

Arizona: Limits on Voter Eligibility Challenges

This resource details state and federal laws that guard voters against unfounded challenges to their eligibility.

Arizona, like most states, allows private individuals to challenge another person's eligibility to vote. This resource details state and federal laws that govern this process and protect challenged voters. Arizona's strong voter protections include a presumption that a registered voter is eligible to vote and a requirement that challengers provide clear and convincing evidence that the challenged voter is ineligible to vote.

Arizona law allows challenges during early voting and on Election Day.

- Only appointed political party representatives are allowed to challenge a voter during early voting.¹ Challenges during early voting must be made after the ballot is received and before the ballot envelope is opened. Challenges made outside of this window must be summarily rejected as untimely.²
- Only a registered voter from the same county, or an appointed political party representative who is registered to vote in the state, can challenge a voter on Election Day.³
- Before Election Day, county recorders may not investigate a registrant's citizenship based on third-party allegations.⁴

Arizona law presumes eligibility absent clear and convincing contrary evidence.

- A voter who has completed a registration form and provided the minimum required information is presumed to be properly registered to vote.⁵
- An appointed political party representative who brings a challenge during early voting must do so in writing, describe the statutory ground for the challenge, and provide "clear and convincing evidence" of the voter's ineligibility.⁶

¹ Ariz. Rev. Stat. § 16-552(C).

² Ariz. Dept. of State, *State of Arizona 2023 Elections Procedures Manual*, 79, https://apps.azsos.gov/election/files/epm/2023/EPM_20231231_Final_Edits_to_Cal_1_11_2024.pdf.

³ Ariz. Rev. Stat. §§ 16-590, 16-591.

⁴ Ariz. Dept. of State, *State of Arizona 2023 Elections Procedures Manual*, 42.

⁵ Ariz. Rev. Stat. §§ 16-121.01(A).

⁶ Ariz. Rev. Stat. §§ 16-121.01(B), 16-552(D).

- A registered voter can challenge another voter on Election Day but must state the statutory ground for the challenge and provide “clear and convincing evidence” of the voter’s ineligibility.⁷
- The “clear and convincing evidence” standard is a high one. Challenges must be rejected unless they include “individualized facts” “establish[ing]” that the voter’s ineligibility is “highly probable or reasonably certain.”⁸
- Arizona’s high evidentiary standard would not allow for challenges based on internet searches and database matching, which lack assurances of reliability and would not provide the “individualized facts” needed to overcome the presumption of eligibility. In addition, federal law prohibits the “systematic” removal of voters within 90 days of a federal election.⁹

A voter challenged during early voting has the right to notice and to respond to the challenge.

- When an appointed political party representative files a timely written challenge on valid statutory grounds during early voting, the early voting board or other election officer is required to send the challenged voter a notice within 24 hours.¹⁰ If there is a phone number or email address for the challenged voter in the voter registration record, the board or officer must also provide notice of the challenge by email and/or phone.¹¹
- The notice to the voter must include a time and place for the voter to defend the challenge, and this time must be at least 96 hours after the notice is mailed or at least 48 hours after delivery if the notice is delivered by overnight or hand delivery.¹²
- A voter can make or submit a statement in response to the challenge, but a voter’s failure to appear to defend the challenge cannot be taken as an admission of the validity of the challenge.¹³
- The early voting board must decide, by majority vote after an individualized hearing, if the challenger has met their burden of proving the voter’s ineligibility by clear and convincing evidence.¹⁴
- If a challenged voter is not present at the hearing, the board must notify the voter in writing of the result, and if the ballot was rejected, include the grounds for the rejection.¹⁵

⁷ Ariz. Rev. Stat. § 16-121.01(B).

⁸ Ariz. Dept. of State, *State of Arizona 2023 Elections Procedures Manual*, 82, 194.

⁹ 52 U.S.C. § 20507(c)(2)(a).

¹⁰ Ariz. Rev. Stat. § 16-552(E).

¹¹ Ariz. Dept. of State, *State of Arizona 2023 Elections Procedures Manual*, 81.

¹² Ariz. Rev. Stat. § 16-552(E).

¹³ *Id.*

¹⁴ § 16-121.01(B); *see also* Ariz. Dept. of State, *State of Arizona 2023 Elections Procedures Manual*, 82.

¹⁵ Ariz. Rev. Stat. § 16-552(G).

- The board must preserve any rejected ballots in case an election contest is filed that calls for their consideration.¹⁶

For election-day challenges, Arizona law requires a fair and orderly process for the challenged voter.

- If a voter is challenged, they are asked to step to the side and meet with an inspector and two judges, who must be on site at the time.¹⁷
- Only the inspector may question the voter. The challenger may not address the voter and may not speak “in a manner that harasses or intimidates the voter.”¹⁸
- If a challenged voter appears to be registered, the voter can take an oath and answer questions related to the challenge.¹⁹
- If a majority of the election board determines the challenger has not met their burden of proving by clear and convincing evidence that the voter is ineligible, the voter can vote a regular ballot.²⁰
- If a majority of the election board determines the challenger has met their burden of proving by clear and convincing evidence that the voter is ineligible, the voter still has a right to vote a provisional ballot.²¹
- Challengers who initiate frivolous or repeated invalid challenges can be removed from the voting location to prevent the harassment and potential intimidation of voters.²²

Almost no challenge should result in immediate removal of the voter from the voter rolls.

- The National Voter Registration Act limits when and how voters can be removed from the rolls. Under the act, states and counties are permitted to remove a voter in just five circumstances: if the voter affirms the change; if state law requires, for a criminal conviction or mental incapacity; for the death of the voter; if the voter confirms a change of residence in writing; and based on other evidence of a change of residence, *but only* after the state sends a notice and the voter both fails to respond *and* fails to vote in the next two federal general elections.²³



Voters in Arizona have the right to vote free from intimidation under federal and state law. Baseless challenges to a voter’s eligibility can harass and intimidate the voter being challenged,

¹⁶ *Id.*

¹⁷ Ariz. Dept. of State, *State of Arizona 2023 Elections Procedures Manual*, 194.

¹⁸ *Id.*

¹⁹ Ariz. Rev. Stat. § 16-592(A).

²⁰ Ariz. Rev. Stat. § 16-592(B).

²¹ Ariz. Rev. Stat. § 16-592(C).

²² Ariz. Dept. of State, *State of Arizona 2023 Elections Procedures Manual*, 194 fn. 83.

²³ 52 U.S.C. § 20507(a)(3), (d).

as well as other voters waiting to vote at the polls. More information on the federal and state laws that protect Arizona voters from intimidation can be found [here](#).

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