



NORTH CAROLINA

State Board of Elections

Mailing Address:
P.O. Box 27255
Raleigh, NC 27611-7255

Phone: (919) 733-7173
Fax: (919) 715-0135

KIM WESTBROOK STRACH
Executive Director

NUMBERED MEMO 2016-10

TO: County Boards of Elections
FROM: Kim Strach, Executive Director
RE: **URGENT:** Provisional Research and Uniform Disposition
DATE: June 6, 2016

Dear County Board Members and Directors:

In determining whether to count or partially count a provisional ballot cast for the **June 7, 2016 Primary Election**, be guided by the following:

1. The person must be a registered voter in the county. **GS § 163-82.1**
2. If the person's name is not on the list of registered voters, he or she must have personally made a valid attempt to register to vote in the county before **5/13/2016**.
 - a. Voter registration application was received by county on or before **5/13/2016**. **GS § 163-82.4(e)**
 - b. Voter registration application was signed at a NVRA agency (including the DMV) on or before **5/13/2016**. **GS § 163-82.20(h)**
3. The contests for which the person is eligible are based on the address of residence as of **5/8/2016** – 30 days before the date of the election. **GS § 163-55**
4. The contests for which the person is eligible are based on his or her party affiliation as of **5/14/2016**, since **5/13/2016** was the deadline to make a party affiliation change. **GS §§ 163-59; 163-82.17(d)**.
5. The person must meet the requirements for voting under **GS §§ 163-166.7(a); 163-166.13; 163-166.14; and 163-182.1A**.
6. The person was required to execute a written affirmation before an election official at the voting place, stating that he or she is a registered voter in the jurisdiction (county) and is eligible to vote in the election. **GS § 163-166.12**

DMV Provisional Research

DMV provisional research now includes in-person transactions and online transactions with the DMV. Please look for **DMV Web Match** in the report.

If the research shows that the DMV customer/voter made an attempt to register at the DMV (or opted for voter registration services using the online system) on or before **5/13/2016**, but your office did not receive the signed application, the provisional application must be approved as long as there is no information to show that the provisional voter was registered elsewhere after the date of the DMV activity. If the activity was made after the voter registration deadline, the person's provisional application must be disapproved.

In the image below, Ms. Doe voted provisionally in **Davie County**. Her DMV record shows DMV registration activity on 12/23/2011 and at the time, she lived in **Rowan County**. On 02/23/2016, Ms. Doe selected voter registration services through the DMV's online portal. At the time of the recent transaction, she reported an address in **Davie County**. However, the activity was after the voter registration deadline of 2/19/2016. [Example is based on March 15, 2016 election date.]

Remember, the [DMV Provisional Research Report](#) is one of the reports on the intranet.

	PV Last Name	PV First Name	PV Middle	PV Suffix	PV Vote Date	PV County of Registration
3	DOE	JANE			03/15/2016	DAVIE
DMV Status	DMV Last Name	DMV First Name	DMV Middle	DMV Suffix	DMV Date of Registration	DMV County of Registration
FOUND	DOE	JANE			12/23/2011	ROWAN
DMV WEB MATCH	DOE	JANE			02/23/2016	DAVIE

To prompt a DMV research transaction, you must check the **Need DMV Research** checkbox in the Provisional application.

All records checked by 4:45 p.m. each afternoon will be queued for overnight research. You will see the report by the next morning. This process runs nightly, including weekends.

Provisional DMV research must be conducted for all provisional applications that are denied due to one of the following reasons:

- Not Registered,

- Moved Out Of County More Than 30 Days, or
- Registration After Deadline

UNDERSTANDING THE DMV RESEARCH REPORT

No Record of Registration

If there is no date in the **DMV Date of Registration** field, there is no information that the voter made an attempt to register to vote at the DMV. Unless you find evidence of some other registration attempt, the provisional application would not count.

In the image below, the person voted provisionally in **Union County**. Mr. Doe’s DMV record shows no record of DMV registration activity – there is no date listed in the field.

