



Numbered Memo 2024-02

TO: County Boards of Elections
FROM: Karen Brinson Bell, Executive Director¹
RE: Second Primary Preparations
DATE: March 14, 2024

This numbered memo provides guidance on conducting a second primary following the March 5, 2024, primary election.

The State Board has received a request for a second primary from a statewide candidate.² According to unofficial election results from the March 5, 2024, primary, the candidate would be eligible to request a second primary under N.C.G.S. § 163-111, contingent on the State Board's certification of the primary results at its March 26, 2024, canvass meeting. Accordingly, following that certification, all 100 county boards of elections will be conducting a second primary for at least one political party's contest. **The second primary will be conducted on Tuesday, May 14, 2024.**³

1. General Considerations

1.1 Ballot Quantity

For the 2024 second primary, county boards are required to procure a supply of paper ballots as follows:

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 Requests for second primaries received by the State Board of Elections can be viewed on the [State Board's website](http://www.ncsbe.gov).

³ G.S. § 163-111(e) (S.L. 2023-140, sec. 16.5) ("If a second primary is required under the provisions of this section, the appropriate board of elections, State or county, shall order that it be held 10 weeks after the first primary."). Previously, the date of the second primary depended on whether a federal contest was involved. With the passage of N.C. Session Law 2023-140, all second primaries are now held 10 weeks after the first primary.

- For counties that use pre-printed paper ballots as their primary method of voting, order ballots at least equal to 30% of the number of voters in the county affiliated with each party with a second primary, as calculated as of the time when ballots are ordered before the election. For example, if the only contests in the second primary involve the Republican Party, then order ballots at least equal to 30% of the number of voters in the county affiliated with the Republican Party.
- For counties that use ballot on demand/ballot-marking devices and blank stock as their primary method of voting, prepare pre-printed paper ballots at least equal to 20% of the number of voters in the county affiliated with each party with a second primary, as calculated as of the time when ballots are ordered before the election. Blank stock should be on hand equal to 30% of the number of voters in the county affiliated with each party with a second primary.

County boards should be familiar with [Numbered Memo 2022-02](#), which contains additional information regarding ballot preparation and distribution.

1.2 Unaffiliated Voter Participation in the Second Primary

Unaffiliated voters who voted a party's ballot in the first primary may only be given the ballot of the same party during the second primary. But unaffiliated voters who did not vote in the first primary may vote in the second primary and will be issued the second primary ballot of their choice.⁴

For example:

- If an unaffiliated voter participated in the Democratic Party first primary, then they are only eligible to vote in a Democratic Party second primary. Likewise, they are not eligible to participate in the Republican Party second primary, even if there is no Democratic Party second primary. Similarly, unaffiliated voters who participated in the Republican Party first primary may vote in the Republican Party second primary only.
- Unaffiliated voters who voted a nonpartisan ballot in the first primary are not eligible to participate in the second primary.

Voters affiliated with a party that did not have a first primary remain ineligible to vote in a different party's second primary (e.g., Green and No Labels parties). As discussed below, voters

⁴ See G.S. § 163-119 (S.L. 2023-140, sec. 17) ("Unaffiliated voters shall be allowed to vote in one primary of the voter's choosing, subject to the provisions of G.S. 163-59, 163-111, and 163-166.7."); G.S. § 163-111(e) ("[t]he second primary is a continuation of the first primary").

are not permitted to change their party affiliation to participate in the second primary, even if they did not vote in the first primary.

2. In-Person Voting

2.1 Early Voting Plans

The early voting period for the 2024 second primary begins Thursday, April 25, 2024, and ends Saturday, May 11, 2024. **Early voting plans must be adopted by the county board and reported to the State Board no later than March 18, 2024.** The State Board will consider any nonunanimous plans and approve all plans at its meeting on March 26, 2024, after it canvasses the first primary and certifies the results.

County boards are not required to use the same early voting plan for the second primary as they did for the first primary. However, the uniform site and hour requirements for even-numbered year elections remain in place for the second primary.⁵ This means, at a minimum, the county board office or in lieu of site must be open for early voting during regular business hours on weekdays during the early voting period, as well as from 8:00 a.m. to 3 p.m. on the last Saturday of early voting. If the county board office is open only regular business hours, the uniform dates and hours requirements do not apply to that location. If the county board office or in lieu of site is open beyond regular business hours, the uniform dates and hours requirements described below apply to that location.

