

APPENDIX: SUMMARY OF STATUTORY PROCEDURES
FOR CONTESTING ELECTIONS

<u>State</u>	<u>Governor/ Lt. Governor</u>	<u>State Legislature</u>	<u>State Judge</u>	<u>Congressional Election</u>	<u>Presidential Electors</u>
Alabama	Joint session of the legislature, no appeal	Legislature (respective House)	Supreme Court Justice: joint session of the legislature, with no possibility of appeal; Lower court justice: trial court	Not included in the list of contestable offices	Not included in the list of contestable offices
Alaska	Trial court; no guidance for appeal process	Legislature (respective House)	Trial court; no guidance for appeal process	Trial court; no guidance for appeal process	Trial court; no guidance for appeal process
Arizona	Trial court; no guidance for appeal process (statute applies to "election of any person declared elected to a state office")	Legislature (respective House)	Trial court; no guidance for appeal process (statute applies to "election of any person declared elected to a state office")	Statute seemingly excludes federal elections by implication (statute discusses "state office")	Statute seemingly excludes federal elections by implication (statute discusses "state office")

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<u>State</u>	<u>Governor/ Lt. Governor</u>	<u>State Legislature</u>	<u>State Judge</u>	<u>Congressional Election</u>	<u>Presidential Electors</u>
Arkansas	Joint session of the legislature, no appeal	County Election Commission makes nonbinding recommendation; Legislature (respective House) makes final determination	Circuit Court within any county in the circuit or district when a circuit or district office is involved; in the Pulaski County Circuit Court when a state office is involved; if there are two or more counties in the district and fraud is alleged, any Circuit Court in the district may hear testimony; appeal to the Court of Appeals (statute applies to "any election")	Senate: Pulaski County Circuit Court, appeal to the Court of Appeals; House: impliedly authorized, but no venue is specified (statute applies to "any election")	Impliedly authorized, but no venue is specified (statute applies to "any election")
California	Superior Court of any county in the district; appeal to the court of appeals as in other civil cases (statute applies to "any election")	Legislature (respective House)	Superior Court of any county in the district; appeal to the court of appeals as in other civil cases (statute applies to "any election")	Superior Court of any county in the district; appeal to the court of appeals as in other civil cases (statute applies to "any election")	Superior Court of any county in the district; appeal to the court of appeals as in other civil cases (statute applies to "any election")

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<u>State</u>	<u>Governor/ Lt. Governor</u>	<u>State Legislature</u>	<u>State Judge</u>	<u>Congressional Election</u>	<u>Presidential Electors</u>
Colorado	Joint session of the legislature; no appeal	Legislature (respective House)	Impliedly authorized; no venue specified (statute applies to "any election")	Impliedly authorized; no venue specified (statute applies to "any election")	Supreme Court
Connecticut	Trial court; direct appeal to the Supreme Court	Legislature (respective House)	No judicial elections	Contest may be presented to any judge of the Supreme Court, who decides the case with two other Supreme Court judges the Chief Court Administrator selects	Contest may be presented to any judge of the Supreme Court, who decides the case with two other Supreme Court judges the Chief Court Administrator selects
Delaware	Joint session of the legislature; no appeal	Legislature (respective House)	No judicial elections	Superior Court; no guidance for appeal process	Superior Court of Kent County is considered "special board of canvass"; no guidance for appeal process
District of Columbia	N/A	District of Columbia Court of Appeals (for City Council)	No judicial elections	District of Columbia Court of Appeals	District of Columbia Court of Appeals

