



Numbered Memo 2023-03

TO: County Boards of Elections
FROM: Karen Brinson Bell, Executive Director¹
RE: Photo ID and In-Person Voting
DATE: September 14, 2023 (updated February 23, 2024)²

This numbered memo provides guidance related to photo identification (photo ID) requirements for in-person voting. The memo's instructions for the review of Photo ID Exception Forms also apply to absentee ballots.

General Overview

Election officials, staff, and county board of elections members are encouraged to carefully review the two laws that primarily govern the in-person photo ID requirements and processes: [N.C.G.S. § 163-166.16](#) and [08 NCAC 17 .0101](#).

As a general overview of the in-person photo ID process, when a voter enters the voting place to vote in person during early voting or on Election Day, the voter will be asked to show a photo ID during the check-in process.³ The photo ID shown by the voter must meet certain legal requirements:⁴

- (1) the ID must be an acceptable type of photo ID;
- (2) the ID must meet the expiration requirements, if applicable;
- (3) the photo on the ID must reasonably resemble the person showing the ID; and
- (4) the name on the ID must be the same as or substantially equivalent to the voter's name in their registration record.

¹ This memo is issued under the authority delegated by the State Board to the executive director pursuant to G.S. § 163-22(p).

² This memo was updated on February 23, 2024, to provide further guidance on photo ID implementation following the municipal elections in 2023.

³ N.C.G.S. § 163-166.7(a).

If a voter's photo ID meets these requirements, then the voter proceeds with the check-in process and will vote with a regular ballot, unless there is some other reason under the election laws for them to vote with a provisional ballot.

If the check-in official believes that a voter's photo ID does not meet these requirements, then the check-in official will ask the voter to provide a different photo ID. If the voter cannot do so, then the check-in official will initiate a photo ID challenge, which is then immediately heard by the judges of election at the voting place. If at least one judge determines the photo ID meets the legal requirements, then the voter proceeds with the check-in process and will vote with a regular ballot unless there is some other reason under the election laws for them to vote with a provisional ballot. If the judges unanimously agree the voter's photo ID does not meet the legal requirements, the voter will still be permitted to vote and will vote with a provisional ballot, as explained below.

Voters who do not present acceptable photo ID may choose to leave the voting enclosure to retrieve an acceptable photo ID and present to vote again, as long as they have not yet received a ballot.⁵ Some voters may prefer this option, especially during the early voting period, when it is easier for the voter to obtain an acceptable photo ID in time to vote with that ID, including by obtaining a free voter photo ID from the county board.

Voting Without Acceptable Photo ID

All voters are allowed to vote with or without a photo ID.⁶ There are two options for an in-person voter who does not present acceptable photo ID. Every voter without an acceptable photo ID must be offered both options.

- (1) The voter may complete a Photo ID Exception Form, claiming an exception to the photo ID requirement, and then vote a provisional ballot. A county board is required to approve and count the provisional ballot unless the county board unanimously finds that the form was falsely completed and puts that finding in a written decision. Before the county board makes a final finding of falsity, it must give the voter notice and an opportunity to address the county board on the matter.
- (2) The voter may vote a provisional ballot and then bring an acceptable photo ID to the county board office before 5:00 P.M. on the day before county canvass. When a voter

⁵ See 08 NCAC 10B .0104 (voter not permitted to return to the voting enclosure once they receive their ballot).

⁶ N.C.G.S. § 163-166.16(c)–(d); N.C. Sess. Laws 2018-144, sec. 1.5(a)(10).

chooses this option, their photo ID will be evaluated at the county board office in the same manner as it would have been evaluated at the voting place.

Frequently Asked Questions About Photo ID and In-Person Voting

Acceptable Forms of Photo ID

The types of photo ID that are acceptable for voting purposes are listed in N.C.G.S. § 163-166.16(a) and 08 NCAC 17 .0101(a)(1).

1 Is a photocopy of a voter's photo ID, or a picture of their photo ID stored electronically on a mobile device, an acceptable form of photo ID for in-person voting?

