

08 NCAC 17 .0109 is amended with changes as published in 40:22 NCR 1796-1798 as follows:

08 NCAC 17 .0109 PHOTO IDENTIFICATION FOR ABSENTEE-BY-MAIL BALLOTS

(a) Identification Requirement for Absentee-by-Mail Ballots. Photo identification accompanying a voter's absentee ballot pursuant to G.S. 163-230.1(f1) is acceptable if it is a photocopy of a type of photo identification acceptable for voting purposes under 08 NCAC 17 .0101(a)(1), is readable, and the name appearing on the identification is the same as or substantially equivalent to the name contained in the voter's voter registration record in accordance with 08 NCAC 17 .0101(a)(3). As used in this Rule, "readable" means that, on the photocopy of identification required by this Rule, the name on the identification can be read and the photograph depicts a person, as opposed to displaying, for example, a mere shadow or outline of a person. A photo identification shall not be rejected due to differences between the address appearing on an absentee voter's photo identification and any address contained in the voter's absentee request form, absentee ballot application, or registration record. A copy of photo identification that is acceptable under this Rule need include only the side of the identification (or, if the identification is a booklet, the page of the identification) where the person's name and photo appears.

(b) Initial Review by County Board Staff. County board staff shall, upon receipt of a voter's absentee ballot application, determine whether the application is accompanied by a photocopy of photo identification that is acceptable under Paragraph (a) of this Rule, or, if the application is accompanied by an affidavit claiming an exception to the identification requirement pursuant to G.S. 163-166.16(d), determine whether the affidavit includes the affirmations required by G.S. 163-166.16(d) for that exception and, if applicable, the personal identification number required to be provided by G.S. 163-230.1(g)(2). Staff shall review the registration records to determine whether the number provided matches the corresponding number in the registration records. The number required to be provided by G.S. 163-230.1(g)(2) is deficient only if it does not match the corresponding number listed in the voter's voter registration record.

If staff identify any deficiency, they shall mail written notice of the deficiency to the voter within one business day of identifying the deficiency, informing the voter that the voter, the voter's verifiable legal guardian or near relative, or a person of the voter's choice if the voter needs assistance due to the voter's disability, may provide a photocopy of the voter's acceptable photo identification or a completed affidavit claiming an exception. The notice shall state the photocopy or affidavit must be received by the county board by ~~5 p.m. on the business day before the county canvass~~ the deadline for doing so in G.S. 163-230.1(e1). The notice of the deficiency shall also be provided by telephone or email if the telephone number or email address was provided by the voter on the request form for the absentee ballot. The voter may transmit either of the above documentation curing the deficiency in person, by mail, or by email.

(c) Final Review by County Board. The county board shall, at the first meeting held pursuant to G.S. 163-230.1(f) after the application and ballot is received, proceed as follows:

- (1) If the voter has submitted a photocopy of their photo identification, the county board shall make its determination whether the identification is acceptable under Paragraph (a) of this Rule. A final determination that the photocopy of photo identification is not acceptable under Paragraph (a) of

1 this Rule shall require a unanimous vote by the county board. If the county board makes a final
2 determination that a voter's photocopy of photo identification is not acceptable, staff shall notify
3 the voter as provided in Paragraph (b) of this Rule, and the county board shall reserve its final
4 decision on the approval of the absentee application until the next official meeting after it receives
5 documentation curing the deficiency or the ~~county canvass~~, final meeting to count cured absentee
6 ballots as required [under] by G.S. 163-234(12), whichever occurs first.

- 7 (2) If the voter has completed an affidavit claiming an exception to the identification requirement
8 pursuant to G.S. 163-166.16(d) and is otherwise eligible to vote, the county board may reject that
9 person's ballot only if the county board ~~unanimously finds~~ by majority vote that the affidavit is
10 false. The county board shall substantiate any finding of falsity with grounds recorded in a written
11 decision, and those grounds shall be based only on facts and not speculation. Before rejecting a
12 voter's ballot because of a finding of falsity, the county board shall provide the voter advance
13 notice and an opportunity to address the county board ~~prior to the completion of canvass at its~~
14 final meeting to count cured absentee ballots as required [under] by G.S. 163-234(12) on any
15 grounds that the county board is considering regarding the falsity of the affidavit. The notice shall
16 identify the specific reasons the county board is considering the affidavit to be potentially false
17 and inform the voter how the voter may address the reasons for potential falsity, which shall
18 include the options to provide a written explanation or documentation or to address the board at a
19 meeting in person. The county board shall send the notice via U.S. Mail within one business day
20 of a county board's preliminary finding of falsity, provided that the opportunity to be heard is at
21 least five days from the date of mailing. The notice shall be mailed for next-day delivery if the
22 opportunity to be heard is less than five days from the date of mailing. Notice shall also be
23 provided within one business day of a county board's preliminary finding of falsity by email to any
24 email address or by phone to any phone number that the county board possesses for the voter. The
25 notice and opportunity to address the county board provided for in this Subparagraph shall be
26 offered only to those voters for whom a ~~number of majority of county board members equal to one~~
27 ~~less than all of the members of the county board~~, majority of county board members, or more,
28 have identified a specific reason, based only on facts and not speculation, to find that the affidavit
29 claiming an exception to the identification requirement is false.

- 30 (3) If a voter's photocopy of photo identification or affidavit claiming an exception to the
31 identification requirement pursuant to G.S. 163-166.16(d) is deemed deficient upon initial review
32 under Paragraph (b) of this Rule, the county board shall reserve its final decision on the approval
33 of the absentee application until the next official meeting after it receives documentation curing
34 the deficiency identified pursuant to Paragraph (b) of this Rule or the ~~county canvass~~, final
35 meeting to count cured absentee ballots as required [under] by G.S. 163-234(12), whichever
36 occurs first.

1 (d) Exception for Military and Overseas Voters. A voter who is casting a ballot pursuant to G.S. 163, Article 21A,
2 Part 1 is not required to submit a photocopy of acceptable photo identification under Paragraph (a) of this Rule or
3 claim an exception under G.S. 163-166.16(d).

4 (e) Return of Original Form of Identification. If a voter sends their original form of photo identification in the
5 container-return envelope, or if a voter or other person permitted to return the voter's absentee ballot hand-delivers
6 an absentee ballot to the county board of elections that is not accompanied by a photocopy of the voter's photo
7 identification and the voter or other person has the voter's photo identification that is a type acceptable for voting
8 purposes under 08 NCAC 17 .0101(a)(1) on hand, the county board shall make a photocopy of the identification,
9 which shall serve as an acceptable photo identification accompanying the voter's absentee ballot. When a voter
10 sends their original form of photo identification in the container-return envelope, the county board shall notify the
11 voter by mail and by any email address or phone number that the county board possesses for the voter that the
12 original photo identification will be returned to the voter. The county board shall use a method of return that
13 documents receipt of the photo identification.

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15 *History Note: Authority G.S. 163-22; 163-166.7; 163-166.16; 163-230.1;*
16 *Temporary Adoption Eff. August 23, 2019; January 1, 2020;*
17 *Temporary Rule Exp. Eff. October 11, 2020;*
18 *Temporary Adoption Eff. August 1, 2023;*
19 *Eff. April 1, 2024. 2024;*
20 *Amended Eff. September 1, 2026.*