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STATE OF NEVADA



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*Deputy Secretary  
for Elections*

## MEMORANDUM

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**To:** County Clerks and Registrars of Voters

**From:** Renee Parker, Chief Deputy Secretary of State  
Ronda Moore, Deputy for Elections

**Date:** October 28, 2004

**Subject:** Handling Oral Challenges to Voters Appearing at the Polls to Vote  
Secretary of State's Recommendations and Challenge Forms

VIA E-MAIL and FACSIMILE

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As you know, the Secretary of State shares your conviction that the State of Nevada's Election Officials have an obligation to protect voters from intimidation, harassment or undue influence as they come to the polls to vote, and he has issued a warning to any individuals and groups who may intend to conduct any such illegal activity.

As we discussed during our meeting on Wednesday, it is in the best interests of the State, the voters and the general public when uniform procedures for administering challenges lodged against voters are clarified. The following summarizes the principles we discussed at our meeting on Wednesday and suggested strategies on how to make the process go smoother and prevent administration of such challenges by the Election Board from further impeding the orderly process of voting, and from delaying or interfering with the voters' exercise of their fundamental right to vote. Forms which will further enhance the orderly administration of the challenge process are attached for your use.

1. The deadline for filing a written challenge has passed. Challenges pursuant to NRS 293.303 must be made orally when the particular Voter appears to vote whom the

Challenger asserts is not entitled to as claimed. Therefore, you should not accept a list of persons an individual wants to challenge and are under no obligation to inform the Challenger when the Voters appear.

2. A challenge must be supported by the Challenger's good faith belief that a particular Voter is not entitled to vote as claimed. Challenges made for a different motivation, such as for the purpose of intimidation, harassment, or interference with the right of every voter to cast the ballot of his or her choice are unlawful and subject to criminal penalties. Therefore, you should and are entitled to question the Challenger about the basis of his or her "good faith" belief.
3. We recommend you have one or more team leaders trained to deal with challenges, as it is unlikely you will be able to field them yourself. To ensure that the conduct of voting is not impeded, we also recommend you take the Challenger and the Voter out of line while the Election Board conducts the challenge procedures, if necessary to ensure the voting process is not impeded or other Voters are not improperly delayed from casting their vote.
4. The burden is first on the Challenger to prove the right to lodge the challenge and you should obtain necessary information from the Challenger—Name, Precinct of Registration, Political Party, the statutory ground for the challenge, and the facts and circumstances supporting the Challenger's good faith belief. The Challenger must be registered in the same precinct as the Voter he seeks to challenge. It is important to record such information about the Challenger's precinct and political party in the event of subsequent review of the challenge by a court of law.
5. If the challenge is based on the assertion that the *Voter does not reside at the residence address listed* in the Register, and the *Voter has moved to a different address within the same county*, have the Voter provide a oral or written affirmation attesting to his new address (Oath of Residence—Secondary) and *issue the Voter a ballot in the precinct where he formerly resided* pursuant to NRS 293.525. Update Voter's address information in Register.

6. If the challenge is based on the assertion that the *Voter does not reside at the residence address listed* in the Register, and the *Voter still resides at the address in the Register*, have the Voter execute the written affirmation attesting to his residence address (Oath of Residence—Primary) and show the Election Board satisfactory identification, and issue the Voter a *ballot in the precinct where he currently resides* per NRS 293.303.
7. If a *Voter refuses to provide the affirmation* per NRS 293.303 or 293.525, addressed in paragraphs 5 and 6 above, the Voter must cast his vote at the special polling place or places established in the County. The Voter is entitled to vote only for the following offices and questions: U.S. Pres/VP; U.S. Senator; all state officers and state questions for which all voters in the State may vote; and all county officers and questions for which all voters in the county may vote pursuant to NRS 293.304.
8. The Voter is issued a paper ballot and told they are not entitled to vote on any offices or questions other than those listed in paragraph 7. After the Voter marks his ballot, the Board Officer marks on the envelope the races on which the Voter is entitled to vote, and the ballot is placed in a ballot box. Such ballots must be kept separate from the ballots of voters who have not been successfully challenged and voters who have provided the affirmation pursuant to NRS 293.525, addressed in paragraph 5 above.
9. The Duplicating Board shall duplicate only the races on which the Voter is entitled to vote and record the number of the duplicate ballot onto the original ballot. The Duplicating Board gives the duplicated ballot to the Counting Board to be counted along with the other absent ballots. The original and the duplicate ballot are returned to the special ballot box and maintained in the sealed separate ballot until any contest of election filed with a court is resolved or the date for filing a contest has passed, whichever is sooner.

We hope this guidance provides you with additional tools to facilitate an orderly process at the polling place, with the least disturbance to the conduct of voting which is your primary mission. Please do not hesitate to contact us if you have any questions, and thank you again for your valuable assistance throughout this important election cycle.