No. Under N.C.G.S. § 163-166.16, a voter presenting to vote in person must “produce” one of the listed “forms of identification.” An image of a photo ID, either as a photocopy or a photo on a mobile device, is not one of the permitted forms of photo ID when voting in person.

2 Are learner's permits and provisional licenses acceptable forms of Photo ID? What about a paper temporary driving certificate given to someone while they wait for the driver's license to arrive in the mail?

A provisional license is a license, and therefore is acceptable photo ID, subject to the expiration requirements. Additionally, a learner's permit falls within the definition of a “license” in N.C.G.S. § 20-4.01(17), and is therefore a “North Carolina drivers license” under the photo ID law for voting,⁷ subject to the expiration requirements.

A “temporary driving certificate,” however, is not permitted to be used for identification purposes under state law. Therefore, it cannot be used as an acceptable form of photo ID for voting purposes.⁸

3 Is a suspended or revoked driver's license an acceptable Photo ID?

No. If an election official becomes aware that a voter is presenting a suspended or revoked license, the official should inform the voter that such an ID is no longer “valid,” as required by

⁷ N.C.G.S. § 163-166.16(a).

⁸ N.C.G.S. § 20-7(f)(5) (“The temporary driving certificate shall be valid for driving purposes and shall not be valid for identification purposes, except when conducting business with the Division and not otherwise prohibited by federal law.”).

the photo ID law for voting.⁹ In practice, however, election officials are typically not going to know whether a person's license has been suspended or revoked, since that information does not appear on the face of an ID, and election officials should not do independent research to determine the license status. Without having a reason to believe a voter's license has been revoked or suspended, election officials must assume that the license remains valid.

4 When a student or government-employee ID card is approved by the State Board, does that mean that only those ID cards that are identical to the one submitted with the institution's application for approval can be used for voting?

No. Once an institution's ID has been approved, that institution's ID is acceptable, including ID cards that were issued before the ID was approved, even if those previously issued ID cards differ from the latest version. Both N.C.G.S. §§ 163-166.17 and 163-166.18 permit the State Board to approve "the use of . . . cards issued by" an institution if "cards issued during the approval period" comply with the requirements outlined in the statute, including the requirement that the card contain an expiration date. In short, the legislature's intent was to permit an institution's ID card to be used for voting if that institution commits to issuing compliant cards during the approval period. The law is not meant to permit only those cards issued during the approval period to be accepted for voting, thus requiring an institution to replace the already-issued ID cards in circulation, in order for their students or employees to be able to use their IDs to vote. Instead, once an institution's ID meets the requirement with respect to the IDs that are to be issued during the approval period, the *institution's* ID, including cards already issued, are acceptable.

However, to the extent the institution has gained State Board approval of only a special-issued ID (*i.e.*, a special "voter ID" card, not the regular ID card), only that ID, and any past version of that special-issued ID, would be acceptable for voting purposes.¹⁰

5 If a voter believes their photo ID does not reflect their current appearance, should they obtain a new ID with a new photo on the ID?

The voter is not required to obtain a new photo ID when their appearance changes. Importantly, the voter's appearance at the voting place is not required to be a perfect match to the photo on

⁹ N.C.G.S. § 163-166.16(a)(1).

¹⁰ For example, there was one such approved student or government employee ID card that fell into this situation for the 2023 municipal elections: Duke University's student voter ID card.

their ID. Election officials evaluating the photo on the ID must take into account the many reasons why a voter's appearance may have changed.¹¹

Even with these considerations in mind, a voter concerned about a comparison of their photo ID to their current appearance could choose to obtain a new photo ID, if permitted by the agency that issued their ID. The voter could also obtain and use a different type of acceptable photo ID from the one they already possess. For example, a voter with a driver license could obtain a [Voter Photo ID Card](#) from their county board of elections and present either ID at the voting place when voting.

6 Will a photo ID used for voting also satisfy a requirement for some voters to show “HAVA ID”? Can a person's photo ID for voting also be used to prove residency for same-day registration at an early voting site?