	PV Last Name	PV First Name	PV Middle	PV Suffix	PV Vote Date	PV County of Registration
1489	DOE	JOHN			03/15/2016	UNION
DMV Status	DMV Last Name	DMV First Name	DMV Middle	DMV Suffix	DMV Date of Registration	DMV County of Registration
FOUND	DOE	JOHN				UNION

DMV Record of Registration – Wrong County

If there is a date in the **DMV Date of Registration** field, you should next look at the county in which the voter was living *at the time of the DMV activity*. If the customer was not living in the same county as the county in which the provisional ballot was cast, the provisional application should not be approved unless there is some other record of timely voter registration in the county.

In the image below, Ms. Doe voted provisionally in **Union County** on 3/15/2016. Her DMV record does

	PV Last Name	PV First Name	PV Middle	PV Suffix	PV Vote Date	PV County of Registration
1491	D DE	JANE	B		03/15/2016	UNION
DMV Status	DMV Last Name	DMV First Name	DMV Middle	DMV Suffix	DMV Date of Registration	DMV County of Registration
FOUND	D DE	JANE	B		08/27/2014	MECKLENBURG

show DMV registration activity on 8/27/2014, but the activity occurred when she was living in **Mecklenburg County**. Unless Union County is able to find some other timely voter registration attempt for her, Jane Doe’s provisional application would have to be disapproved. [Example is based on March 15, 2016 election date.]

DMV Record of Registration – Same County as County of Provisional Vote

If there is a date in the **DMV Date of Registration** field, you should next look at the county in which the voter was living *at the time of the DMV activity*. If the customer was living in the same county as the county in which the provisional ballot was cast, then the provisional application would be approved if the date of registration was on or before the voter registration deadline for the current election and the DMV activity date is later than any other registration activity for the person in another county or state.

In the image below, Mr. Doe voted provisionally in **Person County** on 3/15/2016. His DMV record shows DMV registration activity on 8/14/2015 and the activity occurred when he was living in **Person County**. If there is no additional evidence or information that Johnny Doe was domiciled or registered/voted in another jurisdiction (county or state) between 8/14/2015 and 2/14/2016* (30 days prior to the date of the election), then his provisional application should be approved. [Example is based on March 15, 2016 election date.]

	PV Last Name	PV First Name	PV Middle	PV Suffix	PV Vote Date	PV County of Registration
1199	DOE	JOHNNY	P		03/15/2016	PERSON
DMV Status	DMV Last Name	DMV First Name	DMV Middle	DMV Suffix	DMV Date of Registration	DMV County of Registration
FOUND	DOE	JOHNNY	P		08/14/2015	PERSON

Missing Information on Provisional Application or Reasonable Impediment Declaration

If your election officials or any voter failed to get all required information on either the provisional voting application or the reasonable impediment declaration, all reasonable attempts must be made to obtain this information. It is acceptable to contact the election official or the voter for this purpose.

Due to the time constraints associated with canvassing elections, it is important to make an initial review of all provisional applications and reasonable impediment declarations ASAP but in any case no later than the end of day on Wednesday, June 8th in order to identify any voters that should be contacted. We want to give voters as much time as possible to respond. For counties that are unable to accomplish this task by end of day on

Wednesday, please email kim.strach@ncsbe.gov and veronica.degraffenreid@ncsbe.gov so that we can discuss any needs to delay your county canvass. We understand the enormous time constraints you must contend with and want to help you in any way to complete a thorough canvass in the time you need.

If a person voted provisionally for some reason other than **NO ACCEPTABLE ID**, the election official was required to note on the voter's provisional application whether acceptable ID was provided. If the election official failed to note whether ID was provided, contact the official who worked at the Help Station to confirm that the provisional voters were asked to show proper ID. Annotate the provisional voting application with this information.

A voter should not be harmed by any failure of an election official to ask for the ID or the failure of the official to note that ID was provided.

Remove Due to List Maintenance (After two federal elections)

A voter who has had no contact with the county board over a period of time and whose mail has been returned undeliverable, may have been removed as part of a previous list maintenance action. If the voter has in fact maintained continuous residence in the county, and there is no evidence to the contrary (e.g., move-within-state, move-out-of-county) the voter is considered to be eligible. The county board of elections shall count the voter's provisional ballot. **GS § 163-82.14(d)(3)**

Reasonable Impediment

Voters who cast a provisional under the *reasonable impediment* provision are not required to return to the board of elections and show a photo ID unless the voter failed to provide one of the alternative non-photo IDs. If Jane Doe did not provide one of the non-photo IDs, then she has until **noon on Monday, June 13, 2016** to go in person to the board of elections office and either present a voter registration card, or a HAVA document bearing her name and address, or provide SSN-4 and date of birth.

