



# NORTH CAROLINA

## State Board of Elections & Ethics Enforcement

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

Phone: (919) 733-7173

**KIM WESTBROOK STRACH**  
Executive Director

### NUMBERED MEMO 2018-05

**TO:** County Boards of Elections  
**FROM:** Kim Westbrook Strach, Executive Director  
**RE:** Canvass Procedures and Provisional Ballots  
**DATE:** May 17, 2018

This Numbered Memo outlines administrative procedures for rendering decisions on provisional ballots and for canvassing elections. Procedures implementing election laws must be uniformly applied throughout North Carolina, and the directives in this Memo help ensure consistency in practices by county boards. The Memo amends statute citations and contains updates to directives previously contained in Numbered Memos 2016-09 and 2016-10. Administrative directives develop in response to new laws, advances in technology, and lessons learned.

For many board members, this will be the first election cycle in their positions. Please distribute this Memo to your county board members.

The contents of this Memo are arranged in two parts: Provisional Review (Sections 1 through 1.15) and Canvass (Sections 2 through 2.10, beginning on page 9).

## **1. PROVISIONAL REVIEW**

A provisional ballot is used to record a vote when there are questions about an individual's eligibility to vote in the contests on the ballot. Provisional voting involves an application completed by a voter and a ballot that will count in full, in part or not at all, depending on the applicant's eligibility to participate in the contests on the ballot.

The county board of elections staff will conduct research after Election Day and board members must ultimately decide whether the applicant was properly registered and eligible to participate in the contests on their provisional ballot. All eligible votes—including provisional votes—must be counted before election results are finally certified. Federal law requires election officials to offer provisional ballots, and it is the duty of county board members to ensure all provisional applications are fully reviewed.

In determining whether to count a provisional ballot in full, in part, or not at all, county boards should be guided by the following:

1. The applicant must be a registered voter in the county. G.S. § 163A-860
2. If the applicant's name was 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 the registration deadline. This means either:
  - a. A Voter Registration Application was received by the county on or before the registration deadline. G.S. § 163A-863(f)
  - b. A Voter Registration Application was submitted at a public assistance agency or the Division of Motor Vehicles (agencies required to offer registration services under the National Voter Registration Act) on or before the voter registration deadline. G.S. § 163A-884(h)
3. Contests in which the applicant may be eligible to participate are based on their residence as of 30 days before Election Day. G.S. § 163A-841
4. Contests in which the applicant may be eligible to participate are based on his or her party when the voter rolls are closed following the voter registration deadline. GS §§ 163A-843; 163A-881(d).
5. The applicant must meet the requirements for voting under GS §§ 163A-1137(a); 163A-1145; 163A-1146; and 163A-1167.
6. The applicant 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. G.S. § 163A-1142(2)

An applicant may choose provisional voting for a variety of reasons. Sections 1.1 through 1.15, below, describe important resources and how best to handle the different scenarios under which provisional voting occurs. Whatever the circumstances, the county board's task is to determine whether the applicant is eligible to participate in the contests on his or her provisional ballot.

## **1.1 DMV PROVISIONAL RESEARCH**

DMV provisional research includes in-person transactions and online transactions that occurred when the person received services. County board staff have access to a *DMV Web Match* report and will use it as a reference in conducting DMV research.

If the research shows that the provisional applicant made an attempt to register to vote at the DMV (or opted for voter registration services using the online system) on or before the voter registration deadline, the provisional application must be approved as long as there is no information showing

the provisional applicant was registered elsewhere after the date of the DMV activity. The vote must count even if the county board office has not yet received the signed application as a follow-up to the DMV data indicating a valid registration attempt.

If the applicant's registration activity with the DMV occurred after the voter registration deadline, and the applicant is not otherwise properly registered, the 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 (not the internet).

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

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
- Registered after deadline.

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. In non-presidential election cycles, DMV is generally the greatest single source of voter registration activity in North Carolina, and DMV research is a vital tool in the county board's review of provisional applications.