In each situation, it depends on the ID provided.

Most voters will use an unexpired driver's license as their photo ID when voting, and this would satisfy both HAVA and the photo ID requirements. But sometimes an acceptable photo ID for voting would not satisfy HAVA ID, due to the ID's expiration. A “HAVA ID” that is required to be presented by some voters, pursuant to state law and the Help America Vote Act of 2002 (HAVA), must be “current.”¹² Under our state's photo ID law for voting, however, some IDs that can be used for photo ID purposes do not have to be current. Instead, some photo IDs can be expired for up to a year; or if the voter is over 65, then the ID can be used for photo ID purposes if it was unexpired when the voter turned 65. And some types of photo IDs can always be expired, such as military and veteran ID cards.¹³ So while it is unlikely that a voter's photo ID will not be acceptable as HAVA ID, it is possible, where the ID is expired.

A same-day registrant who presents an unexpired driver's license with their *current* address can use that ID for both same-day registration proof of residency and the photo ID requirement for voting. But a photo ID does not need to have the voter's current address. For example, a voter can show a valid driver's license that includes the voter's former address, and that would be acceptable for photo ID purposes. But it would not be acceptable to prove current residence for same-day registration. Additionally, many documents used to establish residency for same-day registration are not acceptable photo IDs for voting—including utility bills, bank statements,

¹¹ 08 NCAC 17 .0101(a)(2).

¹² N.C.G.S. § 163-166.12(a)(1); 52 U.S.C. § 21083(b)(2)(A)(i)(I).

¹³ N.C.G.S. § 163-166.16(a).

paychecks, and government documents that contain no photo. See [Numbered Memo 2023-05](#) (Same-Day Registration) for further guidance on this point. So it is possible that an acceptable same-day registration document will not satisfy the photo ID requirement, and vice versa.

Evaluation of an In-Person Voter's Photo ID

The process for evaluating a voter's photo ID when they present to vote at an early voting site or on Election Day is guided by N.C.G.S. § 163-166.16 and 08 NCAC 17 .0101.

7 What can an election official consider when deciding whether the person showing a photo ID bears a reasonable resemblance to the photo on the ID?

The election official is required to determine only whether the photo on the ID bears a “reasonable resemblance” to the person presenting the photo ID.¹⁴ By law, the election official making this determination must consider all the circumstances, and must bear in mind that there are many reasons that a person's appearance could change. The election official must keep in mind the purpose of the photo identification requirement, which is “to confirm the person presenting to vote is the registered voter on the voter registration records.”¹⁵ In other words, the election official is trying to determine that the ID belongs to the person presenting to vote, by comparing faces.

Election officials must take into account that a voter's appearance may have changed since their ID was issued, and this can be due to various reasons, including but not limited to changes in:

- Weight;
- Hair features and styling, including changes in length, color, hairline, or use of a wig or other hairpiece;
- Facial hair;
- Complexion or skin tone;
- Cosmetics, including piercings or tattooing; and
- Apparel, including the presence or absence of eyeglasses or contact lenses.¹⁶

¹⁴ N.C.G.S. § 163-166.16(b).

¹⁵ 08 NCAC 17 .0101(a)(2).

¹⁶ Election officials are not allowed to require a voter to remove apparel for the purposes of determining reasonable resemblance. If the face of the person presenting to vote is covered enough that the election official cannot determine reasonable resemblance, then the election official should inform the voter that

Election officials must also take into account other factors that can affect a voter's appearance in comparison to the photo on the photo ID, such as the effects of aging and the effects of medical conditions or medical treatment.

A person's changed appearance, no matter the reason for that change, cannot prevent a voter from voting. If the election official can determine it is the same person when comparing the person's face in the photo to the face of the person standing before them, then the election official must permit the voter to proceed and vote a regular ballot.

8 What can an election official consider when comparing the name on the photo ID with the name in the registration records?

