



NORTH CAROLINA

STATE BOARD OF ELECTIONS

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Numbered Memo 2023-07

TO: County Boards of Elections
FROM: Karen Brinson Bell, Executive Director¹
RE: Early Voting Official Appointment
DATE: December 19, 2023

This numbered memo provides guidance about the appointment of early voting officials in accordance with the changes made by Session Law 2023-140 (SB 747). This law is effective January 1, 2024.

1. Appointment of Early Voting Officials

Appointment by the County Board of Elections

For each primary and election, county boards of elections shall appoint precinct officials for each early voting site, other than the county board office.

Early voting officials shall be appointed as follows:²

- **Chief Judge and Judges.** A chief judge must always be appointed to each early voting site for each day of early voting. Two judges shall be appointed to each early voting site for each day of early voting, where possible. County boards should try to ensure all early voting sites have a chief judge and two judges at all times, in the event a voter challenge needs to be heard. If it is not possible, however, county boards should appoint at least one judge per site.
 - Partisan balance: County boards shall work to ensure, if at all possible, that the chief judge and judges working at any site at the same time do not all belong to the same political party.
- **Assistants.** The county board shall appoint any assistants needed for each early voting site.

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 G.S. § 163-166.35(a1) (S.L. 2023-140, sec. 27(c)).

- Partisan balance: County boards shall work to ensure, if at all possible, that an equal number of assistants are appointed from different political parties.

Multiple chief judges, judges, and assistants may be appointed to serve at each early voting site so that chief judges, judges, and assistants may serve for partial shifts throughout each day of early voting or serve for less than the full number of days of early voting.

In making its appointments for chief judge and judges, the county board may designate the names of the specific individuals and the sites and shifts that they will serve. Alternatively, the county board may appoint a slate of individuals to serve in given roles at all voting sites, and may leave the scheduling determinations up to the county board staff, provided that the partisan allocation requirements are met, where possible.³ County boards must ensure that there are sufficient officials appointed to each early voting site to properly staff the site and conduct any challenges that are filed.

Recommendations by the County Party Chair

The chair of each political party in the county shall recommend individuals who are qualified to serve as precinct officials at early voting sites. If the party's recommendations are received by the county board of elections no later than the fifth business day before the date on which appointments are to be made, the county board of elections shall make appointments from the list of recommendations provided the recommended individuals are eligible to serve as precinct officials.⁴

The chair of the political party may suggest which individuals they think should fill the roles of chief judge and judges, and to suggest particular sites, dates, or times for particular nominees. However, the county board is not required to accept these recommendations. The board is merely obligated to select from the list of recommended names of nominees, provided the nominees are qualified and the list was timely provided.⁵ County boards should consider the needs of the voting sites, the partisan balance requirements, and the capability and availability of the

³ G.S. § 163-166.35(a1)(1) (S.L. 2023-140, sec. 27(c)) states: "A chief judge and judges shall be appointed to each early voting site for each day for early voting...."

⁴ G.S. § 163-166.35(a1)(1) (S.L. 2023-140, sec. 27(c)) states: "The chair of each political party in the county shall recommend individuals who are otherwise qualified to serve as precinct officials at early voting sites." Qualifications are discussed in Section 3 of this memo.

⁵ The law authorizes the county party chair to "recommend individuals . . . to serve as precinct officials at early voting sites," and then requires the county board to "make appointments from the list of recommendations." G.S. § 163-166.35(a1) (S.L. 2023-140, sec. 27(c)).

nominees when assigning recommended individuals into roles, sites, and schedules at early voting sites.

