



NORTH CAROLINA STATE BOARD OF ELECTIONS

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Numbered Memo 2020-25

TO: County Boards of Elections
FROM: Karen Brinson Bell, Executive Director
RE: Absentee Board Meetings
DATE: September 22, 2020 (updated September 23, 2020)

Legal Requirements for Absentee Meetings

General Requirements

Beginning every Tuesday on the fifth Tuesday before Election Day, county boards of elections must hold a public meeting at 5:00 p.m. to review and act upon absentee ballots.¹ For the general election, this date is September 29, 2020. The county board of elections may change the time of these meetings (to an earlier or later time) and may provide for additional meetings. However, absentee meetings may not be held prior to Tuesday, September 29, 2020. Any meetings that are held at a different time on Tuesdays and any additional meetings must be noticed in a county newspaper at least 30 days prior to the election, October 4, 2020. You must also send notice of absentee meetings to your regular notice list, including to the county political parties.

At each absentee board meeting, the board must act upon all absentee container-return envelopes received prior to that meeting and after the previous absentee meeting.² An absentee meeting must be held if there are any absentee ballots (absentee by mail or one-stop early voting ballots) for the board to review. Absentee meetings should only be cancelled if the board has not received any absentee container-return envelopes since the last absentee meeting.³ **Because of this statutory requirement and the anticipated significant increase in absentee ballots returned, it is**

¹ G.S. §163-230.1(f), as amended by 2020-17.

² See G.S. § 163-230.1(e): “*At its next official meeting after return of the completed container-return envelope with the voter’s ballots, the county board of elections shall determine whether the container-return envelope has been properly executed (emphasis added).*”

³ See G.S. § 163-230.1(f), entitled “*Required Meeting of County Board of Elections*”: “*During the period commencing on the fifth Tuesday before an election [...] the county board of elections shall hold...(emphasis added).*”

strongly recommended that your board schedule additional absentee board meetings and/or begin meetings earlier than 5:00 p.m.

A county board may recess an absentee board meeting to a date and time certain if it is not possible to complete review of absentee ballots during the specified meeting period. You should send out the notice as soon as possible but it is not required to be sent 48 hours in advance of the reconvened meeting if that is not possible based on when the meeting was recessed from.

To determine how many additional absentee meetings you need to schedule, consider how many absentee ballot requests your county has received to date, how many total requests your county received for the November 2016 election, and estimate how many requests you anticipate based on the county's current rate of requests. For example, if your county received 6,000 requests in November 2016 and you anticipate a 50% increase for this election, that would be 9,000 requests total. If you have six absentee board meetings and everyone who requested a ballot returned one, your board would need to consider approximately 1,500 ballots per meeting. If your board scheduled ten absentee meetings, your board would consider around 900 ballots per meeting.

County Board Member Attendance

Absentee board meetings require a quorum of members present. A quorum is three members.⁴

If at all possible, at least one member from each political party should be represented at each absentee meeting when the board is approving absentee applications. If you only have three members present, you may have one Democrat and two Republican board members, or two Democrat and one Republican board members present. **Because board members must be able to view absentee envelopes in order to approve or disapprove the ballot, a quorum of board members must be physically present during each absentee board meeting.**

Once a quorum is physically present, remaining board members may attend the meetings via live video feed, but they must have a secure way to view the meeting and to participate. They must be able to view all materials that board members are reviewing to make decisions on the absentee envelopes.

A majority of board members present at a meeting must vote for an action for it to pass.

COVID-19 Precautions

Board members, county board staff, and any public participants attending meetings in person must wear face masks during the meeting unless an exception applies. All participants must socially distance and wash or sanitize their hands regularly, but the board and staff should also be cautious

⁴ G.S. § 163-31(d): "A majority of the members shall constitute a quorum for the transaction of board business."

about the excessive use of hand sanitizer when handling ballots. County boards may consider purchasing additional protective equipment such as gloves and transparent tabletop shields to form cubicles around each board member during absentee meetings. CARES Act funds may be used for these purchases. See [Numbered Memo 2020-14](#) for more information.

Public Attendance

Absentee board meetings are public meetings and are subject to North Carolina’s open meetings laws. The recommendation in [Numbered Memo 2020-11](#) to conduct board meetings telephonically due to the COVID-19 pandemic does not apply to absentee meetings where the board is reviewing absentee return envelopes—a primarily visual process. For absentee meetings, it is recommended that the county board locate a meeting room large enough to accommodate members of the public with appropriate social distancing. If it is not possible to procure a sufficiently large space for those who may want to attend in person, the county board of elections must broadcast the absentee board meetings via video feed using a service such as WebEx or Microsoft Teams. If the county board does not have access to appropriate audiovisual equipment or software, the board may use CARES Act funds to procure the necessary equipment or teleconferencing services.