## 1.1.2 UNDERSTANDING THE DMV RESEARCH REPORT

### *No Record of Registration*

County board staff should bear in mind a number of details necessary to properly understand the DMV research reports.

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 staff finds 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, staff should next look at the county in which the voter resided at the time of the DMV activity. If the voter was not living in the same county as the county in which he or she cast the provisional ballot, then 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 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.]

	PV Last Name	PV First Name	PV Middle	PV Suffix	PV Vote Date	PV County of Registration
1491	DDE	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	DDE	JANE	B		08/27/2014	MECKLENBURG

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

Just as before, if there is a date in the *DMV Date of Registration* field, staff should next look at the county in which the voter was residing at the time of the DMV activity. If the voter was residing in the same county as the county in which the provisional ballot was cast, then the provisional application would be approved, provided that 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

**1.2 MISSING INFORMATION ON PROVISIONAL APPLICATION**

If an election official failed to obtain all required information on the Provisional Voting Application, 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 as early in the process as possible to allow sufficient time to contact voters.

**1.3 REMOVED DUE TO LIST MAINTENANCE**

A provisional applicant may not appear on the voter rolls because he or she was previously removed as part of a uniform list maintenance action. If the voter has maintained continuous residence in the county, the voter remains eligible to vote. The county board should verify that there is no evidence within our election systems indicating that the voter in fact resided elsewhere (ex. move-within-state, move-out-of-county). The voter’s written or verbal affirmation regarding their continuous residency is sufficient to confirm ongoing eligibility, absent evidence to the contrary, and the county board must approve the provisional application. G.S. § 163A-877 (d)(3)

## **1.4 UNREPORTED MOVES**

A registered voter who has moved within the same county but had not previously updated his or her registration may vote in the new precinct, the old precinct or a central location designated by the county board. A voter in this situation may prefer the provisional voting process.

If the voter moved within the same county more than 30 days before Election Day, their proper precinct is the new precinct. A provisional application submitted in the old precinct should be approved, but the county board should only count votes cast in contests for which the voter is eligible based on his or her new residence. G.S. § 163A-878 (e)

If the voter moved within the state fewer than 30 days before Election Day, their proper precinct is the one associated with their old address, because they are not yet qualified to vote in their new jurisdiction. A provisional application submitted in the new precinct in the same county should be approved, and the county board should count all votes cast in contests for which the voter is eligible based on his or her old residence. G.S. § 163A-841(a)

A provisional application submitted in a new county in which the voter had not timely registered must be disapproved. Similarly, a provisional application submitted in a voter's former county must be disapproved if the voter left the county more than 30 days before Election Day. G.S. § 163A-842(4).

Note: If an election official mistakenly required a provisional application from 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.

An Unreported Move is different than an Incorrect Precinct in the provisional review process.

## **1.5 INCORRECT PRECINCT**

If a voter submits a Provisional Voting Application simply because he or she presented in a precinct other than his or her proper precinct, the county board should approve the application and count all votes cast in contests for which the voter is eligible. Note that the statutory requirement to count such provisional votes derives from G.S. § [163-182.2\(a\)\(4\)](#), which was judicially reinstated under *NAACP v. McCrory*, 831.F.3d 204, in 2016 (the current language in G.S. § 163A-1169(a)(4) does not reflect the reinstated provision linked above).

Note: An Incorrect Precinct provisional review is different from an Unreported Move.

## **1.6 NO RECORD OF REGISTRATION**

If a voter submits a Provisional Ballot Application because his or her name did not appear on the voter list or the precinct official could not locate the individual's name on the voter list, the county board of elections must research her eligibility. If it can be determined after Election Day and before the canvass that the applicant had properly registered or timely attempted to register before

the voter registration deadline (*see* G.S. § 163A-863(f)), the county board shall approve the application and count all votes cast in contests for which the voter is eligible.

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 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 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 the voter registration deadline?)