If the county board's early voting plan includes additional sites, all additional sites must be open on the same weekdays from 8:00 a.m. to 7:30 p.m. and on the last Saturday from 8:00 a.m. to 3 p.m. And if an early voting plan includes additional Saturdays or Sundays, then all sites must be open for the same number of hours on that Saturday or Sunday.

2.2 Temporary Transfer of Voters to Adjacent Precincts

County boards may reduce the number of precinct voting locations for the second primary. The county board may adopt a resolution, subject to approval by the Executive Director of the State Board, to provide that "voters from a given precinct may be temporarily transferred, for the purpose of voting, to an adjacent precinct."⁶ Precincts are "adjacent" only when they share a boundary line at some location. **The deadline to notify voters of any polling place change is April 12, 2024.** A county board that wants to transfer voters from one precinct to another for the second primary must adopt the resolution in a meeting and submit the request for approval to the

⁵ G.S. §§ 163-166.35(c) and -166.40(b) (S.L. 2023-140, sec. 27(c)).

⁶ G.S. § 163-128(a).

Executive Director well before this deadline. **The deadline to make a precinct transfer request to the Executive Director is March 29, 2024.**

Although the deadline to give notice of an adopted resolution establishing, altering, discontinuing, or creating a precinct in advance of the second primary is March 28, 2024,⁷ there is insufficient time before the second primary to implement any such change to a precinct in SEIMS. As a result, no change to a precinct's boundaries will be approved before the second primary.⁸

2.3 Buffer Zone and Electioneering Area Notices

County boards of elections should consult [Numbered Memo 2022-12](#) for guidance on buffer zones and establishing areas adjacent to the buffer zone for electioneering.

The deadline to publicly announce buffer zones for each voting location and any limitations on political activity beyond the buffer zone is April 12, 2024, for Election Day sites⁹ and April 15, 2024, for early voting sites.¹⁰

2.4 Early Voting Official Appointments

For sites other than the county board office, county boards must appoint precinct officials for each early voting site that will be used in the second primary. This is because early voting sites are established by the county board prior to each election. County boards are encouraged, where possible, to appoint second primary early voting officials who are experienced in conducting elections, due to the time constraints on any required training.¹¹ If a precinct official appointed for the second primary did not serve as a precinct official in the first primary, then the law requires that the official attend training. Even if the precinct official did serve in that same role in the first primary, they may still need or benefit from the training, based on the county board's assessment. Please consult [Numbered Memo 2023-07](#) for guidance about the appointment of early voting officials.

⁷ G.S. § 163-128(a).

⁸ See G.S. § 163-132.3(a) ("No county board of elections may change any precinct boundary unless approved by the Executive Director of the State Board.").

⁹ G.S. § 163-166.4(d).

¹⁰ G.S. § 163-166.4(e) (S.L. 2023-140, sec. 22).

¹¹ County boards of elections must provide training to all of their early voting officials. See G.S. 163-82.24(a); 08 NCAC 10B .0101; 08 NCAC 04 .0305.

Before making any appointments to sites other than the board office, the chair of each political party in the county is permitted to recommend individuals who are qualified to serve as early voting officials by the fifth business day before the date on which appointments are to be made.¹² Therefore, each county board that will be appointing early voting officials shall set a date when the county board will hold a public meeting to appoint early voting officials to sites other than the county board office, and must send notice at least 21 days prior to the date set for that meeting to the chair of each political party organized in the county.¹³ **With the above in mind, county boards must set the date and send the notice *at the very latest* by March 25, 2024, but county boards are urged to send the notice earlier. This is to ensure the appointment meeting can occur before the start of early voting and there is time to train early voting officials. County boards are encouraged to do this task as soon as possible.**

If a county board will only conduct early voting at its office, then it does not need to appoint early voting officials. 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.¹⁴

2.5 Observers

County boards should consult [Numbered Memo 2023-06](#) for detailed instructions and guidance pertaining to observers.

The chair of a county political party and the chair of a state political party may designate observers to serve at the second primary voting places “in which the political party has a candidate appearing on the ballot.”¹⁵ As such, if one party does not have any contests on the second primary ballot in a county, then that party may not designate any observers for the county’s voting sites. For example, if a county is only conducting a second primary for a Republican Party contest, observers designated by another political party’s chair, even if designated as statewide observers, are not permitted to be observers in the voting place.