The public must be able to see and hear the proceedings without compromising the secrecy of any voter’s ballot. Staff must ensure that the public cannot view any voted ballots or other confidential information, such as voter signature, on the feed. A staff member should be assigned to monitor the video feed throughout the absentee board meeting to ensure that confidential information is not viewable by the public. County board members and staff must be particularly mindful of ballot secrecy when duplicating ballots and inserting ballots into the tabulator.

The public is not permitted to disrupt the process of adjudicating the validity of absentee applications by the board and is not part of the deliberation process during absentee board meetings. The decision of the county board of elections as to the validity of an envelope is final and is not subject to public comment, objection, or review.⁵

Confidentiality of Absentee Register

G.S. § 163-228 requires county boards of elections to keep a register of absentee ballot requests that includes information about the request, the address to which the ballot should be sent, the date of the request, the voter’s precinct, and other information. In 2019, the General Assembly amended subsection (c) of that section to make the absentee request register confidential and not

⁵ G.S. § 163-230.1(f): “The decision of the board on the validity of an application for absentee ballots shall be final subject only to such review as may be necessary in the event of an election contest.”

a public record until Election Day.⁶ County boards of elections are not permitted to release copies of absentee request forms or identifying information that could be used to determine that a voter requested an absentee ballot.

Absentee request data is no longer confidential when the ballot is returned to the county board of elections office. Therefore, names of absentee voters may be read aloud during the absentee board meetings, as the ballot has been returned to the county board office at that point. Reading from lists of voters who have requested absentee ballots or otherwise releasing the names of voters with outstanding requests is prohibited until the ballot is returned or until Election Day. It is a Class G felony for a person to “steal[], release[], or possess[] the official register of absentee requests for mail-in absentee ballots as provided in G.S. 163-228 prior to the opening of the voting place.”⁷

Delegation of Preparatory Steps to Staff

General Authority

The county board of elections has the authority to delegate to its director “so much of the administrative detail of the election functions, duties, and work of the board, its officers and members, as is now, or may hereafter be vested in the board or its members as the county board of elections may see fit.”⁸ However, the board may not delegate to a director or other staff any of its quasi-judicial or policymaking duties and authority.

Given the significant increase in absentee ballots during this election, the county board should determine which preparatory tasks staff can complete prior to absentee board meetings. **A delegation of administrative duties by the board to the director or staff should occur by majority vote.** The delegation may be by resolution or the approved motion should be documented in the minutes. It should delegate specific preparatory steps that staff can perform prior to absentee board meetings, and the delegation must provide for oversight by the board.

Preparatory steps include:

- Inspecting container-return envelopes for deficiencies and contacting voters as required by [Numbered Memo 2020-19](#) (revised September 22, 2020). Please note that voters must be contacted within one business day of when staff identify the deficiency. It is not permissible to wait for the absentee board meeting to contact the voter about a deficiency.
- Sorting container return envelopes into categories for the board to review and approve.
- Verifying the list of ballot envelopes against the absentee pollbook.

⁶ See Section 1.1.(a) of Session Law 2019-239.

⁷ G.S. § 163-237(d6), as amended by Session Law 2019-239.

⁸ G.S. § 163-35(d).

- Performing ballot duplication.

Staff Review of Envelopes

At each absentee board meeting, the county board of elections reviews each absentee container-return envelope to determine whether it has been properly executed, and if so, to approve the application and ballot.⁹ Given the volume of absentee ballots the county board is required to review and act upon at each meeting, the board should consider ways to streamline the process.

To that end, a county board may take preparatory steps to expedite review of ballot envelopes by the board. After intake, staff must inspect the absentee ballot envelope and make an initial determination as to whether the envelope was properly executed. If a deficiency exists, they must follow the cure process in [Numbered Memo 2020-19](#). Staff should also perform an initial sort of ballot envelopes into categories upon initial review and to present those recommendations to the board at each absentee board meeting. Those categories may include designations for recommended approval, recommended disapproval, envelopes awaiting a cure certification, and those that staff have questions about that require deliberation by the board. The delegation may also require staff to prepare a report to the board indicating the number of ballot envelopes in each category for reconciliation purposes.

The board may by majority vote accept staff's recommendation for absentee ballot envelopes that staff have reviewed and recommended for approval. The delegation must include a process for the board to spot-check the envelopes to ensure accuracy and consistency. However, the board must individually review all ballot envelopes that: (1) have been recommended for disapproval by staff, (2) have a cure certification associated with that ballot envelope, or (3) where staff need further guidance from the board as to whether the envelope was properly executed.

After absentee envelopes are approved by the board, the task of stamping every envelope with "Approved" and stamping or otherwise affixing the chair's signature or initials to the ballot envelopes may be delegated to staff. Alternatively, the board's delegation may authorize the board to sign a cover sheet containing a list of envelopes that were acted upon during the meeting and indicating whether those envelopes were approved or disapproved in lieu of signing the individual envelopes. The delegation may also apply to review and approval of one-stop absentee applications.

