



NORTH CAROLINA

STATE BOARD OF ELECTIONS

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Numbered Memo 2020-11

TO: County Boards of Elections
FROM: Karen Brinson Bell, Executive Director
RE: Coronavirus (COVID-19) Response
DATE: March 15, 2020

As our local, state, and national leaders address the spread of the novel coronavirus (COVID-19), the response to this pandemic impacts the conduct of elections and daily operations for the State Board of Elections and county boards of elections offices. A [statement](#) was released by the State Board of Elections on Thursday, March 12, 2020, and we will continue to keep the public informed about our efforts. This numbered memo provides guidance on immediate actions that may be taken by authority of the Executive Director and other steps that may be taken by county boards of elections. The measures described herein are only in place during the course of the pandemic. We will monitor the progression of the coronavirus and issue additional guidance as needed.

Public Meetings

By [Executive Order](#) of Governor Cooper on March 14, 2020, mass gatherings of more than 100 people are prohibited for the next 30 days and until rescinded or superseded. As of today, March 15, 2020, the Centers for Disease Control and Preventing (CDC) is [recommending](#) that mass gatherings of 50 or more people not be held for the next eight weeks. Most county boards of elections and the State Board of Elections do not see public attendance this large for board meetings. However, if this were to occur, you should comply with the Executive Order. Additionally, the Office of Boards and Commissions communicated on Friday, March 13, 2020, “Any board or commission that must conduct official meetings should try to use electronic means as allowed under NC General Statute 143-318.13 as long as state public meeting requirements are fully satisfied, including the requirements for notice and open meetings law.”

In light of this guidance, we encourage you to conduct meetings telephonically if possible.

The public must be given access to listen to the meeting, which may be accomplished by providing a call-in number. Services such as FreeConferenceCall.com and Zoom have free telephone conference options if your county does not have a service.

Emergency Powers Rule Amendment

As Executive Director, I am statutorily authorized to exercise emergency powers to conduct an election in a district where the normal schedule for the election is disrupted by a natural disaster, extremely inclement weather, or armed conflict.¹ I have adopted an emergency amendment to the rule that explains those emergency power situations. The amendment clarifies that emergency powers may be exercised when an election is disrupted due to a catastrophe arising from natural causes, including a disease epidemic, 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.² The rule is effective March 20, 2020, and a simultaneous rulemaking process is taking place so that the new language remains in place for any future events as well.

Voting Data by Precinct

G.S. § 163-132.5G requires county boards of elections to report returns by voting precinct 30 days after the election. Effective March 20, 2020, I am extending this date by at least an additional 30 days. You will receive further guidance on March 20, 2020, the effective date of the rule.

County Boards of Elections Operations

If your county government offices close or alter work schedules due to the impact of coronavirus, this means your county has determined it is not safe for the county to be open or conduct work as usual. We understand that county boards of elections frequently follow the closures of their county government. This is permissible; however, we encourage your board to specifically adopt a policy regarding closure of the elections office if other county offices are closed if such a policy is not already in place. This policy does not require a unanimous decision, but ideally the board should meet to discuss such a matter. As always, there should be a quorum of the members when a meeting is held and action taken. This will allow your board to make provisions for other essential services (e.g., submission of voter registration forms and other voter documents) as well. The meeting can take place by telephonic or other electronic means, as long as the public has an opportunity to call in.

In the event county offices are not closed, county boards should consider alternative work schedules or arrangements. We encourage county boards to adopt policies for the elections office with

¹ G.S. § 163-27.1.

² A draft of the rule is available here: <https://files.nc.gov/ncoah/documents/Rules/RRC/08-NCAC-01-.0106-proposed-temporary-rule.pdf>.

this in mind. You may consider staggered schedules for staff so that staff members are not interacting with each other closely. This may include designating an area for the public and requiring the prescribed social distancing of six feet, or heightened measures such as quarantining the elections office such that only employees may enter the office and making a public dropbox available outside the office door. You may also consider placing a phone outside the office so that members of the public may still receive assistance.