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<u>State</u>	<u>Governor/ Lt. Governor</u>	<u>State Legislature</u>	<u>State Judge</u>	<u>Congressional Election</u>	<u>Presidential Electors</u>
Florida	Circuit court in the county in which the contestant qualified or if the election covered more than one county, in Leon County; no guidance for appeal process (statute applies to "election or nomination of any person to office")	Legislature (respective House)	Circuit court in the county in which the contestant qualified or if the election covered more than one county, in Leon County; no guidance for appeal process (statute applies to "election or nomination of any person to office")	Circuit court in the county in which the contestant qualified or if the election covered more than one county, in Leon County; no guidance for appeal process (statute applies to "election or nomination of any person to office")	Circuit court in the county in which the contestant qualified or if the election covered more than one county, in Leon County; no guidance for appeal process (statute applies to "election or nomination of any person to office")
Georgia	Trial court, appeal as in other civil cases; heard by a judge from the same district, but not the same circuit (statute applies to "any primary or election")	Legislature (respective House)	Trial court, appeal as in other civil cases; heard by a judge from the same district, but not the same circuit (statute applies to "any primary or election")	Trial court, appeal as in other civil cases; heard by a judge from the same district, but not the same circuit (statute applies to "any primary or election")	Trial court, appeal as in other civil cases; heard by a judge from the same district, but not the same circuit (statute applies to "any primary or election")
Hawaii	State Supreme Court	State Supreme Court	No judicial elections	State Supreme Court	State Supreme Court
Idaho	Joint session of the legislature; no appeal	Legislature (respective House)	Supreme Court, "and in case they shall disagree, the governor shall act with them in determining	Contest impliedly authorized; no venue specified (statute applies to "any public office")	Contest impliedly authorized; no venue specified (statute applies to "any public office")

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<u>State</u>	<u>Governor/ Lt. Governor</u>	<u>State Legislature</u>	<u>State Judge</u>	<u>Congressional Election</u>	<u>Presidential Electors</u>
			the contest"		
Illinois	State Supreme Court	Legislature (respective House)	Trial court hears all contests for judicial offices	No statutory guidance	No statutory guidance
Indiana	General Assembly or State Recount Commission; see footnote 69	Legislature (respective House)	State recount commission makes decision; judicial review of Commission's decision allowed for Supreme Court, Court of Appeals, and Tax Court Judges (state offices) under limited circumstances, with a deferential standard, in the Marion County Circuit Court; further appeal unclear	State recount commission makes decision; no guidance for appeal process	State recount commission makes decision; no guidance for appeal process

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<u>State</u>	<u>Governor/ Lt. Governor</u>	<u>State Legislature</u>	<u>State Judge</u>	<u>Congressional Election</u>	<u>Presidential Electors</u>
Iowa	Special legislative committee	Legislature (respective House)	Statewide: three district judges selected by the Supreme Court, judgment has force of Supreme Court decision (no appeal); County: one person named by the contestant and another by the incumbent, who select a third, appeal to district court	Special court consisting of the Chief Justice of the Supreme Court and four judges of the district court that the Supreme Court selects, no appeal	Special court consisting of the Chief Justice of the Supreme Court and four judges of the district court that the Supreme Court selects, no appeal
Kansas	Supreme Court appoints three-judge court; appeal directly to the Supreme Court	Legislature (respective House); courts serve role as finders of fact	Statewide election: District Court for Shawnee County; Less than statewide: district court of the county in which the person whose election is contested resides; appeal to the Supreme Court for either	Contests for Congressional elections prohibited	Supreme Court appoints three-judge court; appeal directly to Supreme Court

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Kentucky	Board of eleven state congressmen refer findings to a full joint session of the legislature; no appeal	Legislature (respective House)	Statewide office: Franklin Circuit court; Less than statewide office: Circuit court in the county where the contestee resides; appeal to the Court of Appeals for either	Statute seemingly excludes federal elections by implication (statute refers only to "state, county, city or other district officer")	Statute seemingly excludes federal elections by implication (statute refers only to "state, county, city or other district officer")
Louisiana	Trial court; appeal to the Court of Appeals en banc	Legislature (respective House)	Trial court hears all contests for judicial offices	Impliedly authorized in trial court with appeal to Court of Appeals sitting en banc (statute applies to "an office")	Impliedly authorized in trial court with appeal to Court of Appeals sitting en banc (statute applies to "an office")
Maine	State Supreme Court hears contests for "all elections"; no appeal	Legislature (respective House)	No judicial elections	State Supreme Court hears contests for "all elections"; no appeal	State Supreme Court hears contests for "all elections"; no appeal

