

TITLE 1: GOVERNMENT
DIVISION 6: ELECTIONS

§ 6215. Challenge by Voters; Grounds; Procedure.

(a) *Challenge prior to election day.* Any registered voter may challenge the right of a person to be or to remain registered as a voter in any district. The challenge shall be made in writing, setting forth the grounds upon which it is based, and be signed by the person making the challenge under penalty of perjury. The challenge shall be delivered to the Commonwealth Election Commission Executive Director who shall forthwith serve notice thereof on the person challenged. The Executive Director shall, as soon as possible, investigate and rule on the challenge. If the Executive Director does not rule prior to election day, the challenged voter will be given a provisional ballot on election day or the voter's ballot will be set aside if the voter voted during the early voting period. After the Executive Director has ruled, the decision can be appealed following subsections (c)-(e) of this section.

(b) *Challenge on election day.* Any voter rightfully in the polling place may challenge the right to vote of any person who comes to the election officials for voting purposes. The challenge shall be on the grounds that the voter is not the person the voter alleges to be, that the voter is not entitled to vote in that election district or that the voter does not meet the CNMI residency and domiciliary requirements. No other challenge shall be allowed. Any person thus challenged shall first be given the opportunity to make the relevant correction. The challenge shall be considered and decided immediately by a Commonwealth Election Commission staff member and the ruling shall be announced.

(c) If neither the challenger nor the challenged voter shall immediately appeal the ruling of the Commonwealth Election Commission, then the challenged voter shall either be allowed to vote or be prevented from voting in accordance with the ruling. If an appeal is immediately taken to the Commonwealth Election Commission, the challenged voter shall be allowed to vote; provided that the ballot is placed in a sealed envelope to be later counted or rejected in accordance with the ruling on appeal.

(d) Appeals of the staff member's ruling must be made immediately to the Commonwealth Election Commission. The notice of appeal must be in writing but need not take any particular form, though forms may be provided by the Commonwealth Election Commission. Any notice of appeal not actually received by the Election Commission staff member prior to either the challenged voter being allowed to vote or the closing of the polls, whichever first occurs will be considered untimely.

(e) This appeal will be heard by a panel of three consisting of the Chair or a commissioner of the Commonwealth Election Commission designated by the Chair from an island other than the challenged voter's island, the Public Auditor, and another commissioner of the Commonwealth Election Commission designated by the Chair from an island other than the challenged voter's island. This

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appeal must be heard within five calendar days of the election, at which point both the appellant and appellee may provide evidence to prove their case. The appellant and appellee may be represented by counsel. During all portions of the appeal to include any discussions the panel may have about each case the panel will not enter into executive session. The panel will issue a decision within two calendar days. A party to the appeal may appeal the panel's ruling within five calendar days to the Commonwealth Superior Court which will review the panel's legal conclusions de novo but will overturn the Commission's factual determinations only upon a showing of clear error.

(f) *Voter Eligibility Challenges: Costs.* If, for any reason, the proceedings terminate in such a fashion that the challenged voter was deemed eligible to vote, judgment shall be rendered against the challenger, for costs and reasonable attorney's fees, in favor of the challenged voter. If, for any reason, the proceedings terminate in such a fashion that the challenged voter was deemed ineligible, judgment shall be rendered against the challenged voter, for costs and reasonable attorney's fees, in favor of the challenger. If the decision of the Election Commission is not appealed to the Superior Court, the prevailing party shall apply to the Superior Court for an order and entry of judgment rendered against the losing party, for costs and reasonable attorney's fees, in favor of the prevailing party.

Source: PL 17-11 § 23 (August 12, 2010), modified; subsection (e) amended by PL 18-46 § 3(e) (Apr. 23, 2014), modified.

Commission Comment: The Commission changed capitalization for consistency and changed "attorneys fees" to "attorney's fees" in the first two sentences of subsection (f) pursuant to 1 CMC § 3806(f) and (g). The Commission corrected the capitalization of the words "appeal" and "commissioner" in subsection (e) pursuant to 1 CMC § 3806(f).