SSN-4 Validation

If John Doe provided his date of birth and the last four digits of his social security number as alternative identification, check his voter record to verify this information. If there is no SSN-4 on the voter record, scan his reasonable impediment declaration into **VoterScan** and enter the SSN-4 as part of the data entry. This will permit the SSN-4 to be validated. Once validated and processed through to **VoterView**, you will then be able to match the SSN-4 from the voter record to the information in the provisional module. You do not need to pre-validate the SSN-4 if Mr. Doe provided either a HAVA document or his voter registration card as the alternative non-photo ID.

Please refer to Numbered Memo 2016-01 regarding reasonable impediment provisional ballots. If the reason provided by the voter on the reasonable impediment declaration does not provide enough information for the county board to understand the impediment being declared, the county board may not disapprove that provisional ballot unless the staff makes at least two documented attempts to obtain the information from the voter.

As stated earlier, in order to ensure that voters are contacted in a timely manner and have enough time to respond prior to statutory deadlines, staff should review any reasonable impediment declarations by the end of day on Wednesday, June 8th. Initial contact to a voter requesting additional information should also be made by the end of day on June 8th.

No Acceptable ID-Show ID before canvass

If Jane Doe cast a provisional ballot due to NO ACCEPTABLE ID and did not declare a *reasonable impediment*, she must go in person to the board of elections office no later than **12:00 noon on Monday, June 13, 2016**, and show her ID. A board of elections must have persons available to evaluate the ID and ensure it meets the requirements under the law. **GS § 163-166.14(e)**

Unreported Moves

If a John Doe has moved within the same county of registration but to another precinct and failed to notify the board of elections, he may vote in his new precinct, old precinct or a central precinct. For purposes of the June 7th election, Mr. Doe's legal voting residence – or proper precinct – is based on where he was living on **May 8, 2016**. This date is 30 days prior to the date of the election.

At the new precinct, old precinct or a central precinct, if Mr. Doe votes a provisional ballot (in lieu of a precinct transfer) due to his unreported move, the provisional ballot shall count or partially count for all contests for which he is eligible to vote. **GS § 163-82.15(e)**

If Jane Doe moved to another county or state on or before **5/8/2016**, she is no longer qualified to vote in the previous county. She has been removed from her former domicile for 30 or more days. In this case, her provisional application must be disapproved. **GS §§ 163-55; 163-57(4)**

If Ms. Doe moved after 5/8/2016, her proper precinct is the voting site for the previous address. She was not yet eligible to vote at the voting site for her new address. This is true even if she moved out of the county or state after 5/8/2016. **GS §§ 163-55; 163-57(4)**

Note: If an election official mistakenly required an inactive voter who affirmed that there was no change of address, the provisional application must be approved. Inactive voters should not be required to cast a provisional ballot if there has been no change to their address. This is not an Unreported Move.

Staff must process address changes prior to finalizing provisionals that are to be counted fully or partially.

Note: An UNREPORTED MOVE is different from INCORRECT PRECINCT.

Incorrect Precinct

If Mr. Doe presents to a precinct other than his proper precinct for the June 7, 2016 election (based on the address where he lived as of **5/8/2016**) and he casts a provisional ballot for presenting to the **INCORRECT PRECINCT**, then Doe's ballot must be counted for all contests for which he is otherwise eligible.

Currently, consistent with a court order, a provisional application may not be rejected because a voter who *resides in the county* voted out of the proper precinct. However, a provisional application may be rejected if a voter *does not live in the county*.

Note: An **INCORRECT PRECINCT** provisional is different from an **UNREPORTED MOVE**.

No Record of Registration

If Jane Doe casts a provisional ballot because her name is not on the voter lists or the precinct official could not locate her name on the voter list, the county board of elections must research her eligibility to vote. If it can be determined after Election Day and before the canvass that she is registered or that she attempted to register before the voter registration deadline (see GS 163-82.4(e)), the county board shall determine that she is eligible and shall count the her provisional ballot.

