



# NORTH CAROLINA

## State Board of Elections

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

Phone: (919) 733-7173

**KIM WESTBROOK STRACH**  
*Executive Director*

### NUMBERED MEMO 2016-27

**TO:** County Boards of Elections  
**FROM:** Kim Westbrook Strach, Executive Director  
**RE:** Deadlines for Canvass and Mandatory Recounts  
**DATE:** November 21, 2016

The State Board of Elections yesterday voted unanimously to meet on November 22 to decide several legal issues that may affect the canvass of some county boards of election. These issues include:

Whether, as a matter of law, county boards of election may retrieve the ballot and discount the votes of an individual found to be ineligible, though no challenge was timely brought under Article 8 of the N.C. General Statutes.

If so, whether the basis for a determination of ineligibility may be brought as a protest of election under Article 15A of the N.C. General Statutes or through administrative processes pursuant to G.S. §§ 163-82.14 or 163-182.5.

If so, what procedures should be followed to afford necessary due process while ensuring the timely and accurate authentication of election results.

The State Board did not take jurisdiction over any election protests except for the protest in Bladen County and also declined to stay the canvass proceedings of the county boards of election. Therefore, your board should continue to meet and canvass as scheduled, but at this point SBOE staff cannot provide guidance to county boards regarding protests or other decisions that raise the above legal issues.

#### Deadlines before County Canvass

We are aware that some county boards of election were not able to begin canvassing at the statutorily scheduled time of 11:00 a.m. on Friday, November 18. Please remember that the following deadlines have not changed:

- The deadline for voters to supplement their provisional applications was November 17. All voters must have provided any additional documentation including HAVA identification to the county board of elections by 5:00 p.m. on November 17.
- Similarly, the deadline for receiving military-overseas ballots remains unchanged. All such ballots must have been received by the end of the business day on November 17.

#### Mandatory Recounts Within the Jurisdiction of the County Board of Elections

A candidate for office within the jurisdiction of a county board of elections may demand a recount if the differences between the votes for the requesting candidate and the winning candidate is 1% or less. Races within the jurisdiction of the county board are races for those offices that lie within a single county. Mandatory recounts for multidistrict offices, multi-county referenda, and state and national offices are not within the jurisdiction of the county board.

A recount demand for races within the jurisdiction of the county board of election must be made in writing by 5:00 p.m. on the first business day after the county canvass. If, at that time, the available returns show that a candidate is not entitled to a mandatory recount, but the county director later determines that the margin is within the 1% threshold, the county director must immediately notify the candidate entitled to the recount, and the candidate may demand a recount within 48 hours of notice.