Before each primary or election, each county board of elections shall set a date when the county board will hold a duly noticed public meeting to appoint early voting officials to sites other than the county board office. A county board may set separate dates for the appointment of chief judges and judges versus assistants. At least 21 days prior to the date set for that meeting, the county board shall send an email or letter via U.S. mail to the chair of each political party organized in the county, notifying the chair of (1) the county board's appointment date and (2) the party's deadline to provide recommendations for qualified early voting officials, which shall be the fifth business day before the appointment date. This notice may be sent by the county director of elections.⁶

If the party's recommendations are not received by the county board of elections by the fifth business day before the date on which appointments are to be made, or if the party does not submit sufficient recommendations to staff each shift for each early voting site, the county board of elections may appoint registered voters in that county who were not recommended by the party chairs. Unlike for appointing *election day* officials who are not recommended by the parties under G.S. § 163-41(c) and -42(b), the county board's vote to appoint *early voting* officials who are not recommended by the parties under G.S. § 163-166.35(a1) does not need to be unanimous. In making its appointments, the county board shall ensure, wherever possible, that no precinct has a chief judge and judges all of whom are registered with the same party.⁷ Although the county board must prioritize ensuring each site is adequately staffed for each day of early voting, the county board shall also ensure, wherever possible, that each qualified individual who is timely recommended by a party is appointed to serve in some capacity during early voting.

⁶ N.C. State Bd. of Elections, [Resolution on Appointment of Early Voting Officials](#) (Nov. 28, 2023).

⁷ See G.S. § 163-166.35(a1)(1) (S.L. 2023-140, sec. 27(c), which requires chief judges and judges to be appointed “in the same manner as allocated to each precinct in the county as provided in G.S. 163-41 where possible.” (Emphasis added.) Subsection (a1)(2) has a similar allocation requirement for assistants, referring to G.S. § 163-42. The “manner” of “allocation” of precinct officials refers to the legal criteria for assigning officials to each site. Under G.S. §§ 163-41 and -42, the legal criteria for assigning officials at particular sites are in-precinct residence and party affiliation. Because in-precinct residence is irrelevant for assignment to an early voting site, which offers the opportunity to vote to all county residents, the only assignment criteria that applies here is party affiliation.

3. Qualifications of Officials

Individuals appointed to serve as early voting officials must be registered voters and residents of the county in which the early voting site is located. Chief judges and judges must be “of good repute” and “have good moral character,” and be able to read and write.⁸

An individual is not eligible to serve as a precinct official if they:

- Hold any elective office under the government of the United States, or of the State of North Carolina or any political subdivision thereof;
- Are a candidate for nomination or election;
- Hold any office in a state, congressional district, county, or precinct political party or political organization, or who is a manager or treasurer for any candidate or political party, provided however that the position of delegate to a political party convention shall not be considered an office for the purpose of this subsection;⁹ or
- Are the wife, husband, mother, father, son, daughter, brother or sister of any candidate for nomination or election if the candidate is on the ballot at the early voting site in which the precinct official would serve.¹⁰

The following categories of relatives are prohibited from serving at the same voting site at the same time: spouse, child, spouse of a child, sister or brother.¹¹ These individuals may serve at different voting sites at the same time or at the same voting site at different times.

Because all county boards use the SEIMS early voting application (SOSA), most early voting officials need to be capable of operating a computer. County boards should work to inform the appointing political parties of this need in advance of submission of the lists to help ensure that workers have the technical skills and other capabilities necessary to conduct early voting.

4. Vacancies

A vacancy may occur if an early voting official dies, is removed, or resigns after appointment. A vacancy may also occur if a precinct official is not appointed by the county board, such as where the party does not make sufficient (or any) recommendations and the county board is unable to appoint someone at the meeting designated for such appointments. The process is the same

⁸ G.S. § 163-41(a), (c).

⁹ G.S. § 163-41.

¹⁰ G.S. § 163-41.1(b).

¹¹ G.S. § 163-41.1(a).

whether the vacancy occurs in advance of the early voting period or on the day the person is assigned to serve.

Vacancy in the Position of Chief Judge or Judge

If a vacancy occurs in the position of chief judge or judge, the chair of the county board of elections shall appoint a replacement.¹² If a county political party chair nominated the vacating official, the board chair shall consult with that party chair, if possible.¹³ If the party chair nominates a qualified replacement, the board chair shall appoint that person. In filling such a vacancy, the board chair shall appoint a person who belongs to the same political party as that to which the vacating member belonged when appointed, where possible.¹⁴ If a party chair did not nominate the vacating official, or if there is not time to consult with the party chair, which could occur for example when an official calls out on the day they are scheduled to serve, the board chair is not required to consult with the party chair. The chair may delegate the appointment of replacement chief judges and judges to the county board staff. The delegation should be in writing and should designate the staff member or members with authority to make the appointments. The delegation could also be limited to certain time periods, such as during the early voting period.