State government offices, including the State Board of Elections, remain open but have been strongly encouraged to telework. As counties respond to this pandemic, county boards may be encouraged to telework as well. Teleworking in elections is limited since no elections employee may remove voter registration documents, official ballots, campaign finance filings, or other original documents or documents with personally identifiable information (PII) from election facilities. While we will not restrict the use of VPNs during this COVID-19 response period, please recognize the security risk and take all necessary precautions. If elections staff are teleworking, determine tasks or projects that can be done remotely such as preparing training materials and presentations, typing meeting minutes, documenting procedures, making budget preparations, or creating or editing content for the office website. The State Board staff is also using this time to complete or retake cybersecurity learning modules since we have been advised that phishing attempts and other cybersecurity risks may be higher during the coronavirus response period. We request county boards do the same. County boards should develop teleworking agreements for all staff members. We are providing you a copy of the state agreement by email as an example that may be modified for county use.

If your county board of elections office alters operations or closes, please submit a helpdesk ticket. This ticket will be shared with Pat Gannon, SBE Public Information Officer, and the SBE Communications Team, who will in turn post this to the special page on the SBE website regarding coronavirus.

Furthermore, if your office has not developed a continuity of operations plan, this should be done immediately. If you have such a plan in place, review and revise the plan for response to disease.

Re-Canvass Meetings or Delayed Canvass Meetings

Some counties have delayed canvass or need to re-canvass. All board members are required by law to be present for canvass. If a board member is unable to be physically present, the board member must have a way to participate visually as well as telephonically (FaceTime, Skype, Webinar, etc.), because there are matters that require visual inspection by board members, such as reviewing a ballot marking.

If a board member must attend remotely, all materials, including results tapes, canvass documents, abstracts, etc. must be made available to that board member. If a digital signature is not used, the

documents should have a statement providing, “Member was not able to sign but participated telephonically. He/She will sign the documents when she returns and will send an amended signature sheet to the SBE.”

Recounts

Recounts within the jurisdiction of the county board of elections occurring from the 2020 primary election should be scheduled and completed prior to the canvass meeting of the State Board of Elections on March 20, 2020. Because of public health concerns, if the recount cannot be conducted in a room sufficient for the public to view without appropriate social distancing, then county boards of elections may conduct these recounts with only the board members, elections office staff, county (or CBE) attorney, pre-authorized SBE staff, and the affected candidates and parties plus two additional persons selected by each candidate, provided that a livestream of the recount is made available to the public. Services such as GoToWebinar or Facebook Live may be used to livestream. A recording of the livestream should also be made available upon completion.

Processing Voter Registration Applications, Absentee Requests, Petitions, and Other Documents

Voter Registration Applications and related voter registration documents: At this time, county boards of elections should continue to process voter registration applications, except for those counties conducting the 11th Congressional District Republican Second Primary, and any other documents. If your office closes because of this pandemic, you may delay processing voter registration applications and related voter registration documents during the closure. If there are questions with respect to deadlines, you should give the voter the benefit of the doubt in the event the issue was caused by an office closure.

Absentee By-Mail: Counties conducting the Second Primary must make arrangements to fulfill absentee-by-mail requests by the federal 45-day deadline, which is March 28, 2020.

Petitions: **All counties must make provisions to process petitions for countywide or single-county legislative districts.** The deadline for these to be verified is March 28, 2020.

Long-term Response and Task Force

Our approach to this pandemic as it pertains to the conduct of elections is evolving and will be tiered: immediate, short-term, and long-term. Staff and I are regularly receiving briefings from State and Federal partners. This information will continue to be shared with CBEs and the public as available. As the Executive Director, I have volunteered for the Joint Elections Infrastructure COVID-19 Working Group, chaired by the U.S. Elections Assistance Commission in conjunction

with Department of Homeland Security Cybersecurity and Infrastructure Agency, in order help North Carolina be better prepared.

A task force of county election directors and SBE staff will also be designated by Tuesday, March 17, 2020, with an initial telephonic meeting planned at 11 a.m. Wednesday, March 18, 2020. If you are interested in serving on this task force, please email me at karen.bell@ncsbe.gov. The task force will consider immediate steps that should be taken for the conduct of the May 12, 2020 Second Primary and also more long-term steps including legislative requests to administer elections in times of disease epidemics, necessary measures if mail balloting were expanded, and efforts that must be taken to ensure the health and well-being of voters and workers during in-person voting.

More Information on COVID-19

For more information on the State's response and helpful materials about the novel coronavirus, please visit the North Carolina Department of Health and Human Services' dedicated webpage: <https://www.ncdhhs.gov/divisions/public-health/coronavirus-disease-2019-covid-19-response-north-carolina>.