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Maryland	Joint session of the legislature; no appeal	Legislature (respective House)	Trial court or, upon the request of a party or sua sponte, a three-judge panel of circuit court judges assigned by the chief administrative judge for the circuit; appeal to the Court of Appeals (statute applies to "an election")	Trial court or, upon the request of a party or sua sponte, a three-judge panel of circuit court judges assigned by the chief administrative judge for the circuit; appeal to the Court of Appeals (statute applies to "an election")	Trial court or, upon the request of a party or sua sponte, a three-judge panel of circuit court judges assigned by the chief administrative judge for the circuit; appeal to the Court of Appeals (statute applies to "an election")
Massachusetts	Inquest in District Court; Superior Court then has jurisdiction; appeal directly to the Supreme Court (statute applies to "elections")	Legislature (respective House)	No judicial elections	Inquest in District Court; Superior Court then has jurisdiction; appeal directly to the Supreme Court (statute applies to "elections")	Inquest in District Court; Superior Court then has jurisdiction; appeal directly to the Supreme Court (statute applies to "elections")
Michigan	Quo warranto	Legislature (respective House)	Quo warranto	Quo warranto	Quo warranto

<u>State</u>	<u>Governor/ Lt. Governor</u>	<u>State Legislature</u>	<u>State Judge</u>	<u>Congressional Election</u>	<u>Presidential Electors</u>
Minnesota	File in Ramsey County; Chief Justice of the Supreme Court appoints three-judge court; appeal directly to the Supreme Court	Courts make initial decision, then sent to Legislature (respective House)	Supreme Court and Court of Appeals: Chief Justice of the Supreme Court appoints three-judge court; appeal directly to the Supreme Court; District Court: District Court in the county where the contestee resides, appeal to the Court of Appeals	Senate: Chief Justice of the Supreme Court appoints three-judge court; appeal directly to the Supreme Court; House: District Court in which contestee resides, appeal to the Court of Appeals	File in Ramsey County; Chief Justice of the Supreme Court appoints three-judge court; appeal directly to the Supreme Court
Mississippi	House alone decides, no appeal	Legislature (respective House)	Circuit court; appeal not specified (statute applies to "any office in any county")	Circuit court; appeal not specified (statute applies to "any office in any county")	Circuit court; appeal not specified (statute applies to "any office in any county")

<u>State</u>	<u>Governor/ Lt. Governor</u>	<u>State Legislature</u>	<u>State Judge</u>	<u>Congressional Election</u>	<u>Presidential Electors</u>
Missouri	Supreme Court; Court can appoint Commissioner to take testimony	Legislature (respective House)	Supreme Court decides contests over retention elections for circuit and appellate courts; circuit court judges hear contests for elections for circuit or associate circuit judge, with appeal allowed as in regular civil case; Court can appoint Commissioner to take testimony in either case	Circuit Court of any circuit in which any or all of the election was held; appeal as in other civil cases (statute applies to any offices not specifically mentioned)	Supreme Court; Court can appoint Commissioner to take testimony
Montana	Trial court: no guidance for appeal process	Legislature (respective House)	District court of the county in which the certificate, declaration, or acceptance of the person's nomination is filed or in which the incumbent resides; appeal not specified (statute applies to "any person" for "any nomination or election")	District court of the county in which the certificate, declaration, or acceptance of the person's nomination is filed or in which the incumbent resides; appeal not specified (statute applies to "any person" for "any nomination or election")	District court of the county in which the certificate, declaration, or acceptance of the person's nomination is filed or in which the incumbent resides; appeal not specified (statute applies to "any person" for "any nomination or election")

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Nebraska	Trial court; appeal as in other civil cases	Legislature (respective House)	Not included in the list of contestable offices	Not included in the list of contestable offices	Not included in the list of contestable offices
Nevada	Joint session of the legislature, no appeal	Legislature (respective House)	Supreme Court Justice: joint session of the legislature, no possibility of appeal; Lower court justice: trial court	Contests for Congressional elections prohibited	Trial court (venue unspecified); appeal unclear (statute applies to "any election" besides those specified)
New Hampshire	Five-member ballot law commission: New Hampshire Speaker of the House and President of the Senate each select two members (one from each major party), and the Governor selects the last person, who must be qualified in election procedure; appeal to the Supreme Court, but issues of fact are "final if supported by the requisite evidence"	State Recount Commission decides appeal of recounts for state legislative offices; Legislature (respective House) makes final decision	No judicial elections	Five-member ballot law commission: New Hampshire Speaker of the House and President of the Senate each select two members (one from each major party), and the Governor selects the last person, who must be qualified in election procedure; no appeal allowed	Five-member ballot law commission: New Hampshire Speaker of the House and President of the Senate each select two members (one from each major party), and the Governor selects the last person, who must be qualified in election procedure; appeal to the Supreme Court, but issues of fact are "final if supported by the requisite evidence"