The election official reviewing the photo ID is determining whether the name on the photo ID is "the same as or substantially equivalent to" the voter's name in the registration records (i.e., the pollbook).¹⁷ The name review must be based on all the circumstances, and the election official must construe all evidence, along with any explanation or documentation voluntarily offered by the person presenting to vote, in the light most favorable to that voter.

The election official shall consider the name on the ID to be substantially equivalent to the name in the pollbook if any differences in the name are subject to a reasonable explanation. Reasonable explanations for name differences include, but are not limited to, one or more of the following:

- Omission or inclusion of one or more parts of the name (for example, Mary Beth Smith versus Beth Smith, or Patrick Todd Jackson, Jr. versus Patrick Todd Jackson, or Maria Guzman-Santana versus Maria Guzman);
- Use of a variation or nickname rather than a formal name (for example, Bill versus William, or Sue versus Susanne);
- Use of an initial in place of one or more parts of a given name (for example, A.B. Sanchez versus Aaron B. Sanchez);
- Use of a former name, including maiden names (for example, Emily Jones versus Emily Gibson);

the face covering is preventing the official from determining that the photo on the identification is that of the voter and then offer the voter the option to briefly remove the face covering. If the voter chooses to not remove the face covering, then the election official must offer the voter the two options to vote by provisional ballot. 08 NCAC 17 .0101(b).

¹⁷ 08 NCAC 17 .0101(a)(3).

- Variation that includes or omits a hyphenation or hyphen (for example, Chantell D. Jacobson-Smith versus Chantell D. Jacobson or Chantell D. Jacobson Smith);
- Variation of accents (for example, José Muñoz versus Jose Munoz);
- Variation of an apostrophe (for example, Andrea D’Antonio versus Andrea Dantonio);
- Ordering of names (for example, Maria Eva Garcia Lopez versus Maria E. Lopez-Garcia); or
- Variation in spelling or typographical errors (for example, Dennis McCarthy versus Denis McCarthy, or Aarav Robertson versus Aarav Robertsson).¹⁸

The address on the photo ID does **not** need to match the address of the voter in the pollbook.¹⁹

The photo ID law does not require such a strict document match. This takes into account the fact that many voters will move and update their voter registration but not their driver’s license (for example, non-driving elderly voters). Also, many acceptable forms of photo ID have no address at all, making it impossible to do an address comparison for voters using such IDs. All voters must be evaluated using the same criteria.

9 Can an election official take into account other information about the person presenting to vote when making the reasonable resemblance determination or name determination?

Election officials should not factor in outside information to decide that the voter *does not* reasonably resemble the person in the photo on the ID or that their name *is not* the same as or substantially equivalent to their name in their registration record. Instead, a determination that the photo ID does not meet the photo or name requirements must be based solely on a review of the photo and name on the ID. On the other hand, if an election official is unable to make a determination that the photo ID meets the photo and name requirements after reviewing the ID, the official can turn to other evidence to *confirm* the photo ID is the person’s ID and that the name on the ID is that of a registered voter.

For example, if a voter presents to vote at the voting place and they reasonably resemble the photo on the ID, the fact that their gender presentation does not match the gender or sex listed on their photo ID or voter registration record cannot be used to reject the photo ID. A determination of no resemblance, under the law, must be based on the comparison of the voter to the photo on

¹⁸ 08 NCAC 17 .0101(a)(3).

¹⁹ N.C.G.S. § 163-166.16(g).

the ID, bearing in mind the many reasons a person’s appearance could change, and should not be influenced by extraneous information.²⁰

On the other hand, if a voter presents to vote at the voting place and part of their name on their photo ID is not readable due to wear and tear on the ID, then it would be permissible for the election official to use other evidence voluntarily provided by the voter, such as a credit card, library card, or other documentation they may have with them, to confirm the voter’s name and match it with their registration record. Such documentation cannot replace the need to present valid photo ID, but it could support the determination of a match between the photo ID and the voter record.

10 Can a voter be challenged by someone other than an election official for photo ID-related reasons?

Yes, but only for failure to present a valid photo ID, and not for resemblance, name similarity, or ID exception reasons.