It is also permissible for the board to determine that bipartisan teams of board members to pair off to review absentee ballot envelopes during each meeting if the board votes to allow this.

Whether the county board delegates the initial review of absentee envelopes to staff or chooses to have a bipartisan team of board members review envelopes during the meeting, all board members

⁹ G.S. § 163-230.1(e) and (f).

present at the meeting must approve or disapprove the ballots. A decision as to whether an envelope is properly executed must be decided by a vote of the board as a whole and not by individual members.¹⁰

Scanning Absentee Ballots at Absentee Board Meetings

It is important to understand the difference between *scanning* and *tabulating*. “Scanning” is a preparatory step that occurs when the approved absentee ballots are opened, removed from the envelope, and inserted into the tabulator. The tabulator reads the ballots but does not print the totals at that time, and no election returns are released. “Tabulating” or “counting” occurs on Election Day and is the result of the scanning that has taken place.

A county board of elections may by majority vote decide to scan absentee ballots during each absentee meeting.¹¹ **Due to the significant increase in absentee ballots this election, it is strongly recommended that county boards authorize the scanning of approved ballots during absentee board meetings instead of waiting until Election Day.**

The scanning cannot begin until a majority of the board members and at least one board member of each political party is in attendance. If a board member of each political party is not available, the chair or other member of the executive committee of the county political party of the absent member must be present. The political party representative shall act as an official witness to the scanning and shall sign the absentee ballot abstract as an “observer.”¹²

Staff may enter the approved ballots into the tabulator, but each board member present is responsible for and must observe and supervise the opening of the envelopes and scanning of the ballots.¹³ **It is not permissible for approved ballot envelopes to be opened, for ballots to be removed from the envelope, or for ballots to be inserted into the tabulator outside of a board meeting. These tasks cannot be delegated to staff to complete outside of a board meeting.**

If the board chooses to scan approved ballots during absentee meetings, it should consider ways to make the process as efficient and streamlined as possible. For example, the board could approve staff-recommended ballots first, then direct the staff to open those envelopes and enter the ballots

¹⁰ “The county board of elections shall constitute the proper official body to pass upon the validity of all applications for absentee ballots received in the county; this function shall not be performed by the chairman or any other member of the board individually.” G.S. § 163-230.1(f).

¹¹ G.S. § 163-234(3).

¹² G.S. § 163-234(9).

¹³ G.S. § 163-234(5).

into the tabulator while the board reviews the envelopes that require further consideration and those that staff have recommended be disapproved.

Scanning of ballots must be performed during a board meeting, and ballots must be scanned at the same meeting during which they were approved.¹⁴ The number of approved absentee ballots must be reconciled with the number of ballots inserted into the tabulator. Reconciliation should be completed at each board meeting. If it is not possible to scan all approved ballots at that meeting, the board may recess the scanning to a time and date certain, which could be the next absentee board meeting. You should send out the notice as soon as possible but it is not required to be sent 48 hours in advance of the reconvened meeting. Ballots should be processed in groups, so that ballots from all opened ballot envelopes are processed in the same meeting.

Election Day Meeting

County boards are strongly encouraged to begin counting ballots at 2 p.m. rather than 5 p.m. on Election Day to avoid a delay in absentee results being released on election night.¹⁵ County boards may begin counting UOCAVA ballots beginning on 9 a.m. on Election Day.

To begin counting ballots prior to 5 p.m., a county board must adopt a resolution at least two weeks prior to the election stating the hour and place of counting of absentee ballots. The resolution also may provide for an additional meeting following the day of the election and prior to the day of canvass to count absentee ballots received pursuant to G.S. 163-231(b)(ii) or (iii) as provided in subdivision (11) of G.S. § 163-234(11). A copy of the resolutions shall be published once a week for two weeks prior to the election, in a newspaper having general circulation in the county. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice.

At its meeting on Election Day, county boards must count all absentee ballots that have come in prior to 5 p.m. on the day before Election Day. The election results may not be released until after the polls close.

Ballot Duplication

UOCAVA ballots and ballots that have been damaged or otherwise cannot be read by the tabulator must be duplicated in order to be scanned by the machine and to avoid having to manually enter

¹⁴ G.S. § 163-234(3): “Notwithstanding the provisions of subdivision (2) of this section, a county board of elections may, at each meeting at which it approves absentee ballot applications pursuant to G.S. 163-230.1(c) and (c1), remove those ballots from their envelopes and have them read by an optical scanning machine, without printing the totals on the scanner.” (Emphasis added).

