

**410-RICR-20-00-9**

## **TITLE 410 - BOARD OF ELECTIONS**

### **CHAPTER 20 - ELECTIONS**

#### **SUBCHAPTER 00 - N/A**

#### **PART 9 - Challenging of Mail Ballots**

##### **9.1**

- A. The Rhode Island Board of Elections hereby adopted the within rules and regulations relating to the challenging of mail ballots pursuant to, and in accordance with, the provisions of R.I. Gen. Laws Chapter [17-7](#) *et seq.*, and R.I. Gen. Laws §§ [17-20-24](#) and [17-20-26](#), as amended.
- B. Said rules and regulations are adopted pursuant to the Administrative Procedures Act (R.I. Gen. Laws Chapter [42-35](#) *et seq.*) and are available for public inspection at the offices of the Rhode Island Board of Elections, 50 Branch Avenue, Providence, Rhode Island.

##### **9.2 Purpose**

- A. To establish guidelines for the challenging of mail ballots that will support the Board of Elections to construe R.I. Gen. Laws Chapter [17-20](#) *et seq.* liberally to effect the purposes of maintaining the integrity and the secrecy of the mail ballot by assuring that only electors eligible to vote by mail ballot are allowed to utilize that method of voting and by assuring that the procedures set forth in this chapter controlling the application and balloting processes are strictly enforced by safeguarding the mail ballot voter from harassment, intimidation and invasion of privacy.
- B. This Part supersedes all prior guidelines issued relating to the challenging and certification of mail ballots including, but not limited to, those presently on file with the Office of the Secretary of State.

##### **9.3 Guidelines**

- A. The burden of proof in challenging a mail ballot as not obtained and/or cast in conformance with R.I. Gen. Laws Chapter [17-20](#) *et seq.* is on the person challenging the ballot. However, once the irregularity is shown, the burden of proof shall shift to the person defending the ballot to demonstrate that it is the ballot of the voter it purports to be, that the voter was eligible to vote by mail

ballot and that all of the applicable requirements of R.I. Gen. Laws Chapter [17-20 et seq.](#) were complied with.

- B. The Board of Elections shall, on its own motion, disqualify any mail ballot which it determines, based upon a preponderance of the evidence, was not voted by the elector who purportedly cast it, or was voted by an elector who was not eligible to vote by mail ballot, or was not obtained and voted in the manner prescribed by R.I. Gen. Laws Chapter [17-20 et seq.](#) The Board of Elections may take such action even in the absence of a challenge to the ballot and may take such action at any time prior to the separation of the ballot from its application and certifying envelope.
- C. If a ballot can be reasonably identified to be that of the voter it purports to be and if it can reasonably be determined that the voter was eligible to vote by mail ballot and if the requirements of R.I. Gen. Laws § [17-20-2.1](#) were complied with, it should not be subject to frivolous or technical challenge.
- D. No ballot transmitted under the provisions of R.I. Gen. Laws Chapter [17-20 et seq.](#) shall be rejected for failure of the voter to affix sufficient postage, nor shall any such ballot be invalid by reason of the voter writing upon the inner envelope the name of the community within a town in place of the name of said town.
- E. The requirements set forth by R.I. Gen. Laws Chapter [17-20 et seq.](#) controlling mail ballot eligibility and the procedure by which such ballots are obtained and cast shall be strictly applied so as to assure the integrity of the electoral system. No mail ballot which was not obtained and/or cast in material conformance with the provisions of R.I. Gen. Laws Title [17](#) shall be certified by the Board of Elections.
- F. Notwithstanding the provisions of R.I. Gen. Laws § [34-12-3](#) to the contrary, any mail ballot application or mail ballot certification notarized by a person who is not, in fact, a notary public or other officer authorized to administer oaths and take acknowledgements shall be void.
- G. A ballot shall not be disqualified merely because the elector did not sign his or her full name as it is listed on the voter registration list but omitted or included a middle initial or name or abbreviated a first and/or middle name or made a similar omission or inclusion so long as the Board of Elections can reasonably determine the identity of the voter.
- H. The inner or certifying envelope may be challenged if the signature (or mark) of the voter does not appear thereon.
- I. A ballot shall not be disqualified merely because said ballot was submitted by means of facsimile. Any qualifying elector who is outside the continental United States and obtains and casts a ballot in conformance with R.I. Gen. Laws §§ [17-20-2\(1\)](#) or [17-20-2\(7\)](#), [17-20-2.1\(d\)\(1\)](#), and [17-20-13](#) may vote such ballot through facsimile.

- J. The ballot may be challenged if the signature (or mark) of the voter is not duly notarized or the names and addresses of the two (2) attesting witnesses do not appear on the application and inner envelope excluding the following exceptions:
1. pursuant to R.I. Gen. Laws §§ [17-20-2\(3\)](#) and [17-20-2.1\(d\)\(3\)](#) a voter who applies for a mail ballot in accordance with these two sections requires a notary or the names and addresses of two (2) witnesses on the application but not on the inner envelope;
  2. pursuant to R.I. Gen. Laws §§ [17-20-2\(7\)](#) and [17-20-2.1\(d\)\(7\)](#) a voter who applies for and receives an absentee ballot in accordance with these two sections does not require the signatures of two (2) witnesses or a notary on the application or certifying envelope; and
  3. pursuant to R.I. Gen. Laws § [17-20-6.1](#) a voter who applies for and receives an absentee ballot through the use of a Federal Post Card Application (FPCA) does not require the signatures of two (2) witnesses or a notary on the application or certifying envelope.
- K. These rules and regulations are adopted this day of 2006 pursuant to the Administrative Procedures Act (R.I. Gen. Laws § [42-35-1](#), *et seq.*). By Order of Rhode Island Board of Elections.

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**TITLE 410 - BOARD OF ELECTIONS**

**CHAPTER 20 - ELECTIONS**

**SUBCHAPTER 00 - N/A**

**PART 9 - CHALLENGING OF MAIL BALLOTS (410-RICR-20-00-9)**

Type of Filing: Refile Capabilities

**Department of State**

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Regulation Effective Date

Original Signing Date

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Department of State Initials

Department of State Date