On the day of a primary or election, or during early voting, any other registered voter of the county may challenge a voter on the grounds that the “registered voter does not present photo identification in accordance with G.S. 163-166.16” when that voter presents to vote in person.²¹ Accordingly, a defect in the manner that a voter *presents* ID can be challenged. For example, if an election official permits a voter to check in and receive a regular ballot without the voter presenting photo ID at all, that voter may be challenged by another registered voter. Likewise, if a voter offers an ID that is plainly not an acceptable form of photo ID—a retail store membership card, for example—an observer could challenge the voter.²² In the event such a challenge is made, the challenger is not permitted to handle or review the voter’s photo ID. That duty is reserved for the judges of election hearing the challenge.

Apart from issues concerning the act of presenting the ID, however, challenges to the photo ID process by other voters are not permitted. By law, election officials at the voting place (*i.e.*, check-in officials) are the persons tasked with entering a challenge when they determine a

²⁰ N.C.G.S. § 163-166.16(b); 08 NCAC 17 .0101(a)(2).

²¹ N.C.G.S. § 163-87(5).

²² While this type of challenge is theoretically possible, election officials must be careful not to permit persons who are not election officials to be so close to the voter in the voting enclosure that they are able to perceive confidential details on the voter’s photo ID—for example, date of birth, driver’s license number, or passport number. *See* N.C.G.S. § 132-1.10(b)(5); N.C.G.S. § 163-82.10B.

voter's photo ID, upon official review, does not meet the legal requirements of a reasonable resemblance or name similarity.²³ Additionally, a voter who informs the election officials that they will vote a provisional ballot and later bring their photo ID to the county board office cannot be challenged by a registered voter for a failure to present a photo ID. Such a voter is expressly permitted by law to vote a provisional ballot without showing ID at the voting site, and is therefore not subject to the challenge under N.C.G.S. § 163-87(5). Finally, a challenge cannot be made by any person, election official or otherwise, based on the voter completing a Photo ID Exception Form. In that instance, the voter is claiming an exception from the photo ID requirements and therefore is not required to "present" a photo ID under the law. The decision on the approval of a Photo ID Exception Form is reserved for the county board alone.

11 How should election officials proceed with a hearing when the check-in official challenges a voter's photo ID for not meeting the photo or name requirements?

A photo ID challenge hearing is required when the check-in official determines that the photo on the voter's photo ID does not reasonably resemble the person showing the ID, that the name on the photo ID is not the same as or substantially equivalent to the voter's name in their registration record, or both requirements are not met.²⁴ A photo ID challenge proceeds somewhat differently than a challenge entered by a voter pursuant to N.C.G.S. § 163-87. For a photo ID challenge, the check-in official must use the Help Station Referral Form, rather than the challenge form, to note their reason for why the photo ID does not meet these requirements, and then immediately notify the judges of election so that they may conduct the challenge hearing as promptly as possible.

When conducting the challenge hearing, the judges of election generally follow the hearing procedures in N.C.G.S. § 163-88. After explaining the photo ID requirements for voting in-person to the voter, the judges of election must then examine the photo ID presented by the voter and apply the same standards as the check-in official for reasonable resemblance and name similarity. The judges must then record their final decision in writing on the Help Station Referral Form. The judges do not utilize the oath process detailed in N.C.G.S. § 163-88 for other voter challenges because under N.C.G.S. § 163-166.16(b), the judges of election conducting a photo ID challenge are only tasked with the limited determination of whether "the photo identification presented does not bear a reasonable resemblance to that voter."

²³ N.C.G.S. § 163-166.16(b); 08 NCAC 17 .0101(d)(3).

²⁴ N.C.G.S. § 163-166.16(b); 08 NCAC 17 .0101(d)(3).

If at least one judge determines the photo ID meets the legal requirements, then the voter returns to the check-in station, proceeds with the check-in process, and will vote with a regular ballot, unless there is some other reason under the law for them to vote with a provisional ballot.