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New Jersey	Judge of the Superior Court assigned by the Chief Justice of the Supreme Court; appeal to Appellate Division of Superior Court (statute applies to elections "voted for by the voters of the entire State or more than 1 county thereof")	Legislature (respective House)	No judicial elections	Judge of the Superior Court assigned by the Chief Justice of the Supreme Court; appeal to Appellate Division of Superior Court (statute applies to elections "voted for by the voters of the entire State or more than 1 county thereof")	Judge of the Superior Court assigned by the Chief Justice of the Supreme Court; appeal to Appellate Division of Superior Court (statute applies to elections "voted for by the voters of the entire State or more than 1 county thereof")
New Mexico	District court where either of the parties resides; appeal to Supreme Court (statute applies to "an election")	Legislature (respective House)	District court where either of the parties resides; appeal to Supreme Court (statute applies to "an election")	District court where either of the parties resides; appeal to Supreme Court (statute applies to "an election")	District court where either of the parties resides; appeal to Supreme Court (statute applies to "an election")
New York	Quo warranto	Legislature (respective House)	Quo warranto	Quo warranto	Quo warranto (presumably against the presidential elector)

<u>State</u>	<u>Governor/ Lt. Governor</u>	<u>State Legislature</u>	<u>State Judge</u>	<u>Congressional Election</u>	<u>Presidential Electors</u>
North Carolina	Joint session of the legislature, no appeal	Legislature (respective House)	County Board of Elections; appeal to the State Board of Elections; further appeal to Superior Court of Wake County (statute applies to "an election" besides state legislative elections and offices established by Article III of the state Constitution)	County Board of Elections; appeal to the State Board of Elections; further appeal to Superior Court of Wake County (statute applies to "an election" besides state legislative elections and offices established by Article III of the state Constitution)	County Board of Elections; appeal to the State Board of Elections; further appeal to Superior Court of Wake County (statute applies to "an election" besides state legislative elections and offices established by Article III of the state Constitution)
North Dakota	Trial court in county of contestee's residence; appeal directly to the Supreme Court (statute applies to "an election")	Trial court in county of contestee's residence; appeal directly to the Supreme Court; statute specifically prohibits resolution of contest in the respective House	Trial court in county of contestee's residence; appeal directly to the Supreme Court (statute applies to "an election")	Trial court in county of contestee's residence; appeal directly to the Supreme Court (statute applies to "an election")	Trial court in county of contestee's residence; appeal directly to the Supreme Court (statute applies to "an election") (presumably the "contestee" is the presidential elector)

<u>State</u>	<u>Governor/ Lt. Governor</u>	<u>State Legislature</u>	<u>State Judge</u>	<u>Congressional Election</u>	<u>Presidential Electors</u>
Ohio	Chief Justice of Supreme Court or other Supreme Court Justice assigned by Chief Justice (statute applies to "an office" voted on by "entire state")	Courts make initial decision, then sent to Legislature (respective House) for final decision	Chief Justice of Supreme Court or other Supreme Court Justice assigned by Chief Justice hears contest for Supreme Court; Governor selects Supreme Court Justice for contest for Chief Justice; Court of Appeals decides the lower court contests, with appeal to the Supreme Court	Contests for Congressional elections expressly prohibited	Contests for presidential electors expressly prohibited