The deadlines for a county chair of a political party or a state chair of a political party to submit a list of their designated observers is noon on the business day before each observer is scheduled to

¹² G.S. § 163-166.35(a1)(1) (S.L. 2023-140, sec. 27(c)).

¹³ N.C. State Bd. of Elections, [Resolution on Appointment of Early Voting Officials](#) (Nov. 28, 2023).

¹⁴ See G.S. § 163-88 (S.L. 2023-140, sec. 13(b)); G.S. § 163-166.16(b); 08 NCAC 17 .0101(d)(3).

¹⁵ G.S. § 163-45.1(b) (S.L. 2023-140, sec. 7(b)).

serve.¹⁶ The initial deadline for the submission of observer lists before the start of early voting for the second primary is noon on April 24, 2024, and that list may be updated through the early voting period. The deadline for the submission of observer lists for the second primary Election Day is noon on May 13, 2024.

3. Absentee Voting

3.1. Absentee Ballot Availability and Meetings

Considering a second primary request has been made in a statewide contest, all ballot information will not be officially determined until the State Board of Elections has completed the canvass on March 26, 2024.¹⁷ Absentee ballots must be provided “as quickly as possible after the ballot information for a second primary has been determined.”¹⁸ While there is no set deadline for the distribution of absentee ballots for civilian voters, there are requirements under state and federal law for UOCAVA voters that will govern the distribution of absentee ballots:

- If the second primary involves a federal contest, any requested UOCAVA ballots are required to be distributed by Saturday, March 30, 2024.¹⁹ Note that Friday, March 29, 2024, may be a county holiday, although it is not a federal or mail holiday. If this is a county holiday, you should plan to distribute any requested UOCAVA ballots on March 28, 2024.
- If the second primary does not involve a federal contest, the distribution of UOCAVA ballots “shall be as soon as practicable” and no later than April 1, 2024, if distributed electronically or April 10, 2024, if distributed by mail.²⁰

¹⁶ G.S. § 163-45.1(c) (S.L. 2023-140, sec. 7(b)).

¹⁷ G.S. § 163-111(c)(1) (“such request shall be subject to the certification of the official results by the State Board of Elections”).

¹⁸ G.S. § 163-227.10(b).

¹⁹ 52 U.S.C. § 20302(a)(8) (“Each State shall . . . transmit a validly requested absentee ballot to an absent uniformed services voter or overseas voter . . . in the case in which the request is received at least 45 days before an election for Federal office, not later than 45 days before the election[.]”); G.S. § 163-258.9(a).

²⁰ G.S. § 163-258.9(a) (the ballots “shall be transmitted electronically no later than three business days and by mail no later than 15 days from the date the appropriate board of elections orders that the second primary be held”).

The date of the first weekly meeting to review and act upon absentee ballots is April 9, 2024.²¹ County boards of elections should consult [Numbered Memo 2020-25](#) on conducting absentee ballot meetings, including when an absentee meeting can be cancelled.

3.2 Absentee Ballot Requests

Any voter eligible to participate in the second primary may request an absentee ballot by May 7, 2024. (UOCAVA ballots may be requested by May 13, 2024.)

Additionally, any voter who indicated on their absentee application for the first primary that they would like to request an absentee ballot for the second primary, if one is called, shall automatically be issued an absentee ballot for the second primary, if they have an eligible ballot style. Such voters must be issued absentee ballots even if their ballot envelope/application for the first primary was disapproved. For example, if the application was disapproved because there was only one witness or because the voter's Photo ID Exception Form was found to be false, the voter requesting a second primary ballot should still be issued an absentee ballot for the second primary, if they have an eligible ballot style.

3.3 UOCAVA Absentee Voting

The ballot must be transmitted in the manner requested by the voter. In addition, county board staff should be sure to link the pdf-formatted UOCAVA ballots in SEIMS's Ballot Style application in order to generate UOCAVA ballot packets that will be transmitted electronically.

County boards must post a UOCAVA Election Notice to be used in conjunction with the federal write-in absentee ballot. **The notice must be prepared by the county board no later than March 27, 2024.**²² The election notice must contain a list of all of the contests that, as of that date, are expected to be on the ballot for the second primary, along with specific instructions for how a voter is to indicate on the federal write-in absentee ballot the voter's choice for each contest.