### **1.7 VOTERS REMOVED DUE TO FELONY CONVICTION**

Voters who were previously (and properly) removed due to felony conviction are not automatically reinstated after completing their felony sentence. Persons whose citizenship rights are restored must re-register on or before the voter registration deadline. There is an exception for those who are restored to citizenship rights after the voter registration deadline; such voters may register in person and vote on Election Day under G.S. § 163A-865(f).

Unless the voter has properly re-registered to vote, the Provisional Voting Application must be disapproved.

### **1.8 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) are not eligible unless the voter timely registers to vote upon their return to the county. An application submitted by a provisional voter would be disapproved.

### **1.9 N.C.O.A. NOTIFICATION**

A National Change of Address (N.C.O.A.) 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, the provisional application must be disapproved.

### **1.10 RESIDENCY**

If no record of registration can be found for a voter and the voter provides a residential address outside of the jurisdiction of the county in which the provisional ballot was cast, the Provisional Voting Application must be disapproved and the Voter Registration Application must be denied.

### **1.11 DENIED REGISTRATION**

If a voter's registration was properly denied pursuant to G.S. § 163A-867, the applicant is not a registered voter and the Provisional Voting Application must be disapproved.

### **1.12 SAME-DAY REGISTRANT WITHOUT PROOF OF RESIDENCE**

During the one-stop early voting period, a person seeking to use same-day registration would be required to provide proof of voting residence. (For guidance regarding the reinstated same-day registration options and identification requirements, *see* the judicially reinstated provisions of G.S. § [163-82.6A](#) and [Numbered Memo 2016-15](#)). If the registrant did not provide the proof of residence, and instead submitted a Provisional Voting Application, the applicant must produce the required proof of residence to the county board of elections office on or before the day preceding canvass.

If required proof is timely provided, the county board should approve the application and count all votes cast in contests for which the voter is eligible. If proof is not timely provided, the registrant's application must be processed after canvass, allowing the voter to participate in future elections.

### **1.13 INCORRECT PARTY**

Sometimes a voter affiliated with one political party submits a Provisional Voting Application to vote a ballot for a different political party's primary. The county board should conduct research to confirm the voter's affiliation. If the record confirms the voter is registered in the county and the voter has an eligible ballot for this election, the county board will open the provisional envelope and proceed to count only contests in which the voter was eligible to participate (non-partisan contests, if any). In the provisional module this would be considered a partial vote. The voter's ballot shall be fully counted if the county board finds that the voter's party affiliation was incorrectly listed in their voter record.

Voter history should be given to any voter who has a contest that was counted, even if that contest contains only undervotes. If you have made any errors regarding voter history, remember that amendments to voter history can still be made after canvass.

### **1.14 VOTED DURING EXTENDED HOURS ON ELECTION DAY**

The State Board may order that one or more precincts remain open after 7:30 p.m. on Election Day. In that case, all voters arriving after 7:30 p.m. will be permitted to vote, but they must vote by provisional ballot. In these narrow cases, the provisional process is in place merely to preserve the ability of a court or other tribunal to consider whether the polls should have remained open. Under statute, provisional applications submitted solely due to extended voting hours must be approved and the votes counted if no contrary judicial order has issued by canvass. G.S. § 163A-1130

### **1.15 ALREADY VOTED**

If the poll book indicates that a voter has already voted, that individual may wish to submit a Provisional Voting Application and provisional ballot. The county board must then determine whether the individual had in fact voted previously in the same election. Because no voter is entitled to vote more than once in an election, the county board must disapprove the application of any voter who has already voted. Instances of attempted double-voting should be reported to State Board investigators for further review.

If the poll book inaccurately indicated that the voter had already voted, no administrative error should act to prevent a qualified voter from participating, and the county board should approve the application.