County boards may wish to appoint alternate chief judge and judges who can step in in the even a chief judge or judge calls out with little notice. This will help ensure that early voting sites are fully staffed at all times.

Vacancy in the Position of Assistant

If a vacancy occurs in the position of assistant, the county board may appoint someone to fill the role or may delegate this responsibility to county board staff.

¹² G.S. § 163-41(d). Because the early voting official appointment law, G.S. § 163-166.35(a1) (S.L. 2023-140, sec. 27(c)), does not address the process for filling vacancies, the State Board interprets the background law for filling vacancies for chief judges and judges to apply—G.S. § 163-41(d).

¹³ For example, if there is too little time to consult the party chair before an official must be assigned to a shift at a voting site, that would not make it possible to consult the party chair.

¹⁴ As explained in note 7 above, the early voting official appointment law requires allocation of officials for partisan balance, but it guarantees flexibility with the “where possible” language. G.S. § 163-166.35(a1)(1) (S.L. 2023-140, sec. 27(c)).

5. County Board Office

For early voting conducted at the county board of elections office, early voting officials are not appointed. Those working at the county board office are considered county employees.¹⁵ Such workers are typically assigned to early voting shifts administratively by staff. The board would nonetheless need to designate two workers at the county board office to serve as “judges” and one to serve as a “chief judge” at all times during early voting, for the purposes of deciding any voter challenges or photo ID challenges at that site.¹⁶ All such designees may not be affiliated with the same political party.

If the county board has designated an “in lieu of” site to be used for early voting instead of the county board office, individuals serving at that site must be appointed.¹⁷ If a county board conducts early voting at the same physical address as its office, that site is considered the “county board office,” and officials would not be appointed for that site.

6. Student Election Assistance

County boards may appoint student election assistants to early voting sites according to the requirements in 163-42.1.¹⁸

7. Training

County boards of elections must provide training to all of their early voting officials.¹⁹ This training should include instruction about the use of pollbook computers, voting equipment, and all other aspects of early voting. County boards must also ensure that early voting officials are trained on the differences between early voting and Election Day voting, including that early voting ballots are retrievable, the polls are not closed on tabulators during early voting, and the requirements for same-day registration. See [Numbered Memo 2023-05](#) for information about same-day registration.

¹⁵ G.S. § 163-166.35(a) (S.L. 2023-140, sec. 27(c)).

¹⁶ See G.S. § 163-88 (S.L. 2023-140, sec. 13(b)); G.S. § 163-166.16(b); 08 NCAC 17 .0101(d)(3).

¹⁷ See G.S. § 163-166.35(a) (S.L. 2023-140, sec. 27(c)).

¹⁸ G.S. § 163-166.35(a1)((3) (S.L. 2023-140, sec. 27(c)).

¹⁹ See G.S. 163-82.24(a) (“The State Board of Elections shall promulgate rules for the training of precinct officials, which shall be followed by the county boards of elections.”); 08 NCAC 10B .0101 (requiring chief judges and judges to attend an instructional meeting prior to each primary or election); and 08 NCAC 04 .0305 (requiring the chair of the county board to conduct an instruction meeting before each primary or election to instruct precinct officials in the use of the voting system).

8. Oath of Office

Chief judges and judges shall take the oath as soon as practicable following their training. They shall also sign the written copy of the oath and file it with the county board of elections. The oath may be administered by the chair of the county board, a notary public, or other officer authorized to administer oaths.