²¹ G.S. §163-230.1(f).

²² G.S. § 163-258.16(a) ("the county board of elections shall prepare, no later than the day following the date the appropriate board of elections orders that a second primary be held, an election notice for that jurisdiction to be used in conjunction with the federal write-in absentee ballot").

4. Voter Registration

4.1 New Voter Registration

New voter registrations in the county are not permitted between the dates of the first and second primaries.²³ The only exception that allows for new registration on the date of the second primary is when a person becomes eligible to vote between the first and second primaries.²⁴ Same-day registration is not permitted during early voting for the second primary. New registrations in the county may be processed after May 14, 2024.

4.2 Changes to Voter Registration

Voters may make name and address changes in county before the second primary but may not change their party affiliation.²⁵ In preparation for the second primary, county boards of elections should process the following voter registration forms at this time:²⁶

- Unreported moves within the county that were allowed by provisional ballot or precinct transfer in the first primary.
- Any voter registration application, regardless of source, that reports a change of address within the county or a change of name.

Party affiliation changes may be processed after May 14, 2024.

²³ G.S. § 163-111(e).

²⁴ G.S. § 163-111(e); G.S. § 163-82.6(f). This exception is only for persons who are naturalized as U.S. citizens after the first primary, who complete their felony sentence after the first primary, or who become new county residents between February 5, 2024, and April 14, 2024 (i.e., after the 30-day cutoff before the first primary and before the 30-day cutoff before the second primary). G.S. § 163-55; G.S. 163-82.6(g). A person who turns 18 years old between the first and second primary cannot register to vote before the second primary. That person was already eligible to register and vote in the first primary. G.S. § 163-59.

²⁵ G.S. § 163-82.17(a) (“No registrant shall be permitted to change party affiliation or unaffiliated status for a primary, second primary, or special or general election after the deadline for registration applications for that election as set out in G.S. 163-82.6.”).

²⁶ See G.S. § 163-111(e) (“any voter who files a proper and timely written affirmation of change of address within the county under the provisions of G.S. 163-82.15, in the first primary may vote in the second primary without having to refile that written affirmation if the voter is otherwise qualified to vote in the second primary”).

4.3 UOCAVA Voter Registration

The unavailability of voter registration for civilian voters does not apply to military and overseas voters using the Federal Post Card Application (FPCA) or Federal Write-In Absentee Ballot (FWAB) to register to vote and request an absentee ballot. The deadline for receipt of an FWAB for a new registrant or an FPCA is 5 p.m. on Monday, May 13, 2024. The deadline for receipt of an FWAB for an existing registrant is 7:30 p.m. on Tuesday, May 14, 2024.

4.4 Voter Registration Challenges

If a county is conducting a second primary that involves a federal contest, then the NVRA prohibits certain voter challenges from being heard at this time due to the timing of the second primary. Specifically, the county board cannot proceed with any voter registration challenge to a voter who is eligible to vote in that second primary contest if the challenge is based on generic evidence conveying no information about the challenged voter's specific circumstances, unless the challenge is based upon the death or active felon status of the voter.²⁷ If such a challenge is filed, then the county board should inform the challenger that the challenge may not be considered by the board at this time and should not send notice of the challenge to the challenged voter. Similarly, if such a challenge was filed before the first primary and the proceedings were paused until after the primary, any proceedings on that challenge must remain paused until after the second primary.

If a county is conducting a second primary that involves *only* state or local contests, then the county board may resume proceedings for any challenge that was paused before the first primary and may take action on newly filed voter registration challenges at this time.

Recall that voter challenges based on change of residence outside the county are never permitted under the NVRA, regardless of whether there is a federal election within 90 days.²⁸

County boards should consult the [Voter Challenge Procedures Guide](#) on processes for voter challenges, including acceptable grounds for a voter registration challenge.

²⁷ *N.C. State Conf. of NAACP v. Bipartisan Bd. of Elections & Ethics Enf't*, No. 1:16-CV-01274, 2018 WL 3748172 at *7 (M.D.N.C. Aug. 7, 2018). See State Board [Numbered Memo 2018-07](#).

²⁸ See footnote 27.