Numbered Memo 2020-10

TO: County Boards of Elections
FROM: Karen Brinson Bell, Executive Director
RE: Second Primary Preparations
DATE: March 11, 2020

This numbered memo addresses common questions about voter registration and voting for the second primary. It only applies to counties conducting the second primary. The runner up in the Congressional District 11 Republican Primary is eligible for and has requested a second primary. The second primary for CD11 will be held on Tuesday, May 12, 2020.1

No other second primaries are anticipated to take place, as we have received indications that the runner-up in the Democratic Lieutenant Governor’s race will not request a second primary.

Photo ID Injunction
Temporary injunctions preventing implementation of the photo ID law remain in place. The law was enjoined by a federal district court on December 31, 2019. See Numbered Memo 2019-01. It was also enjoined by the North Carolina Court of Appeals on February 18, 2020. Therefore, photo ID will not be in effect for the second primary. You should ensure that your precinct officials are trained accordingly and that the signs provided by the State Board are posted at every voting site and at your county board office.

Early Voting Plans
The early voting period for the May 2020 second primary begins Thursday, April 23, 2020 and ends Saturday, May 9, 2020. County boards of elections are not required to use the same early

1 G.S. § 163-111(e) (relevant portion): “If a second primary is required under the provisions of this section, the appropriate board of elections, State or county, shall order that it be held 10 weeks after the first primary if any of the offices for which a second primary is required are for a candidate for the office of United States Senate or member of the United States House of Representatives.”
voting plan for the second primary as they did for the first primary. The uniform site and hour requirements for even-numbered year elections remain in place for the second primary. This means, at a minimum, your CBE office or in lieu of site must be open for one-stop voting during regular business hours, plus 8 a.m. to 3 p.m. on the last Saturday of early voting.

If any other sites are open, all additional sites must adhere to the 8 a.m. to 7:30 p.m. weekday hours requirement. If any one-stop site is open on a Saturday or Sunday, then all one-stop sites must be open for the same number of hours on that Saturday or Sunday. If the county board of elections office is open only regular business hours, the uniform dates and hours requirements do not apply to that location. If the county board office or in lieu of site is open beyond regular business hours, the uniform dates and hours requirements apply to that location. All one-stop sites must be open on the last Saturday of early voting (May 9) from 8 a.m. to 3 p.m., including your CBE office or in lieu of site.

If your board has not yet adopted a plan for the second primary, it will need to do so as soon as possible. Please report your one-stop plans to the State Board no later than March 26. Non-unanimous one-stop plans should be submitted by March 19 if possible. The State Board will meet on March 20 and will consider non-unanimous plans submitted prior to that date.

**Ballot Quantity**

For the 2020 second primary, county boards of elections are required to procure a supply of paper ballots as follows:

- For counties that use pre-printed paper ballots as their primary method of voting, order ballots at least equal to 30% of the number of eligible Republican voters in the county, as calculated when ballots are ordered before the election;

- For counties that use ballot on demand/ballot-marking devices and blank stock as their primary method of voting, prepare pre-printed paper ballots at least equal to 20% of the number of eligible Republican voters in the county, as calculated when ballots are ordered before the election. Blank stock should be on hand equal to 30% of eligible Republican voters.

You should be familiar with Numbered Memo 2020-02, which contains additional information regarding ballot preparation and distribution.
Unaffiliated Voter Participation in the Second Primary

Unaffiliated voters who participated in the first primary may only be given a ballot style of that same party during the second primary. Specifically, the following guidelines are in place:

- Unaffiliated voters who voted a Republican ballot in the first primary may only vote a Republican ballot in the second primary.
- Unaffiliated voters who voted a nonpartisan, Democratic, or Libertarian ballot in the first primary are not eligible to participate in the second primary.
- Unaffiliated voters who did not vote in the first primary may vote in the second primary and will be issued the Republican second primary ballot.

No Same-Day Registration for Second Primary

Pursuant to G.S. § 163-111(e), voter registration is not permitted between the dates of the first and second primaries. This also means same-day registration is not permitted during the early voting period for the second primary. Voters may make name and address changes during the early voting period but may not change their party affiliation. These limitations only apply to voters in the 11th Congressional District; voters outside of the District may register and update their registrations without these limitations.

Processing Voter Registration Applications

In preparation for the second primary, CBEs holding a second primary should process the following voter registration forms at this time:

- Unreported moves within the county that were allowed by provisional ballot or precinct transfer.
- Any voter registration application, regardless of source, that reports a change of address within the county or a change of name.

The following voter registration applications may not be processed at this time:

- Party affiliation changes
- New registrations in a county

Party affiliation changes and new registrations in the county may be processed after May 12, 2020.

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2 See G.S. § 163-111(e), which states “[t]he second primary is a continuation of the first primary.”
Second Primary Absentee Requests

Any voter who indicated on that voter’s absentee application for the first primary that he or she would like to request an absentee ballot for the second primary if one is called, shall automatically be issued an absentee ballot for the second primary, provided they have an eligible ballot style. In addition, a voter entitled to request an absentee ballot who did not make application for the primary or who failed to apply for a second primary ballot at the time of application for a first primary ballot may request an absentee ballot by **May 5, 2020**.

Voters who signed under the second primary request on the container-return envelope for the first primary should be issued a ballot even if the container return envelope was disapproved. If, for example, the container return envelope was disapproved because there was only one witness, the voter should still be issued a ballot for the second primary provided the voter signed the appropriate line and otherwise has an eligible ballot style.

UOCAVA Absentee Voting

The unavailability of voter registration for civilian voters does not apply to military and overseas voters using the Federal Post Card Application (FPCA) or Federal Write-In Absentee Ballot (FWAB) to register to vote and request an absentee ballot. The deadline for receipt of an FWAB for a new registrant or an FPCA is 5 p.m. on Monday, May 11, 2020. The deadline for receipt of an FWAB for an existing registrant is 7:30 p.m. on Tuesday, May 12, 2020.

As soon as ballots are available, county boards must send ballots to all UOCAVA voters who have an eligible request for a ballot. You must send these ballots as quickly as possible after the ballot information for the second primary has been determined, but no later than **Saturday, March 28, 2020**, in order to meet the federal 45-day deadline. The ballot must be transmitted in the manner specified by the voter. In addition, please be sure that you link the pdf-formatted UOCAVA ballots in SEIMS’s Ballot Style application in order to generate UOCAVA ballot packets that will be transmitted electronically.

County Boards must post a UOCAVA Election Notice to be used in conjunction with the federal write-in absentee ballot. The notice can be pulled from the intranet. It must be prepared no later than **March 23, 2020**. The election notice must contain a list of all of the ballot measures and federal, State, and local offices that, as of that date, the official expects to be on the ballot for that election. The notice must also contain specific instructions for how a voter is to indicate on the

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3 G.S. §§ 163-227.10 and 163-258.9.
federal write-in absentee ballot the voter's choice for each office to be filled and for each ballot measure to be contested.\textsuperscript{4}

The second primary is being added to counties in CD11 and the election setup database. You do not need to add candidates or the contest, as the State Board will do this for you since the second primary contest is within the State Board’s jurisdiction.

\textsuperscript{4} G.S. § 163-258.16(a).