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

*The above scenarios provide guidance on the proper approach for county boards reviewing provisional applications and the determinations regarding the contests for which a voter may be eligible. As elections officials are keenly aware, however, multiple reasons may converge in a single instance of provisional voting (ex. a voter may try to vote in the wrong party and the wrong precinct). Regardless, county boards are encouraged to keep in mind the core objective is to research the applicant and ultimately count votes cast in races for which the voter was eligible, if any.*

## **2. CANVASS PROCEDURES**

***Canvass is the board's responsibility.*** Board members are ultimately responsible for ensuring the accuracy and integrity of election results; *canvass* is how they carry out that duty.

Statute provides that *canvass* is more than a pro forma meeting, nor is it a rubber-stamping by the board staff's preparatory work. Rather *canvass is*:

*[T]he entire process of determining that the votes have been counted and tabulated correctly, culminating in the authentication of the official election results.*

G.S. § 163A-1172(a). In support of this process, a board of elections conducting canvass has the authority to send for papers and persons, and to examine such documents or question such persons for the purpose of making determinations as to the legality of disputed ballots.

The county canvass date and time are set by statute: *at 11:00 a.m. on the 10th day after every election.* G.S. § 163A-1172(b). At that meeting the board's purpose is:

*[T]o complete the canvass of votes cast and to authenticate the count in every ballot item by determining that all votes have been counted and tabulated correctly. If, despite due diligence by election officials the initial counting of all the votes has not been completed by the statutory date, the county board may hold the canvass meeting at a reasonable time thereafter. The canvass meeting shall be at the county board of elections office, unless the county board, by unanimous vote of by three members, designates another site within the county.*

G.S. § 163A-1172(b). Ensuring the integrity of every election is our primary responsibility as elections administrators. County board members have a critical role in this process. Ultimately, county board members will sign the certification documents that authenticate and certify that the election results are true and accurate.

The below must occur as part of every election canvass:

## **2.1 ALL MEMBERS PRESENT**

All county board members must be present for canvass under G.S. § 163A-916: "All members of the board shall attend the canvass and all members shall be present for the hearing of challenges to absentee ballots."

## **2.2 PUBLIC NOTICE**

County boards of elections members may take no action outside a meeting for which there has not been proper public notice. See G.S. §§ 143-318.10 and 143-318.12(b).

The county board must issue public notice of any meeting involving the counting of ballots. In addition to being posted in public, the notice lists for a canvass meeting shall include all individuals and institutions that usually receive notice of meetings. It is best practice to notify leadership of any recognized political parties with a presence in the county.

Any voter of the county or other member of the public must be permitted to attend the meeting and be allowed to observe the counting process, provided that no one shall interfere with the election officials as they count the ballots or are engaged in the discharge of their other duties. If media are present and filming or photographing proceedings, it is best practice to remind those present that it is not permitted to capture the image of a voted ballot under G.S. § 163A-1133(c).

### **2.3 RECONCILIATION**

One of the most important tasks conducted during the canvass process is reconciliation. Many levels of reconciliation take place before the final certification of results are concluded and involve comparing data against inventories of voting supplies (such as ballots and data storage cards), total ballots cast, and total provisional and absentee ballots. The process begins with early voting and continues through precinct reconciliation and until final canvass.

If any issues are identified in a county board's efforts to reconcile, those issues must be addressed immediately. If you do not address reconciliation issues initially, problems may carry forward and affect your broader canvass process. The State Board Office conducts a number of audits to assist counties in identifying issues throughout the canvassing process, but there are certain reconciliation processes that are not captured in electronic data and that county staff must vigilantly review. For example, the State Board Office does not have data that captures the physical number of provisional ballots you receive from the polling location, and it is imperative county reconciliation processes includes comparing the physical number of provisional ballots to the provisional module application within SEIMS and any poll book information. If there is a discrepancy, you must investigate, identify and document the reason for the discrepancy.

Any staff reconciliation process that is conducted must include documentation that is signed by two staff members. This documentation must be maintained and available for county board members during their canvassing meetings. The two-staffer requirement emerged to combat inadvertent errors and criminal misconduct, both of which have affected county reconciliation processes in the past.