Each chief judge and judge shall take the following oath:

“I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; that I will endeavor to support, maintain and defend the Constitution of said State not inconsistent with the Constitution of the United States; that I will administer the duties of my office as chief judge of (judge of election in)_____ [early voting site name], _____ County, without fear or favor; that I will not in any manner request or seek to persuade or induce any voter to vote for or against any particular candidate or proposition; and that I will not keep or make any memorandum of anything occurring within a voting booth, unless I am called upon to testify in a judicial proceeding for a violation of the election laws of this State; so help me, God.”

Each assistant must take the same oath, substituting for the words “chief judge of” for “assistant in.” It is recommended that assistants take the oath of office at the conclusion of their training to ensure that they are properly sworn before beginning their duties as early voting officials. This is not a requirement, but county boards should have a plan in place to ensure all officials take the oath prior to beginning their first shift.

9. Employment Considerations

It is permissible to onboard and handle administrative matters for early voting officials through a temp or staffing agency. However, the county board must supervise the day-to-day activities of these officials, must instruct them on what they must do in their positions, and must have ultimate hiring and firing authority over all election officials. Using a temp agency is an administrative convenience. Regardless of whether a temp agency is used to administer poll worker employment, the records of those workers are covered by the confidentiality provisions of G.S. § 153A-98, which include exceptions for certain information.

Early voting officials may only be appointed and removed by the county board of elections. Removal may occur only for cause and after notice and a hearing.²⁰ County boards should use the process in [08 NCAC 03 Section .0200](#) for complaints against precinct officials, including early voting officials, if an early voting official needs to be removed. This does not apply to workers staffing early voting at a county board office.

In the event of an urgent need to put an early voting official on leave, such as for egregious misconduct or misbehavior, the county board should immediately notice and call an emergency meeting. The county board could hold the notice and hearing to remove the official at that time, or they could temporarily suspend the official in anticipation of a hearing schedule in the future. If an official is actively violating a criminal law or compromising the integrity of the election, they should be asked to leave, and law enforcement should be called if the official refuses to do so.²¹

The elections statutes do not set a separate minimum salary for early voting officials.²² Therefore, these officials should be paid at least the state minimum wage, which is \$7.25 per hour,²³ for time worked and in training.

10. Public Records Requests for Information about Early Voting Officials

The confidentiality of county personnel records forbids the release of personnel records for county employees unless the information requested is listed in the statute as a type of information that may be disclosed.²⁴ This law covers county board employees, precinct officials (including early voting officials), and nominees for these positions.²⁵

²⁰ G.S. § 163-33(2). See also G.S. § 163-166.35(a1) (S.L. 2023-140, sec. 27(c), which describes early voting officials as “precinct officials.”

²¹ G.S. 163-48.

²² Compare with G.S. § 163-46, which sets the minimum wage for elections officials “on the day of a primary, special or general election.”

²³ See G.S. § 95-25.3(a), which incorporates the federal minimum wage if higher than the state rate, which it currently is. See 29 U.S.C. § 206(a).

²⁴ G.S. § 153A-98.

²⁵ See *Durham Herald Co. v. Cty. of Durham*, 334 N.C. 677, 679, 435 S.E.2d 317, 319 (1993), which explains that “employee” is broadly construed under this statute to include “those who apply to county boards or their agents for positions which those boards and their agents are authorized to fill.”

Information that may be released includes: name, age, date of original employment or appointment to county service, terms of employment, current position, title, current salary, date and amount of each increase or decrease in salary with that county, date and type of change in position classification with that county, date and general description of reasons for promotion in that county, date and type of disciplinary action taken by county, and office to which employee is assigned (e.g., early voting site assignment).²⁶

Examples of information that may not be released includes:

- An application for county employment, whether or not the person actually became an employee, including nomination paperwork, applications for individuals seeking to become election officials, and information on lists created for the purpose of selecting nominees or assigning officials other than items like names that may be disclosed as explained above.²⁷
- The employee's/appointee's home address, personal telephone number, personal email address, date of birth, or party affiliation. This information is not on the list of items that may be disclosed to the public, and therefore it may not be provided in response a public records request.²⁸ This does not prevent the disclosure of the lists of names provided by one party or another, as long as the list includes only information that may be disclosed, like name. Other information that is not specifically allowed to be disclosed under G.S. § 153A-98(b) must be redacted, if requested.