<u>State</u>	<u>Governor/ Lt. Governor</u>	<u>State Legislature</u>	<u>State Judge</u>	<u>Congressional Election</u>	<u>Presidential Electors</u>
Oklahoma	Contest alleging fraud or irregularity may be filed with the state election board, and the case is heard by the district court judge of the county where the alleged fraud or irregularity occurred, or if the fraud or irregularity occurred in more than one county, another judge the Supreme Court designates; no provision for appeal (statute applies to "an election")	Legislature (respective House)	Contest alleging fraud or irregularity may be filed with the state election board, and the case is heard by the district court judge of the county where the alleged fraud or irregularity occurred, or if the fraud or irregularity occurred in more than one county, another judge the Supreme Court designates; no provision for appeal (statute applies to "an election")	Contest alleging fraud or irregularity may be filed with the state election board, and the case is heard by the district court judge of the county where the alleged fraud or irregularity occurred, or if the fraud or irregularity occurred in more than one county, another judge the Supreme Court designates; no provision for appeal (statute applies to "an election")	Contest alleging fraud or irregularity may be filed with the state election board, and the case is heard by the district court judge of the county where the alleged fraud or irregularity occurred, or if the fraud or irregularity occurred in more than one county, another judge the Supreme Court designates; no provision for appeal (statute applies to "an election")
Oregon	Trial court; appeal as in other cases from the superior court	Legislature (respective House); but a statute also gives jurisdiction to a circuit court; see footnote 27 of article	Trial court hears all contests for judicial offices, appeal to the Court of Appeals as in other civil cases	Circuit Court for Marion County, appeal as in other civil cases	Trial court, appeal to the court of appeals as in other civil cases

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Pennsylvania	Special legislative committee	Trial court makes initial determination; appealable to the legislature for final resolution	Two-judge court for Supreme Court justices and three-judge court for lower court judges	Senate contests: two-judge court of "president judges" of the Court of Common Pleas; House contests: Court of Common pleas of the county in which the winner resides	Special court with the "two nearest president judges"
Rhode Island	Non-judicial body; review only by discretionary writ of certiorari to Rhode Island Supreme Court under R.I. Supreme Court case law (statute applies to "an election")	Legislature (respective House)	No judicial elections	Non-judicial body; review only by discretionary writ of certiorari to Rhode Island Supreme Court under R.I. Supreme Court case law (statute applies to "an election")	Non-judicial body; review only by discretionary writ of certiorari to Rhode Island Supreme Court under R.I. Supreme Court case law (statute applies to "an election")
South Carolina	Board of State Canvassers; appeal to Supreme Court on writ of certiorari (statute applies to elections for "federal officers, state officers, members of the State Senate and the State House of Representatives, and offices involving more than one county"))	Legislature (respective House)	No judicial elections	Board of State Canvassers; appeal to Supreme Court on writ of certiorari (statute applies to elections for "federal officers, state officers, members of the State Senate and the State House of Representatives, and offices involving more than one county"))	Board of State Canvassers; appeal to Supreme Court on writ of certiorari (statute applies to elections for "federal officers, state officers, members of the State Senate and the State House of Representatives, and offices involving more than one county"))

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South Dakota	Supreme Court (statute applies to "state offices or judicial officers of the Supreme Court")	Legislature (respective House)	Supreme Court Justices: Supreme Court (statute applies to "state offices or judicial officers of the Supreme Court"); lower court judges: Circuit Court of a county which includes the locality where the election or some part thereof was conducted, and appeal as in other civil cases	Circuit Court of a county which includes the locality where the election or some part thereof was conducted, and appeal as in other civil cases (statute applies to "all other contests" that do not go straight to Supreme Court)	Circuit Court of a county which includes the locality where the election or some part thereof was conducted, and appeal as in other civil cases (statute applies to "all other contests" that do not go straight to Supreme Court)
Tennessee	Joint session of legislature; Twelve member "Committee on the Governor's Election" comprised of 7 House members and 5 Senate members takes evidence hears and objections; no appeal	Legislature (respective House)	Supreme Court justice: not specified; chancellor assigned by the Chief Justice of the Supreme Court decides contested elections for chancellor	Chancery court where the contestee resides; no provision for appeal (statute applies to "election contests" other than those expressly provided for in the statute)	Presidential Electors Tribunal composed of the governor, secretary of state, and the attorney general; no appeal

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Texas	Joint session of the legislature; no appeal	Legislature (respective House)	Statewide office: Travis County District Court; Less than statewide: Either the county where the contestee resides if it is within the territory covered by the election, or any county wholly or partly covered if no contestee resides in the county; appeal as in other civil cases	Contests for Congressional elections prohibited	Governor has exclusive jurisdiction
Utah	District Court of the complaining voter; appeal as in other civil cases (statute applies to "election or nomination of any person to any public office")	Legislature (respective House)	District Court of the complaining voter; appeal as in other civil cases (statute applies to "election or nomination of any person to any public office")	District Court of the complaining voter; appeal as in other civil cases (statute applies to "election or nomination of any person to any public office")	District Court of the complaining voter; appeal as in other civil cases (statute applies to "election or nomination of any person to any public office")

