



NORTH CAROLINA STATE BOARD OF ELECTIONS

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

(919) 814-0700 or
(866) 522-4723

Fax: (919) 715-0135

Numbered Memo 2021-03

TO: County Boards of Elections
FROM: Karen Brinson Bell, Executive Director
RE: Absentee Container-Return Envelope Deficiencies
DATE: June 11, 2021

This numbered memo replaces Numbered Memo 2020-19, which was first issued on August 21, 2020 and subsequently revised and reissued on September 22, 2020, and October 17, 2020. The State Board is required to provide a cure process for voters whose absentee container-return envelopes contain certain deficiencies. There were two separate court orders requiring a cure process. The Consent Judgment in *NC Alliance v. State Board of Elections*, No. 20-CVS-8881 (Wake Co. Sup. Ct. Oct. 2, 2020), which formed part of the basis for the revised 2020 memo, was limited to the 2020 general election. The preliminary injunction in *Democracy NC v. State Board of Elections*, 476 F.Supp.3d 158 (M.D.N.C. Aug. 4, 2020), was not limited to a particular election. This numbered memo revises the cure process that was first established for the 2020 general election and applies to all elections going forward.

County boards of elections must ensure that the votes of all eligible voters are counted using the same standards, regardless of the county in which the voter resides.

This numbered memo directs the procedure county boards must use to address deficiencies in absentee ballots. The purpose of this numbered memo is to ensure that a voter is provided every opportunity to correct certain deficiencies, while at the same time recognizing that processes must be manageable for county boards of elections to timely complete required tasks.¹

1. No Signature Verification

Verification of the voter's identity is completed through the witness requirement. The voter's signature on the envelope shall not be compared with the voter's signature in their registration

¹ This numbered memo is issued pursuant to the State Board of Elections' general supervisory authority over elections as set forth in G.S. § 163-22(a) and the authority of the Executive Director in G.S. § 163-26.

record because this is not required by North Carolina law.² County boards shall accept the voter's signature on the container-return envelope if it appears to be made by the voter, meaning the signature on the envelope appears to be the name of the voter and not some other person. Absent clear evidence to the contrary, the county board shall presume that the voter's signature is that of the voter, even if the signature is illegible. A voter may sign their signature or make their mark.

2. Types of Deficiencies

Trained county board staff shall review each executed container-return envelope the office receives to determine if there are any deficiencies. County board staff shall, to the extent possible, regularly review container-return envelopes on each business day, to ensure that voters have every opportunity to timely correct deficiencies. Review of the container-return envelope for deficiencies occurs *after* intake. The initial review is conducted by staff to expedite processing of the envelopes.

Deficiencies fall into two main categories: those that can be cured with a certification and those that cannot be cured. If a deficiency cannot be cured, the ballot must be spoiled and a new ballot must be issued, as long as the new ballot is issued before Election Day. See Section 3 of this memo, Voter Notification.

2.1. Deficiencies Curable with Cure Certification (Civilian and UOCAVA)

The following deficiencies can be cured by sending the voter a cure certification:

- Voter did not sign the Voter Certification.
- Voter signed in the wrong place.

The cure certification process applies to civilian and UOCAVA voters.

2.2. Deficiencies that Require the Ballot to Be Spoiled (Civilian)

The following deficiencies cannot be cured by certification, because the missing information comes from someone other than the voter:

- A witness or assistant did not print name.³ However, if the witness forgot to print their name but the witness's or assistant's signature is legible such that the name can be determined, the container-return envelope is not deficient and the ballot shall not be spoiled, absent any other deficiency.

² See also [Numbered Memo 2020-15](#), which explains that signature comparison is not permissible for absentee request forms.

³ If the printed name is readable and on the correct line, even if it is written in cursive script, for example, it does not invalidate the container-return envelope.

- A witness or assistant did not print address.⁴
- A witness or assistant did not sign.
- A witness or assistant signed on the wrong line. Where the witness or assistant signed in place of the voter’s signature, that deficiency cannot be cured and requires the ballot to be spoiled. Otherwise, if all required information from the witness or assistant is present but not on the designated line for each (for example, the witness or assistant printed their name on the address line, printed their address on the name line, and signed), the container-return envelope is not deficient and the ballot shall not be spoiled, absent any other deficiency.
- Upon arrival at the county board office, the envelope is unsealed or appears to have been opened and re-sealed.
- The envelope indicates the voter is requesting a replacement ballot.