This list is not exhaustive. Again, information in an election official's personnel file is confidential and may not be released in response to a public record's request unless it is on the list of information permitted to be released under G.S. § 153A-98(b). County boards that have questions about how to respond to a public records request for information about elections officials should contact their county attorney and/or the State Board.

²⁶ G.S. § 153A-98(b).

²⁷ See *Elkin Tribune, Inc. v. Yadkin Cty. Bd. of Cty. Comm'rs*, 331 N.C. 735, 737, 417 S.E.2d 465, 466–67 (1992).

²⁸ See David Lawrence, *Public Records Law*, (2d ed. 2009), at 159, 166. Work email addresses and phone numbers, however, are open to the public.

11. Frequently Asked Questions About Appointment of Early Voting Officials

1. Do all early voting officials have to be registered voters in the county?

Yes. Because they are precinct officials, early voting officials must be registered voters in the county.²⁹ Early voting officials are not required to be registered in a particular precinct since early voting sites serve all voters in the county.

2. What is the minimum number of early voting officials that may serve at a site at a given time?

By law, a chief judge must be present at each early voting site at all times.³⁰ Although the statute requires the appointment of two judges only “where possible,” county boards should strive to appoint two judges for each day of early voting to ensure that there are enough officials present to run the site. Voter challenges must be heard by the chief judge and two judges.³¹ Additionally, curbside voting requires the presence of at least two elections officials.³²

There are other reasons why county boards should ensure that more than one early voting official is always present at a site. County boards need to be able to handle unexpected influxes of voters and allow for any needed breaks for workers or unexpected events requiring a worker to leave the site. Having only one official present at the site could also present a safety concern, particularly if it is dark outside and the official is opening or closing the site on their own.

3. Is it permissible to appoint a chief judge and assistants but no judges?

No. If there is a sufficient number of individuals to serve as assistants, the county board should first appoint two judges per site. See the answer to Question 2 for more information about the role of judges.

4. What is the term of an early voting official?

Early voting officials are appointed for one election only. Unlike Election Day precincts, early voting sites are established by the county board of elections prior to each election. Therefore, it is not possible to appoint early voting officials to serve for more than one election at a time.

²⁹ See G.S. § 163-41 and G.S. § 163-42, which indicate that precinct officials must be registered voters in the county.

³⁰ G.S. § 163-166.35(a1) (S.L. 2023-140, sec. 27(c)).

³¹ G.S. § 163-88.

³² 08 NCAC 10B .0108.

5. Can a chief judge at early voting sites also serve as a chief judge at an Election Day precinct?

Yes. County boards should ensure that any official who serves in multiple roles at different times understands the distinct duties and responsibilities of each role.

6. Can someone be a chief judge sometimes and an assistant sometimes?

Yes.

7. Is there a recommendation for how many officials to appoint?

The needs of each site will vary. County boards of elections are best suited to determine the number of officials needed at each site at given times. County boards should consider past early voting turnout in similar elections and whether they may need any additional officials to reduce the possibility of long lines.

8. Can county boards appoint unaffiliated voters to serve as early voting officials?

Yes, provided the county board follows the appointment process outlined in this memo. A political party could choose to recommend unaffiliated voters to serve as early voting officials, or, if the political party does not submit sufficient names, the county board could appoint unaffiliated voters.

9. What are the restrictions on political activity for early voting officials?

The restrictions on political activity for early voting officials are the same as for Election Day officials. See Section 3 of this memo for a list of qualifications.

Elections officials also have a duty of impartiality and honesty and may not engage in any political activity while on duty.³³ They should also refrain from any political activity during the early voting period that could lead someone to question their ability to serve as impartial elections officials. A precinct official may be removed for “incompetency, failure to discharge the duties of office, failure to qualify within the time prescribed by law, fraud, or for any other satisfactory cause.”³⁴ Precinct officials should therefore avoid any activity that could lead to their removal under this section.