In researching voter registration, the county board of elections must look at all available resources, including, but not limited to the following:

- **VoterView** (Is the person already registered in the county? Did the election official simply fail to locate the record? Could the voter be registered in a different name?)
- **VoterScan** (Is there a record in the Review or Incomplete Queue and the application date is on or before 5/13/2016 – the voter registration deadline?)
- Statewide Voter Lookup (Is the voter registered in another county and if so, what was the date of the last application in the other county?)
- DMV Database (Did the person register to vote at the DMV on or before 5/13/2016 -- the voter registration deadline? If so, in which county was the voter residing at the time of his or her voter registration activity at the DMV?)

- NVRA Agency records (Did the person register to vote at a NVRA agency on or before 5/13/2016?)

VOTERS REMOVED DUE TO FELONY CONVICTION

Voters who were previously (and properly) removed due to felony conviction are not automatically reinstated after they complete their felony sentence. Persons whose citizenship rights are restored must re-register before the voter registration deadline. Unless the voter registered to vote on or before 5/13/2016, the provisional application must be disapproved. If the person's citizenship rights were restored after 5/13/2016, the voter will be eligible to register in person and vote on Election Day. **GS § 163-82.6(d)**

VOTERS REMOVED DUE TO MOVING OUT OF THE COUNTY

Voters who were previously (and properly) removed because the county received a cancellation notice from another jurisdiction (another county or state), especially if there is proof that the person registered and voted in the other jurisdiction, may not be reinstated. These removed voters were required to re-register upon moving back into their previous county. Unless the person re-registered on or before 5/13/2016, the provisional application must be disapproved.

NCOA NOTIFICATION

A NCOA card returned by a voter to his or her former county of residence confirming a change of address to another county is a proper cancellation notice in the former county. If the former county transfers the notice to the new county and the new county sends a *courtesy* voter registration notice to the voter, the courtesy application shall not be deemed a voter registration attempt in the *new* county. After sending a Need Voter Registration Application incomplete notice, the new county should have archived the incomplete record.

If the provisional voter did not attempt to register to vote in a new county of residence by the voter registration deadline (5/13/2016), the provisional application must be disapproved.

RESIDENCY

If no record of registration can be found for a voter and the voter provides a residential address outside of the jurisdiction in which the provisional ballot was cast, the provisional voting application must be disapproved and the voter registration application must be denied.

DENIED REGISTRATION

If a voter's registration was properly *denied* pursuant to **GS § 163-82.7**, the voter is not registered and the provisional application must be disapproved

Same Day Registration---No Proof of Residence

During the one-stop early voting period, if a person was not registered but wanted to register and vote on the same day, the person was required to provide proof of voting residence. If the registrant could not provide the *proof of residence*, and instead cast a provisional ballot in order to have time to provide the proof later, unless the registrant provided such proof, the provisional application must be disapproved.

The registrant's application must be processed after canvass allowing the voter to be eligible to vote for future elections.

Incorrect Party

If a voter affiliated with one political party casts a primary ballot of another political party, then the ballot must be partially counted for the contests for which the voter is otherwise eligible.

- If a registered DEM voter casts a REP or LIB ballot, then count only the non-partisan contests.
- If a registered LIB voter casts a DEM or REP ballot, then count only the non-partisan contests.
- If a registered REP voter casts a DEM or LIB ballot, then count only the non-partisan contests.

The voter's ballot may be fully counted if the county board of elections finds that the voter's party affiliation was incorrectly listed in their voter record.

Voted During Extended Hours

A court or the State Board may order that one or more polls be kept open after 7:30 p.m. In that case, all voters arriving after 7:30 p.m. will be permitted to vote, but they must vote by provisional ballot. **GS § 163-166.01**

Voter Already Voted

If John Doe cast a provisional ballot because his voter record indicated that he had already cast a ballot and it was later confirmed or determined that this was due to election official error, the provisional application should be approved.

If Jane Doe cast a provisional ballot because her voter record indicated that she had already cast a ballot and the indication cannot be attributed to election official error, the provisional application should be disapproved. A voter is not entitled to more than one ballot.

Any instances of double-voting must be reported immediately to the State Board of Elections.