<u>State</u>	<u>Governor/ Lt. Governor</u>	<u>State Legislature</u>	<u>State Judge</u>	<u>Congressional Election</u>	<u>Presidential Electors</u>
Vermont	Superior Court for Washington County; appeal to court of appeals as in other civil cases (statute applies to "any office, other than for the general assembly")	Legislature (respective House)	No judicial elections	Superior Court for Washington County; appeal to court of appeals as in other civil cases (statute applies to "any office, other than for the general assembly")	Superior Court for Washington County; appeal to court of appeals as in other civil cases (statute applies to "any office, other than for the general assembly")
Virginia	Joint session of the legislature; no appeal	Legislature (respective House)	No judicial elections	No specific guidance; U.S. Senate primaries: decided in the Circuit Court in Richmond by a special court composed of the Chief Judge of the circuit court and two circuit judges from different circuits "not contiguous to the City of Richmond" who the Chief Justice of the Virginia Supreme Court appoints	Circuit Court in Richmond by a special court composed of the Chief Judge of the circuit court and two circuit judges from different circuits "not contiguous to the City of Richmond" who the Chief Justice of the Virginia Supreme Court appoints

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Washington	Any justice of the supreme court, judge of the court of appeals, or judge of the superior court has jurisdiction; possible appeal to the Supreme Court from a decision of the Superior Court; appeal from Court of Appeals if action initiated there unclear (statute applies to "any candidate," "any election officer," or "the election")	Legislature (respective House)	Any justice of the supreme court, judge of the court of appeals, or judge of the superior court has jurisdiction; possible appeal to the Supreme Court from a decision of the Superior Court; appeal from Court of Appeals if action initiated there unclear (statute applies to "any candidate," "any election officer," or "the election")	Any justice of the supreme court, judge of the court of appeals, or judge of the superior court has jurisdiction; possible appeal to the Supreme Court from a decision of the Superior Court; appeal from Court of Appeals if action initiated there unclear (statute applies to "any candidate," "any election officer," or "the election")	Any justice of the supreme court, judge of the court of appeals, or judge of the superior court has jurisdiction; possible appeal to the Supreme Court from a decision of the Superior Court; appeal from Court of Appeals if action initiated there unclear (statute applies to "any candidate," "any election officer," or "the election")
West Virginia	Joint session of the legislature; no appeal	Legislature (respective House)	Special court consisting of one person the contestee selects, a second person the contestant chooses, and a third the governor appoints; appeal to the Supreme Court	Not included in the list of contestable offices	Not included in the list of contestable offices

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Wisconsin	Trial court; if election is in only one appellate district, appeal is to the Court of Appeals; if election spans more than one appellate district, appeal is in the 4th District Court of Appeals; further review to Supreme Court unclear (statute applies to "any election")	Legislature (respective House)	Trial court; if election is in only one appellate district, appeal is to the Court of Appeals; if election spans more than one appellate district, appeal is in the 4th District Court of Appeals; further review to Supreme Court unclear (statute applies to "any election")	Trial court; if election is in only one appellate district, appeal is to the Court of Appeals; if election spans more than one appellate district, appeal is in the 4th District Court of Appeals; further review to Supreme Court unclear (statute applies to "any election")	Trial court; if election is in only one appellate district, appeal is to the Court of Appeals; if election spans more than one appellate district, appeal is in the 4th District Court of Appeals; further review to Supreme Court unclear (statute applies to "any election")
Wyoming	Trial court; no guidance for appeal process (statute applies to "an office" besides those specifically mentioned)	Legislature (respective House)	Trial court; no guidance for appeal process (statute applies to "an office" besides those specifically mentioned)	Trial court; no guidance for appeal process (statute applies to "an office" besides those specifically mentioned)	Legislature; no appeal

Disclaimer: This is a draft version and has not yet been fully cited or cite-checked. The final version of the article and appendix are forthcoming in Joshua A. Douglas, *Procedural Fairness in Election Contests*, 88 IND. L.J. ## (2013).