### **2.4 COUNTING OF ABSENTEE BALLOTS ON ELECTION DAY**

County boards meet at 5 p.m. on Election Day (or earlier if a resolution is adopted at least two weeks before the date of the election) in the board office or other public location for the purpose of counting all absentee ballots, except those:

- Challenged before 5 p.m. on Election Day, or
- Received after 5 p.m. on the day prior to Election Day. [*Note*: The

legislature has not updated G.S. § 163A-1315(1) to include proper internal citations].

The counting of absentee ballots shall be continuous until completed and the members shall not separate or leave the counting place except for unavoidable necessity. As each ballot envelope is opened, the board shall check off the name of the absentee voter. For the preservation of secrecy, the ballots shall be placed in the appropriate ballot box or container for tabulation. After all ballots have been placed in the boxes, the counting process shall begin.

At each of the absentee meetings prior to Election Day, it is permissible for the Board, after approval of each absentee ballot, to cause staff to take preparatory steps and remove those ballots from their envelopes and have them read by an optical scanning machine, without printing the totals.

*Documents to be prepared and signed by the county board*

The following documents shall be prepared for the county board of elections' review and signatures:

1. **The poll book of absentee voters.** As soon as the absentee ballots have been counted on Election Day, the board members and assistants employed to count the absentee ballots shall each sign the poll book of absentee voters, with the signature to be affixed immediately beneath the last absentee voter's name. The county board of elections shall be responsible for the safekeeping of the poll book of absentee voters.
2. **The results tapes of electronic absentee ballot count.** When absentee ballots are counted electronically, the members of the board present shall sign the results tape, which shall be retained for purposes of review and examination at the official county canvass proceeding.
3. **The absentee abstract.** The board members shall cause the results of the tally to be entered on the absentee abstract. The abstract shall be signed by the members of the board in attendance and shall then be scanned and uploaded electronically to the State Board of Elections & Ethics Enforcement.
4. **The chain of custody report(s).** Voted ballots shall be properly secured and a documented chain of custody shall be maintained for the ballots, tapes, poll book and other documentation/media related to tabulation.

**2.5 COUNTING OF ADDITIONAL ABSENTEE BALLOTS RETURNED BY MAIL (G.S. §§ 163A- 1311 and 163A-1315(11))**

County boards of election must have an additional meeting following the day of the election and prior to the date of the county canvass to consider absentee ballots received by mail after 5 p.m.

on the day prior to Election Day that are deemed timely. Civilian absentee ballots received by mail after Election Day are timely if they are postmarked on or before Election Day and received by 5 p.m. on the third day following Election Day. Military and overseas ballots that are received by mail after Election Day are timely if they are received no later than 5 p.m. on the last business day prior to the county canvass. These additional absentee ballots shall be counted on the day of the county canvass.

At least one board member of each political party shall be present for the counting of absentee ballots. This fact shall be publicly declared and entered in the official minutes of the absentee board meeting. The county may use assistants in the counting of the official ballots, but the county board members are responsible for observing and supervising the opening and tallying of the ballots.

***Documents to be prepared and signed by the Board***

The following documents shall be prepared for the county board of elections' review and signatures:

1. **The results tape for electronically counted absentee ballots.** When absentee ballots are counted electronically, the members of the board present at the canvass meeting shall sign the results tape, which shall be retained for purposes of review and examination at the official county canvass proceeding, along with the Election Day absentee results tape.
2. **The civilian and military-overseas certified lists of executed absentee ballots returned on or after Election Day.** The county board of elections staff shall prepare these lists in triplicate and the board shall sign all three originals of each list. One signed original of each list shall be electronically uploaded to the State Board of Elections & Ethics Enforcement.
3. **The supplemental absentee abstract.** The county board members shall cause the results of the tally to be entered on the supplemental absentee abstract. The abstract shall be signed by the members of the board in attendance and the original Election Day absentee abstract and the supplemental absentee abstract shall be mailed immediately to the State Board of Elections & Ethics Enforcement.
4. **The poll book of absentee voters.** The board shall sign the final poll book of absentee voters at this time.
5. **The chain of custody report(s).** Voted ballots shall be properly secured and a documented chain of custody shall be maintained for the ballots, tapes, poll book and other documentation/media related to tabulation.

