



# NORTH CAROLINA

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## STATE BOARD OF ELECTIONS

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Friday, March 20, 2020

### **EMERGENCY EXECUTIVE ORDER**

#### **RESCHEDULING THE MAY 12, 2020 SECOND PRIMARY AND MODI- FYING OTHER ELECTIONS-RELATED DEADLINES**

As Executive Director I hereby find the following:

1. COVID-19 is a new strain of coronavirus previously unidentified in humans that is transmitted from person to person and can result in serious illness or death. On March 10, 2020, the Governor of North Carolina declared a State of Emergency, as defined in G.S. §§ 166A-19.3(6) and 166-19.3(19), to address the coronavirus (COVID-19) public health emergency and provide for the safety of people in the State. The World Health Organization declared COVID-19 a global pandemic on March 11, 2020.
2. On March 13, 2020, the President of the United States declared the COVID-19 outbreak a national emergency, retroactive to March 1, 2020. On March 14, 2020, the Governor prohibited mass gatherings of more than 100 people and closed public schools in the State. On March 15, 2020, the Centers for Disease Control and Prevention (CDC) recommended that, for the next eight weeks, gatherings of more than 50 people should not take place. On March 16, 2020, the White House recommended that people avoid social gatherings of more than 10 people.
3. G.S. § 163-27.1 provides the Executive Director, as chief State elections official, authority to exercise emergency powers to conduct an election in districts where the normal elections schedule has been disrupted by a natural disaster, extremely inclement weather, or armed conflict. The exercise of such powers must avoid unnecessary conflict with existing law. The statute also requires the Executive Director to adopt administrative rules describing the emergency powers and the situations in which the emergency powers will be exercised.
4. An administrative rule provides standards for the exercise of emergency powers. Effective March 20, 2020, as Executive Director I adopted an amendment to the rule under emergency rulemaking procedures to clarify that a natural disaster includes a “catastrophe arising from natural causes resulting in a disaster declaration by the President of the United States or the Governor, a national emergency declaration by the President of the United States, or a state of emergency declaration issued under G.S. 166A-

19.3(19).” It defines “catastrophe arising from natural causes” to include “a disease epidemic or other public health incident that makes it impossible or extremely hazardous for elections officials or voters to reach or otherwise access the voting place or that creates a significant risk of physical harm to persons in the voting place, or that would otherwise convince a reasonable person to avoid traveling to or being in a voting place.” [08 NCAC 01 .0106](#).

5. The COVID-19 pandemic is a natural disaster permitting the Executive Director to exercise statutory emergency powers. I have consulted with each of the State Board members individually regarding the powers exercised herein.
6. Processes to conclude the March 3, 2020 primary are ongoing, and state law establishes May 12, 2020, as the date for the federal second primary. The COVID-19 pandemic has disrupted the normal schedule for the election and impaired critical components of election administration, affecting the ability of county boards of elections to secure adequate poll workers and voting sites and to conduct board meetings without endangering the health and safety of those present. Several county boards of elections have closed their doors to members of the public, although staff are still processing voter registration forms and other documents. County boards of elections have conducted board meetings telephonically, when possible. However, it is not feasible to conduct all board meetings telephonically, when, for example, board members must review absentee and provisional ballots.
7. I have considered the factors outlined in 08 NCAC 01 .0106(c) and find that the disruption impacts the entire state. It is uncertain when the disruption will end. Currently, the CDC’s recommendation to limit gatherings to 50 people remains in effect for the next eight weeks. North Carolina law requires voting to be administered by three methods for any election in our State: no-excuse absentee by-mail voting and in-person voting during the 17-day early voting period and on Election Day. There is insufficient time for the General Assembly and the Governor to adopt emergency legislation at this time. Absent an exercise of my emergency powers, absentee ballots for the second primary must begin to be mailed to voters in one week, on March 28, 2020. Other election processes to conclude the first primary have ongoing deadlines.
8. Conditions and precautionary measures related to the COVID-19 pandemic are evolving on a daily basis. Thus, it may be necessary to make additional modifications, or to modify the dates modified herein, at a later date.

Based upon the foregoing findings and conclusions, and in exercise of G.S. § 163-27.1 and 08 NCAC 01. 0106, as Executive Director, I hereby ORDER the following:

9. The second Republican primary for Congressional District 11 is moved from May 12, 2020 to June 23, 2020. All associated elections dates are shifted accordingly. Due to

the Independence Day holiday, county canvass for the second primary will take place on July 6, 2020.

10. The requirement in G.S. § 163-128(a) that a temporary transfer of voters to another precinct be to an adjacent precinct is suspended for the second Republican primary only. A county board of elections may submit a request to the Executive Director for a temporary transfer of voters to a non-adjacent precinct. The request must be related to the COVID-19 disease epidemic and shall include a justification for why it is necessary to transfer voters and why it is not feasible to transfer voters to an adjacent precinct. It shall also include a plan for ensuring that voters are checked in using the correct pollbook and receive the correct ballot style. The Executive Director will review each request and decide whether to grant it based on the factors outlined in this paragraph.
11. All elections protest proceedings pending from the March 3, 2020 primary are stayed until May 20, 2020. Specifically, the requirement in 08 NCAC 02 .0110(c) that county boards of elections hold the evidentiary hearing no later than ten business days from the date of the preliminary consideration is hereby suspended until May 20, 2020. County boards of elections are not prohibited from, and are encouraged, to resolving elections protests sooner if they can do so without endangering the health and safety of those present. This may include conducting proceedings telephonically, if feasible.
12. The deadline to complete and report the sorting of ballots by precinct, as required by G.S. § 163-132.5G, is extended to May 20, 2020. County boards of elections are not prohibited from conducting the precinct sort sooner if they can do so without endangering the health and safety of those present.
13. County boards of elections that have closed their offices to the public due to the COVID-19 pandemic shall continue to accept voter registration forms, absentee request forms, and other documents. These county boards shall ensure a secured, locked, immovable container is available for members of the public to deposit forms. The requirement that an absentee request form drop off log be kept is suspended for county boards that have closed their office due to the pandemic. Absentee request forms dropped off at an unmanned drop box shall be presumed to be delivered by an authorized individual absent evidence otherwise.

This the 20th day of March, 2020.



Karen Brinson Bell  
Executive Director  
State Board of Elections