Election Day "Challengers"

Recommended for use with the Minnesota Election Judge Guide.
Copies available at www.sos.state.mn.us

1.0 OVERVIEW

1.1 What are "challengers"?

"Challengers" are appointed by major political parties or candidates. They may challenge the eligibility of a voter to vote at that precinct based upon their personal knowledge that the voter is not eligible to vote there. Challengers may not handle election materials, influence the election, or converse with voters except to determine (with an election judge) the voter's eligibility to vote in that precinct. (M.S. 204C.07)

1.2 Can anyone other than appointed challengers make a challenge of a voter's eligibility?

Voters, or Election Judges, can challenge the eligibility of a voter to vote in the precinct. (M.S. 204C.12, Subd. 1)

1.3 Why can't I be a "poll watcher" in Minnesota?

Lawmakers have made no provision for individuals other than those specifically authorized to be in the polling place. Voter registration "challengers" are often mistaken for poll watchers but challengers are limited in what they can do in the polling place.

1.4 How is someone appointed to be a challenger?

By written appointment. At an election to fill partisan offices, the chair of an authorized committee of each major political party may appoint, by written certificate, voters who are residents of Minnesota from that political party to act as challengers of voters at the polling place for each precinct. Only one challenger from each major political party for each precinct shall be allowed to remain in the polling place at one time. (M.S. 204C.07, Subd. 1)

At an election to fill nonpartisan offices, each nonpartisan candidate may appoint, by written certificate, voters who are residents of Minnesota to act as challengers of voters at the polling place for each precinct. Only one challenger for each candidate for non-partisan office shall be allowed to remain in the polling place for each precinct at one time. (M.S. 204 C.07, Subd. 2)

1.5 Are there any legal qualifications to being a challenger?

Challengers must be a "voter from that political party" and a Minnesota resident. Election judges, while allowed to challenge a voter, may not be appointed as a challenger. (M.S. 204C.07; 204C.12)

2.0 ELECTION DAY – CHALLENGER CONDUCT

2.1 When should a challenger be at the polling place?

Polling places normally open at 7:00 a.m. and voting continues until 8:00 p.m., or later as voters in line at 8:00 p.m. vote. Challengers may be present all, or parts, of the day.

When voting is completed the polling place is open to public viewing, and challengers may remain in the poll until votes are counted and the results declared. (M.S. 204C.07, Subd. 4 and 204C.19, Subd. 1)

2.2 What does a challenger need to bring to the polling place?

Upon arrival, a challenger must present ***a written certificate or letter of appointment*** issued by the authorized committee of the major political party or the nonpartisan candidate. A challenger must also prove residence in the state to the Head Election Judge by presenting one of the proofs allowed for Election Day registration. (M.S. 204C.07 subd. 3a)

2.3. Are their special restrictions on the conduct of challengers?

Yes. *Minnesota Statutes* 204C.07, Subd. 4 & 5 directs that challengers must not:

- handle or inspect registration cards, files, or lists;
- prepare in any manner any list of individuals who have or have not voted;
- attempt to influence voting in any manner;
- talk with a voter except to determine, in the presence of an election judge, if the voter is eligible to vote in the precinct; or
- compile lists of voters to challenge on the basis of mail sent by a political party that was returned as undeliverable, or if receipt by the intended recipient was not acknowledged in the case of registered mail.

Since duties are limited, expect challenger's access to the polling place to be limited to voter registration roster areas.

2.4 Can a challenger wear anything identifying them as being affiliated with a political party or particular candidate?

No. Such items are generally understood to be campaign material prohibited from the polling place. (M.S. 211B.11) However, a simple name tag saying "Challenger" may be acceptable.

2.5 Can a challenger take photos or videos of voters?

No. Taking pictures or videos in the polling place may be perceived as either a violation of the secrecy provisions of M.S. 204C.16 and M.S. 204C.17 or prohibited list making under M.S. 204C.07, Subd. 4.

3.0 CHALLENGING AN INDIVIDUAL'S ELIGIBILITY TO VOTE

3.1 What can be challenged?

Only the eligibility of the voter based upon personal knowledge. (M.S. 204C.12, Subd.1)

3.2 How is a challenge made by the challenger?

A) Inform the election judge that you are challenging the eligibility of a specific voter under *Minnesota Statutes* 204C.12; and
B) Complete and sign the "Oath of Challenge to Voter's Eligibility" form. On the form, state the specific grounds for your challenge of that individual. Your oath, under penalty of perjury, states the challenge is based upon your personal knowledge. Eligibility criteria are:
   - the individual is at least 18 years old;
   - is a citizen of the United States;
   - has resided in Minnesota for 20 days immediately preceding Election Day;
   - resides in that precinct (see M.S.200.031 for guidelines);
   - is not under court-ordered guardianship in which the court revokes the individuals right to vote;
   - has not been found by a court to be incompetent to vote; or
   - has the right to vote because, if convicted of a felony, the sentence has expired or the individual has been discharged from the sentence.

3.3 Can an individual vote if they have been challenged?

Yes, but only after taking the oath administered by the election judge, being asked by the election judge about their residence and right to vote, and completing and signing the voter certificate. (M.S. 204C12)

3.4 Are there specific procedures in law for issuing a challenge and the process that follows?

Yes, Minnesota Statutes 204C.12 provides direction for the challenge procedure.

204C.12 Challenges to voters; penalty.

Subdivision 1. **Manner of challenging.** An election judge shall, and an authorized challenger or other voter may, challenge an individual whom the person knows or reasonably believes is not an eligible voter.

Subd. 2. **Statement of grounds; oath.** A challenger must be a resident of this state. The secretary of state shall prepare a form that challengers must complete and sign when making a challenge. The form must include space to state the ground for the challenge, a statement that the challenge is based on the challenger's personal knowledge, and a statement that the challenge is made under oath. The form must include a space for the challenger's printed name, signature, telephone number, and address.
An election judge shall administer to the challenged individual the following oath:
"Do you solemnly swear that you will fully and truly answer all questions put to you concerning your eligibility to vote at this election?"
The election judge shall then ask the challenged individual sufficient questions to test that individual's residence and right to vote.

Subd. 3. **Determination of residence.** In determining the legal residence of a challenged individual, the election judges shall be governed by the principles contained in section 200.031. If the challenged individual's answers to the questions show ineligibility to vote in that precinct, the individual shall not be allowed to vote. If the individual has marked ballots but not yet deposited them in the ballot boxes before the election judges determine ineligibility to vote in that precinct, the marked ballots shall be placed unopened with the spoiled ballots. If the answers to the questions fail to show that the individual is not eligible to vote in that precinct and the challenge is not withdrawn, the election judges shall verbally administer the oath on the voter certificate to the individual. After taking the oath and completing and signing the voter certificate, the challenged individual shall be allowed to vote.

Subd. 4. **Refusal to answer questions or sign a polling place roster.** A challenged individual who refuses to answer questions or sign a polling place roster as required by this section must not be allowed to vote. A challenged individual who leaves the polling place and returns later willing to answer questions or sign a polling place roster must not be allowed to vote.

Subd. 5. **Election judges; penalty.** An election judge who fails to carry out the duties prescribed by this section is guilty of a gross misdemeanor.