The following must be heard by the county board of elections on the day of the county canvass:

- Any challenge to an absentee ballot that was properly brought on the day of any primary or election; and
- Any challenge to an absentee ballot that was timely mailed by Election Day and received by the county board of elections after Election Day, and was properly challenged no later than the time set by statute.

Notice must be provided to all challenged voters. All members of the board of elections shall attend the canvass and must be present for the hearing of the challenges to an absentee ballot under G.S. § 163A-916.

Note: Challenges to absentee ballots may not be heard any sooner than the day and time set for the county canvass.

### **1.7 COUNTING OF WRITE-IN VOTES (G.S. § 163A-1169(a)(2))**

If write-in votes are not counted at the precinct after the close of polls, any write-in votes cast at the county board of elections office shall be conducted in the presence or under the supervision of the bipartisan county board. G.S. § 163A-1169(a)(2)

Write-in votes shall be recorded on a write-in tally sheet, which shall be signed by the members of the county board of elections.

### **1.8 COUNTING PROVISIONAL BALLOTS (G.S. § 163A-1169(a)(4))**

The county board of elections shall meet before canvass and make a determination as to each provisional official ballot. A meeting before canvass may include a meeting on the day of canvass, but such a meeting must occur before 11 a.m.

Under no circumstances shall any county board staff open a provisional envelope or tabulate results before the county board members have made their official determination on the provisional ballot application. In making its determination, the county board may rely on the provisional research conducted by county board staff, but county board members may make additional inquiries of staff as they see fit.

*Please refer to Section 1 of this Numbered Memo regarding the proper review processes necessary to make decisions on Provisional Voting Applications and the counting of votes in eligible contests.* When conducting provisional research, county board of elections staff shall at a minimum follow the instructions in Section 1 of this Memo and review the following resources:

- the voter's provisional voting application

- the county's voter registration database (active, inactive, removed and denied voters)
- pending voter registration applications, including applications in the incomplete or review queue
- the non-public access to statewide voter registration information (intranet site)
- DMV provisional research results

Every effort must be made by county boards of elections to correct administrative errors well before the board meets to consider and count the provisional official ballots. If a voter was properly registered to vote in the election by the county board, no mistake of an election official shall serve to prevent the counting of the vote on any ballot item for which the voter was eligible by registration and qualified by residency to vote. A county board of elections shall never reject a voter's provisional application due solely to an administrative error by an election official.

Staff must review provisional voting applications soon after Election Day to determine if more information is needed from a provisional voter to assist the county board of elections in making the proper determination as to whether to count a person's ballot. Such administrative efforts may include, for example, following up with a voter in order to:

- Have the voter sign the provisional voting application, if it was not signed
- Have a voter who claims to have registered at the NC DMV, but for whom no record of registration was found, provide his or her driver license number if it was not provided on the provisional voting application.

If, in the course of reviewing provisional applications, a staff member suspects that improper instructions were given by a precinct official or finds that information is missing on the application, he or she shall make every effort to ensure that the voter is given the opportunity to provide the required information.

It is essential that the process for handling provisional ballots is followed. County boards should be making decisions as to the disposition of provisional ballots based on information presented from staff research, rather than from unofficial or unverifiable sources of information.

Again, no provisional envelopes shall be opened and tabulated prior to the county board voting on the disposition of a provisional ballot. The opening and tabulation of approved ballots shall be done in the presence and under the supervision of board members. [**Note:** Before a provisional ballot is separated from its envelope, county board staff shall ensure that the election official wrote the correct PCT/VTD number on the ballot; if not, the correct PCT/VTD shall be written on the ballot before the ballot is tabulated, and thus becomes no longer identifiable with a voter.]