¹⁵ G.S. § 163-234(2).

the voter's selections into the reporting software. County boards may adopt a policy to authorize a bipartisan team of staff members to duplicate ballots outside of an absentee board meeting. The policy must include the following:

- Each bipartisan duplication team must consist of at least three staff members, with no more than two members being of the same political affiliation. It is a best practice to have at least four members, two of each political party, to ensure accuracy.
- The director must supervise and train all members of the duplication team and assign the following roles:
 - Ballot Caller – Announces the voter's selections listed on the original ballot to the Ballot Duplicator and Ballot Reviewer.
 - Ballot Duplicator – Replicates the voter's selections from the original ballot onto the machine-readable ballot as instructed by the Ballot Caller.
 - Ballot Reviewer – Reviews the Ballot Caller's readings from the original ballot and compare it to the selections recorded on the machine-readable ballot by the Ballot Duplicator to ensure accuracy. It is a best practice to have two ballot reviewers, one who will review the selection announced by the Ballot Caller and one who will review the selection made by the Ballot Duplicator.
- Prior to the start of the ballot duplication process, each member of the bipartisan duplication team must complete a participation log noting the date, time, and their name, role, and party affiliation.
- During the ballot duplication process, the duplication team is not permitted to leave each other's immediate presence until the process has been completed, unless authorized by the director.
- All duplicated ballots must contain the following in the blank box at the top of each ballot:
 - A notation (for example, "DUP") to indicate the ballot is a duplicate of the original.
 - The ballot number assigned to the voter.
 - The precinct and VTD of the voter.
- Upon completion of the process, the team must do the following:
 - Ensure that the duplicated ballots are attached to the corresponding original ballots for the Board to verify at its next scheduled meeting.
 - Enter the time of completion and their signatures to the ballot duplication log.
 - Provide the completed duplication log and the ballots to the director.
- The director must ensure that the ballots are kept in a secured container until the next absentee board meeting.
- The board must review each duplicated ballot at its next scheduled board meeting prior to approval of the ballots.

It is a best practice to have a duplication team present at every meeting to duplicate any damaged ballots that are identified during the board meeting. Duplicating ballots at the board meeting when the ballot envelope was approved reduces the likelihood of mistakes.

Control of Board Meeting

The county board of elections is responsible for maintaining control at its absentee board meetings. The county board must ensure that the public receives proper notice of the board meeting and is given the opportunity to attend. However, the county board should not permit public comment while absentee envelopes are being adjudicated, or while ballots are being duplicated, sorted, or tabulated. The board also should not permit questions from the public as the board approves absentee envelopes. Further, G.S. 163-234 is very clear that others shall be permitted to attend the meeting during which absentee ballots are counted and observe the process, but may not interfere with the election officials in the discharge of their duties.¹⁶

It is recommended that the board chair explain the process at the beginning of the board meeting and state that public comment is not permitted during the approval and scanning of absentee ballots. The board may, but is not required to, designate a separate part of the meeting for public comment.

At the end of each board meeting, the goal is total reconciliation of all envelopes and ballots. To do that requires careful control of every document in the room. It also requires ensuring that the board members focus on the task at hand and that the public remains in an observer rather than a participant role. Envelopes and ballots must not be allowed to be removed from assigned areas. The reconciliation process shall ensure the number of ballot envelopes in each stack is tracked, and that the number of envelopes approved at the meeting is equal the number of ballots entered into the tabulator. The county board shall record the count on the tabulator at the start and end of each absentee meeting. A sample reconciliation log that you may use for process is available [here](#).

Public Records Requests for Envelopes

Some county boards may have received public records requests for absentee ballot return envelopes. Ballot return envelopes are public records under North Carolina's Public Records Act, with exceptions for voter signature and CIV number.¹⁷ Public records requests should not be fulfilled during a board meeting, but must be fulfilled as promptly as possible.

¹⁶ 163-234(2): “Any elector of the county shall be permitted to attend the meeting and allowed to observe the counting process, provided the elector shall not in any manner interfere with the election officials in the discharge of their duties.”

¹⁷ G.S. 132-1.2(4), 163-82.10(a), 163-165.1(e). See also [Numbered Memo 2016-25](#).

Providing Copies of Envelopes

Prior to providing a copy of the envelope to the requestor, the voter signature and CIV number must be redacted, as the number links the envelope to a particular voter's ballot. Witness or assistant information may not be redacted.

To redact the voter signature and CIV number, you may copy the envelope, mark through the confidential information on the copy, and then copy it again. Some counties have used a card-board or other thick paper cutout to cover the confidential information when making a copy. Digital copies may also be provided using a template redaction tool in Adobe.

Viewing Envelopes

Unredacted envelopes may be viewed by the public in your office, though no copy, photo, or tracing may be made. A county board must ensure that the requestor is monitored while reviewing the envelopes in the office to ensure the voter's signature is not retained. Absentee ballot return envelopes contain an identifier that is linked to the ballot, so this identifier must also be redacted from public view to protect the secrecy of the ballot.