than the 25th day before the day of the election; and
- (c) Contain, in addition to any other required information:
 - (1) The address and, if readily available, the telephone number of the person whose right to vote is challenged;
 - (2) The number of the precinct in which the person whose right to vote is challenged is registered to vote;
 - (3) The name, address and telephone number of the person filing the challenge;
 - (4) The precinct in which the person filing the challenge is registered to vote;
 - (5) The date of the challenge;
 - (6) A statement of the facts upon which each ground for the challenge is based;

(7) A statement that the challenge is based on personal knowledge of the facts upon which each ground for the challenge is based; and

(8) Any documentation or evidence supporting the facts upon which each ground for the challenge is based.

2. In addition to the requirements set forth in NRS 293.303, the oath or affirmation of a challenged person must be on a form prescribed by the Secretary of State and include, without limitation:

(a) The address and, if readily available, the telephone number of the person whose right to vote is challenged.

(b) The number of the precinct in which the person whose right to vote is challenged is registered to vote.

(c) The name, address and telephone number of the person filing the challenge.

(d) The precinct in which the person filing the challenge is registered to vote.

(e) The date of the challenge.

(f) A statement of the facts upon which each ground for the challenge is based.

(g) A statement that the challenge is based on personal knowledge of the facts upon which each ground for the challenge is based.

(h) Any documentation or evidence supporting the facts upon which each ground for the challenge is based.

3. As used in this section, “personal knowledge” means that the person who files the challenge has ~~firsthand~~ knowledge through *firsthand* experience or *firsthand* observation of the facts upon each ground that the challenge is based. *The term does not include speculation,*

hearsay or knowledge obtained from a third party, including, without limitation, information obtained from the review of data in a database or other compilation of information.