If the judges unanimously agree the voter's photo ID does not meet the legal requirements, the voter will still be permitted to vote. Rather than vote a challenged ballot pursuant to N.C.G.S. § 163-88.1, the voter will be offered the two options to vote with a provisional ballot in 08 NCAC 17 .0101(e). As an example, if the voter has another acceptable photo ID that is not with them at the voting place, then that voter can choose to vote a provisional ballot and bring that other photo ID to the county board office by the day before canvass, or that voter could choose to complete a Photo ID Exception Form and assert an exception to the photo ID requirement stating why they are unable to present an acceptable photo ID when presenting to vote.

12 Who is responsible for reviewing a voter's photo ID when they bring it to the county board office after voting a provisional ballot with the intent to provide their photo ID later?

A voter who brings their photo ID to the county board of elections office will have their ID reviewed for compliance with all legal requirements, just as if they had shown the ID when voting in-person at the voting site.²⁵ Each county director is strongly encouraged to designate at least one staff member to perform this function during the period of early voting and canvass, and to have that person trained in the same manner as check-in officials for the purposes of reviewing a photo ID. The county director can perform this function as well, if needed.

13 Can a voter obtain a photo ID after they have voted provisionally in person, bring the newly issued photo ID to the county board office before the deadline, and still have their ballot counted?

Yes. If the photo ID meets all the criteria to be accepted, and the voter presents the ID to the county board by 5:00 P.M. on the day before canvass, the law requires the county board to count that provisional ballot.²⁶ This applies to any acceptable type of photo ID, including a Voter Photo ID Card issued by a county board of elections.

The law does not state that a photo ID card must be *issued by* a certain date for it to be an acceptable form of photo ID. If a voter is voting a provisional ballot during early voting or on

²⁵ 08 NCAC 17 .0101(e)(2).

²⁶ N.C.G.S. § 163-166.16(c).

election day due to a lack of photo ID at the voting place, they must still be a registered and eligible voter as of election day for their vote to be counted.

14 Can a voter, who voted a provisional ballot because they did not have their photo ID with them when voting, return to the voting place later with their photo ID, have their provisional ballot “spoiled,” and then vote a regular ballot?

No. Once a voter has voted a provisional ballot, they cannot have that ballot “spoiled” so that they can then vote a regular ballot.²⁷ If a voter casts a provisional ballot because they did not have their photo ID with them when presenting to vote, their only option to have their ballot counted is to bring their photo ID to the county board office. In that case, if the voter’s photo ID meets all legal requirements, then the county board of elections must approve the provisional application and the voter’s ballot will be counted the same as a voter who casts a regular ballot.²⁸

Photo ID Exception Forms for In-Person Voters

The exceptions to the photo ID requirement are found in N.C.G.S. § 163-166.16(d)–(f), and the county board processes involved are guided by 08 NCAC 17 .0101(e)(1).

15 Can a voter complete a Photo ID Exception Form at a county board office when the voter voted a provisional ballot intending to bring their photo ID to the county board office later but instead could not find a photo ID?

No. Under N.C.G.S. § 163-166.16(d), a voter who is voting in person on Election Day or during early voting can only complete a Photo ID Exception Form “at the voting place.”

16 What can a county board consider when reviewing a voter’s Photo ID Exception Form?

Truth or falsity. When a voter completes a Photo ID Exception Form and votes with a provisional ballot, “the county board of elections shall find that the provisional ballot is valid unless the county board has grounds to believe the affidavit is false.”²⁹ (The “affidavit” refers to the Photo ID Exception Form.) A decision that the Form is false must be unanimous, and can

²⁷ See 08 NCAC 10B .0104(a) & (e) (once a voter receives their ballot, they cannot return to vote again).

²⁸ N.C.G.S. § 163-166.16(c).