### ***Partial-Count Procedures***

With respect to ballots that must be partially counted, the county board of elections shall have a process to count the contests for which the voter is eligible. The county board of elections shall select one of the following processes to count eligible contests:

- ***Ballot duplication*** – Either the county board members or a bipartisan team shall assemble to duplicate the original provisional official ballot. Until certain auditing improvements are made to SEIMS and in light of the new 30-day precinct sort, it is within the county board’s discretion to duplicate the partially counted ballots either onto a ballot of the *same style* as that cast by the provisional voter or on a ballot of the *proper style* assigned to the voter. The team shall mark the blank ballot for all contests which the voter is eligible to vote. The board shall annotate the blank ballot by some indication or marking that the ballot is a duplicate of the original ballot, minus the contests in which the voter was ineligible to participate. When using this method, one team member shall call out the voter’s ballot choice and the other team member shall mark the blank ballot. Ideally, a third person will then review and compare the original ballot to the duplicated ballot, or, in the absence of a third person, the two-person team can switch ballots and roles and permit the caller to review the ballot marked by the first person, and vice versa. The duplicated ballot shall then be tabulated along with fully counted provisional official ballots.
- ***Hand-tally*** – Either the county board of elections or a bipartisan team of election officials shall assemble to hand-tally the votes cast for all eligible contests and ballot choices. When using this method, one team member shall call out the voter’s ballot choice and the other team member shall mark a tally sheet. A third person shall observe the team’s actions of calling and marking the tally sheet.

Once the county board of elections has made a final determination as to the provisional official ballots for the election, the county board of elections staff shall prepare a final disposition report for the board of elections members to review and sign. Once signed, the ballots that are to be counted (fully or partially approved) shall be tabulated. Regardless of whether the ballots are electronically tabulated with the use of certified and tested voting equipment, or are instead hand-tallied, the results of the tabulation shall be signed by the county board of elections members or the bipartisan team of election officials who participated in the count.

The final disposition report and the counted official provisional ballots shall be sealed together and maintained as part of the official documentation of the election. The signed results tapes shall be retained for purposes of review and examination at the official county canvass proceeding.

### ***Documents to be prepared and signed by the Board***

The following documents shall be prepared for the county board of elections’ review and signatures:

1. The report of “*provisional voters by precinct voted.*”
2. The results tapes. When provisional ballots are counted electronically, the results tape must be signed by the members of the board present at the canvass meeting. Board members shall sign the tape before the tabulation begins (the “zero tape”) and then again after the tabulation is complete. These signed results tapes shall be retained for purposes of review and examination at the official county canvass proceeding.
3. Chain of custody report(s). Voted ballots shall be properly secured and a documented chain of custody must be maintained for the ballots, tapes, poll book and other documentation/media related to tabulation.

## **2.9 FINAL CANVASS PROCEEDINGS**

To complete the canvass of votes cast and to authenticate the count in every ballot item in the county by determining that the votes have been counted and tabulated correctly, the county board of elections must:

- examine the returns from all Election Day precincts
- examine the returns from absentee official ballots
- examine the sample hand-to-eye paper ballot counts
- examine the returns from provisional official ballots

After examining the returns, the board shall conduct the canvass and sign the official abstract of results.

## **2.10 UNITY SOFTWARE**

The process of reading electronic media (e.g. PCMCIA cards) into the Unity tabulation or entering manual results into SEIMS Election Reporting software shall include the following security measures:

- At no time shall results be read or manually entered into a system without county board supervision.
- If any manual entries are executed, paper documentation that has been signed by appropriate election officials must match those edits. The documentation shall be maintained and secured as part of the tabulation documentation. As always, do not enter manual entries directly into Unity. Any manual entries must be done in Election Reporting.