³³ G.S. § 163-47(a) and 08 NCAC 10B .0101(a).

³⁴ G.S. § 163-33(2).

10. What does it mean for a chief judge or judge to be “of good repute” or have “good moral character”?

Although not defined in the statute, the North Carolina Supreme Court has described good moral character as follows:

[Good moral character] is something more than the absence of bad character. It is the good name which [a person] has acquired, or should have acquired, through association with his fellows. It means that he must have conducted himself as a man of upright character ordinarily would, should or does. Such character expresses itself, not in negatives nor in following the line of least resistance, but quite often in the will to do the unpleasant thing, if it is right, and the resolve not to do the pleasant thing, if it is wrong.³⁵

This definition has been applied in the context of civil cases (such as for applicants to become members of the legal profession)³⁶ and in criminal contexts.³⁷ Good moral character may include an absence of “significant history of prior criminal activity,” but it is “more than simply the absence of criminal convictions.”³⁸

If a county board becomes aware of reasons to question a potential precinct official’s “good repute” or “good moral character,” the county board should evaluate the basis of these concerns in light of the important responsibilities that these officials are entrusted with. In other words, they should consider whether the reasons to question the person’s good repute or moral character are particularly relevant to the election official role. State law permits the rejection of a recommended poll worker for lack of good repute or good moral character, because these are statutory qualifications for the role.³⁹ If a county board is going to consider and deliberate on any reasons to question a prospective poll worker’s good moral character or good repute, it should do so in closed session.⁴⁰

³⁵ *In re Rogers*, 297 N.C. 48, 58 (1979) (quoting *In re Applicants for License*, 191 N.C. 235, 238 (1926)).

³⁶ See, e.g., *Rogers*, 297 N.C. at 48.

³⁷ See, e.g., *State v. Johnson*, 298 N.C. 47 (1979).

³⁸ *Johnson*, 298 N.C. at 72.

³⁹ G.S. § 163-41(a), (c).

⁴⁰ See G.S. § 143-318.11(a)(6).

11. Can we make recommendations to the parties as to who recommend for appointment of early voting officials?

Yes. Additionally, the county board should consider providing to the party chairs information about what makes an early voting official successful, such as:

- Having prior experience as an early voting worker or Election Day precinct official.
- Availability to assist with setup and breakdown of early voting locations.
- Ability to use computers: laptops and printers for elections applications, entering data into election applications and using voter look-up tools, learning and executing opening and closing procedures for voting machines (tabulators and ballot marking devices).
- Ability to lift or assist in moving voting machines, supply boxes, and other materials needed to operate an early voting location. (If physically unable, the county should work to accommodate so the site is otherwise staffed with someone who is able to do these things.)
- Ability to work as part of team and take direction.
- Availability to attend county board trainings.
- Ability to reliably work needed shifts.
- Ability and desire to work as an impartial election official who will treat all voters with fairness and respect.

12. May a party chair submit untrained individuals to receive preference over experienced workers?

The statute requires early voting officials to be appointed from the lists of names submitted by the parties. It does not authorize the parties to decide when, where, and in what role an appointee serves. See the answer to the prior question for more information about recommendations for communicating with the county party chair to help ensure sure they recommend successful early voting officials.

13. What happens if the chief judge, judge, or assistant does not show up for a shift at an early voting site? Who will appoint their replacement?

See Section 4 of this memo regarding vacancies.

14. Is it permissible to appoint multiple individuals to serve as chief judge and judge so that the county board staff can then assign them daily (always ensuring partisan balance, where possible) with staff assigning days and shifts as needed and according to the worker's availability?

Yes. G.S. § 163-166.35(a1) does not prohibit a county board from assigning multiple individuals to serve in the same roles, or from assigning the same individual to possibly serve in multiple roles, provided the partisan balance requirements are met when officials are staffing an early

voting site. If the county board chooses to appoint early voting officials in such a manner, staff are responsible for ensuring that each site is appropriately staffed, that partisan balance requirements are met where possible, and that officials serving understand their roles and responsibilities.