²⁹ N.C.G.S. § 163-166.16(f).

only be made after the county board provides the voter notice and an opportunity to address the board on any grounds that the county board is considering regarding the falsity of the Form.³⁰

If a county board ultimately decides that a voter's Photo ID Exception Form is false, then the county board must "substantiate any finding of falsity with grounds recorded in a written decision."³¹ What this means is that the county board must be able to point to specific information before the board that led it to conclude that the Photo ID Exception Form contains a false statement. A decision that the Form is false must be based on facts, not speculation, and may not be based on personal opinion as to whether the voter's asserted reason is a good reason for not showing an ID. Importantly, it is not the county board's role to second-guess the *reasonableness* of a voter's asserted impediment to showing photo ID. Instead, the board is only concerned with the *truth or falsity* of the assertion on the Form that (1) an identified impediment is preventing the voter from showing a photo ID, (2) the voter has a religious objection to being photographed, or (3) the voter was a victim of a recent natural disaster.³²

A Photo ID Exception Form that identifies an "other" reasonable impediment that bears no relationship to a voter's ability to present photo ID may be rejected for being false. For example, a Form that states the voter was unable to present photo ID because "the sky is blue" could be deemed false by the county board. Although the sky may be blue, the voter is claiming on the Form that the blueness of the sky is preventing them from showing ID. The county board could rationally conclude, without speculating, that nothing about the color of the sky prevents a voter from showing photo ID. Similarly, a Form claiming an inability to present photo ID due to the voter's disagreement with or objection to the photo ID requirement could be deemed false. Although it may be true that the voter disagrees with or objects to the law, the county board could rationally conclude, without speculating, that nothing about one's disagreement with or objection to a law actually *prevents* the voter from complying with the law—much like how disagreeing with the tax laws does not prevent someone from paying their taxes. Accordingly, if the county board finds that an "other" reasonable impediment bears no relationship to a voter's

³⁰ 08 NCAC 17 .0101(e)(1).

³¹ 08 NCAC 17 .0101(e)(1).

³² As Judge (now Justice) Kavanaugh explained in a case dealing with South Carolina's similar reasonable impediment exception to presenting photo ID, "[a]ny reason that the voter *subjectively* deems reasonable will suffice, so long as it is not false. If the affidavit is challenged before the county board, the county board may not second-guess the *reasonableness* of the asserted reason, only its *truthfulness*." *South Carolina v. United States*, 898 F. Supp. 2d 30, 36–37 (D.D.C. 2012).

ability to present photo ID, and therefore the Form false, then a disapproval of a voter's provisional ballot upon that finding would comply with the law.³³

17 Will a voter's ballot be counted if the voter completes a Photo ID Exception Form and writes on the reasonable impediment "Other" line, "I did not know photo ID was required"?

A statement that the voter was not aware of the photo ID requirement is a true reason for why a voter could not show a photo ID at the time they presented to vote, unless the county board has information proving that the voter did, in fact, know they needed to show ID. Again, the reasonableness of a voter's impediment to presenting ID is for the voter to determine.³⁴ The county board's concern is with the truth or falsity of the Form. And for a reasonable impediment, the county board is specifically concerned with whether it is true or false that the claimed reason "*prevents* the registered voter from *presenting* photograph identification."³⁵

County boards must remember that an impediment to *presenting* ID could involve something that has kept the voter from even *obtaining* an ID in the first place (for example, lack of transportation, lack of documents needed to get the ID, etc.). But even if a voter has an ID, the law still permits them to claim a reasonable impediment to *presenting* ID at the voting site (for example, ID misplaced, voter unaware that they would need to bring ID, etc.).

³³ On the other hand, a rejection of a ballot based on the county board's conclusion that a voter's given reason on the Form was "insufficient" or "nonresponsive" would not comply with the law. The law permits the county board to reject a provisional ballot with a completed Photo ID Exception Form only if "the county board has grounds to believe the affidavit is false." N.C.G.S. § 163-166.16(f).

³⁴ See note 32. Judge Kavanaugh further explained, "the reasonableness of the listed impediment is to be determined by the individual voter, not by [an election official] or county board. The reasonable impediment affidavit simply helps to ensure that voters . . . are who they say they are." *South Carolina*, 898 F. Supp. 2d at 36.

³⁵ N.C.G.S. § 163-166(d)(2).