If a county board receives a container-return envelope with one of these deficiencies, county board staff shall spoil the ballot and reissue a ballot along with a notice explaining the county board office’s action, in accordance with this numbered memo.

2.3. Deficiencies that require board action

Some deficiencies cannot be resolved by staff and require action by the county board. These include situations where the deficiency is first noticed at a board meeting or if it becomes apparent during a board meeting that no ballot is in the container-return envelope, more than one ballot is in the container-return envelope, or two voters’ ballots and container-return envelopes were switched. If the county board disapproves a container-return envelope by majority vote in a board meeting, it shall proceed according to the notification process outlined in Section 3.

⁴ Failure to list a witness’s ZIP code does not invalidate the container-return envelope. G.S. § 163-231(a)(5). A witness’s or assistant’s address does not have to be a residential address; it may be a post office box or other mailing address. Additionally, if the address is missing a city or state, but the county board of elections can determine the correct address, the failure to list that information does not invalidate the container-return envelope. For example, if a witness lists “Raleigh 27603,” you can determine the state is NC, or if a witness lists “333 North Main Street, 27701,” you can determine that the city/state is Durham, NC. If both the city and ZIP code are missing, staff will need to determine whether the correct address can be identified. If the correct address cannot be identified, the envelope shall be considered deficient and the ballot spoiled in accordance with Section 3. See [Numbered Memo 2020-29](#) for additional information regarding address issues.

3. Voter Notification

3.1. Issuance of a Cure Certification or New Ballot

If there are any deficiencies with the absentee envelope, the county board of elections shall contact the voter in writing within one business day of identifying the deficiency to inform the voter there is an issue with their absentee ballot, enclosing a cure certification or new ballot, as directed by Section 2. The written notice shall also include information on how to vote in-person during the early voting period and on Election Day.

The written notice shall be sent to the address to which the voter requested their ballot be sent. The outside of the envelope containing the new ballot or cure certification shall indicate that it contains official election mail, unless it is not possible due to the use of a specialized USPS or commercial carrier service envelope.

If the deficiency can be cured and the voter has an email address on file, the county board shall also send the cure certification to the voter by email. If the county board sends a cure certification by email and by mail, the county board should encourage the voter to only return *one* of the certifications. If the voter did not provide an email address but did provide a phone number, the county board shall contact the voter by phone to inform the voter that the county board has mailed the voter a cure certification.

If the deficiency cannot be cured, and the voter has an email address on file, the county board shall notify the voter by email that a new ballot has been issued by mail to the voter. If the voter did not provide an email address but did provide a phone number, the county board shall contact the voter by phone to inform the voter that the county board has issued a new ballot by mail.

A county board shall not reissue a ballot on or after Election Day. If there is a curable deficiency, the county board shall contact voters up until the day before county canvass.

3.2. Receipt of a Cure Certification

The cure certification must be received by the county board of elections by 5 p.m. the day before county canvass. The cure certification may be submitted to the county board office by fax, email, in person, or by mail or commercial carrier. If a voter appears in person at the county board office, they may also be given, and can complete, a new cure certification. There is not a postmark requirement for cure certifications returned by mail – the cure certification must be *received* by the deadline, not postmarked by the deadline.

The cure certification may only be returned by the voter, the voter's near relative or legal guardian, or a bipartisan assistance team (MAT). A cure certification returned by any other person is invalid. Voters who require assistance in mailing their ballot pursuant to 08 NCAC 18 .0101(a) may also direct that the cure certification be taken directly to the closest U.S. mail depository or mailbox by a person selected by the voter in accordance with the Rule. It is not permissible for a

cure certification to be submitted through a portal or form created or maintained by a third party. A cure certification may not be submitted simultaneously with the ballot. Any person who is permitted to assist a voter with their ballot may assist a voter in filling out the cure certification, but the cure certification must be signed by the voter. A wet ink signature is not required, but the signature used must be unique to the individual. A typed signature is not acceptable, even if it is cursive or italics such as is commonly seen with a program such as DocuSign.

3.3 County Board Review of a Cure Certification

At each absentee board meeting, the county board of elections may consider deficient ballot return envelopes for which the cure certification has been returned. The county board shall consider together the executed absentee ballot envelope and the cure certification. If the cure certification was timely received and contains the voter's name and signature and was returned by an authorized person, the county board of elections shall approve the absentee ballot.

4. Late Absentee Ballots

Voters whose ballots are not counted due to being late shall be mailed a notice stating the reason their ballot was not counted. Late absentee ballots are not curable.

If a ballot is received after county canvass, the county board is not required to notify the voter.