Numbered Memo 2022-08

TO:     County Boards of Elections
FROM:  Karen Brinson Bell, Executive Director
RE:    Authority for Remote Meetings
DATE:  August 17, 2022

On August 15, 2022, North Carolina’s declared state of emergency regarding the COVID-19 pandemic ended. The statute authorizing remote meetings during a declared emergency provided authority for remote meetings, including quasi-judicial proceedings, when certain requirements were met.¹

This numbered memo provides guidance for county boards of elections regarding the conduct of remote meetings now that the state of emergency is not in effect.

General Types of Meetings

In general, county board of elections may conduct remote meetings without board members being physically present at the county board office.² If a county board decides to hold a remote meeting, it must include information about how to access the remote meeting in its


² The Open Meetings Law defines an “official meeting” as “a meeting, assembly, or gathering together at any time or place or the simultaneous communication by conference telephone or other electronic means of a majority of the members of a public body for the purpose of conducting hearings, participating in deliberations, or voting upon or otherwise transacting the public business within the jurisdiction, real or apparent, of the public body.” G.S. § 143-318.10(d). The law has a specific section dedicated to “electronic meetings,” which may be by “conference telephone or other electronic means.” G.S. § 163-318.13(a). Additionally, the statute providing for remote meetings during a declared state of emergency specifies that it “does not supersede any authority for electronic meetings under Article 33C of Chapter 143 of the General Statutes,” which is where the above-cited statutes are found. G.S. § 166A-19.24(h).
When a meeting is held remotely, whether by audio or video means, votes should be by roll call. The chair should note which board member made a motion and who seconded the motion. This will help provide a clear record of board member participation for all actions that take place in the meeting.

Meetings That May Require Physical Presence
Some meetings, such as canvass, absentee meetings, and quasi-judicial proceedings, may necessitate physical presence of the board due to the need to review documents or take evidence.

Appointment of County Board Members
County board members are required to meet in person when board members take the oath of office after appointment every two years. G.S. § 163-31(a) provides:

“In each county of the State the members of the county board of elections shall meet at the courthouse or board office at noon on the Tuesday following the third Monday in July in the year of their appointment and, after taking the oath of office provided in G.S. 163-30, they shall organize by electing one member secretary of the county board of elections.”

If a board member cannot be physically present for this meeting, they should be sworn in at the next meeting or at an alternative time. The chair or another authorized individual may administer the oath.

Absentee Meetings
A quorum of board members must be physically present during each absentee board meeting. Board members need to be physically present to review absentee envelopes prior to approval and to supervise the scanning and counting process, when applicable. Once a quorum of members is physically present, it is permissible for the remaining board members to attend remotely. Board members participating remotely must be able to view all materials under review by the board. See Numbered Memo 2020-25 for additional information about the conduct of absentee board meetings.

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3 G.S. § 143-318.13(a).
4 G.S. § 163-33.1.
5 G.S. § 11-7.1.
6 See G.S. § 163-234.
Canvass

A quorum of board members must be physically present at canvass. Board members need to be physically present to review canvass documents and other materials. Once a quorum of members is physically present, it is permissible for the remaining board members to attend remotely. Board members participating remotely must be able to view all materials under review by the board.

As a reminder, all appointed board members are required to attend canvass, in one form or another.

Quasi-Judicial Proceedings

County boards of elections should generally conduct quasi-judicial evidentiary hearings in person (e.g., election protest, candidate challenge, and voter challenge hearings). Due process rights as well as practical considerations make the taking of testimony or other evidence at a remote meeting difficult. For a further discussion of this issue, see the UNC School of Government’s post, Remote Participation in Quasi-Judicial Evidentiary Hearings. Non-evidentiary hearings, such as preliminary consideration of election protests or preliminary hearings for voter challenges, do not require physical presence.

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7 G.S. § 163-182.5(b) provides: “The canvass meeting shall be at the county board of elections office, unless the county board, by unanimous vote of all its members, designates another site within the county.”

8 G.S. § 163-89(e) provides: “All members of the board shall attend the canvass and all members shall be present for the hearing of challenges to absentee ballots.” See also Numbered Memo 2018-05.