



NORTH CAROLINA State Board of Elections

Mailing Address:
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RE: SBE Rules: Notice of Publication and Public Comment

DATE: May 26, 2017

Pursuant to G.S. § 150B-21.2 and G.S. § 150B-21.3A(c)(2)(g), notice is hereby given that the State Board of Elections intends to adopt the following rules cited as 08 NCAC 01 .0106; 02 .0114; 05 .0111; 10B .0109; 18 .0101, .0102; 20 .0101, amend the rules cited as 08 NCAC 16 .0101, .0102, .0104, readopt with substantive changes the rules cited as 08 NCAC 02 .0110, .0111 and readopt without substantive changes the rules cited as 08 NCAC 01 .0104; 02 .0112, .0113; 03 .0101-.0106, .0201-.0202, .0301-.0302; 04 .0301, .0302, .0304-.0307; 06B .0103-.0105; 08 .0104; 09 .0106-.0109; 10B .0101-.0108. The full text is attached hereto.

The State Board of Elections voted in an open meeting on April 26, 2017 to publish the proposed text in the North Carolina Register, and the agency invites public comment in response to its initial publication. The State Board of Elections will receive public comment on this matter from Thursday, June 1 through Monday, July 31. Public comment may be made through any of the following methods:

Online: [Public Comment Portal](#)

Email: rules@ncsbe.gov

Mail: Attn: Katelyn Love, Deputy General Counsel, 441 N. Harrington Street, Raleigh, NC 27603

A public hearing will be held as follows:

Date: July 31, 2017

Time: Noon

Location: NCSBE, 441 N. Harrington Street, Raleigh, NC 27603

This notice is posted on the State Board of Elections website, www.ncsbe.gov

TITLE 08 – BOARD OF ELECTIONS

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Board of Elections intends to adopt the rules cited as 08 NCAC 01 .0106; 02 .0114; 05 .0111; 10B .0109; 18 .0101, .0102; 20 .0101, amend the rules cited as 08 NCAC 16 .0101, .0102, .0104, readopt with substantive changes the rules cited as 08 NCAC 02 .0110, .0111 and readopt without substantive changes the rules cited as 08 NCAC 01 .0104; 02 .0112, .0113; 03 .0101-0106, .0201-0202, .0301-0302; 04 .0301, .0302, .0304-.0307; 06B .0103-.0105; 08 .0104; 09 .0106-.0109; 10B .0101-.0108.

Pursuant to G.S. 150B-21.2(c)(1), the text of the rule(s) proposed for re adoption without substantive changes are not required to be published. The text of the rules are available on the OAH website: <http://reports.oah.state.nc.us/ncac.asp>.

Link to agency website pursuant to G.S. 150B-19.1(c): www.ncsbe.gov

Proposed Effective Date: *October 1, 2017*

Public Hearing:

Date: *July 31, 2017*

Time: *12:00 p.m.*

Location: *NCSBE, 441 N. Harrington Street, Raleigh, NC 27603*

Reason for Proposed Action:

08 NCAC 01 .0106 – *Establishes standards for the Executive Director's exercise of statutory emergency authority to change election schedules. This comes in the wake of Hurricane Matthew, the need for a clearly defined processes became clear.*

08 NCAC 02 .0110 – *Adopts the rule followed by SBE during the In re Consolidated Election Protests hearing. Specifically, it adds Subsection (e) to clarify that canvass proceeds unless the protest involves the tabulation of ballots or the qualifications of a voters sufficient in number to change the outcome of an election.*

08 NCAC 02 .0111 – *This amendment largely rewrites the protest form. It would clarify the standard of review, require a certification that the facts alleged are true and accurate, and require attorneys to indicate that they represent the protestor, among other things.*

08 NCAC 02 .0114 – *This proposed rule would provide a process whereby the Executive Director can recommend that a protest be dismissed, which may become effective if no single Board Member raises an objection. A similar process is enacted for county boards of election. The rule is important to the expeditious review while avoiding unnecessary costs and delay associated with a hearing while ensuring due process.*

08 NCAC 05 .0111 – *There are very few counties with fewer than 6, 501 voters. G.S. 163-36 allows those counties to operate a modified schedule, if allowed by the State board. This new rule would set a minimum operating schedule of Monday, Wednesday, and Friday for those counties.*

08 NCAC 10B .0109 - *This proposed rule would codify SBE's current requirements for the organization of voting sites. The requirements are presently set out in numbered memos and other guidance. The rule sets out the organization of a voting site and describes responsibilities assigned to election officials at each station.*

08 NCAC 16 .0101 – *The new section clarifies the types of facilities at which appointed bipartisan assistance teams (M.A.T.) may assist voters.*

08 NCAC 16 .0102 – *The new section mandates that M.A.T. members cannot be CBE members or CBE employees. This responds to a circumstance raised in the last cycle and addresses concerns over conflicts of interest or apparent conflicts of interest.*

08 NCAC 16 .0104 – *The new sections clarify that a M.A.T. member may assist the voter to sign/mark the absentee form or to coordinate a return visit for that purpose. The revision also allows coordination between CBEs to send M.A.T. members to assist a voter who may be in a care facility outside their county of registration.*

08 NCAC 18 .0101 – *The proposed rule would allow a person qualified to assist a disabled voter to deposit his or her absentee ballot into the closest U.S. mail depository or mailbox.*

08 NCAC 18 .0102 – *The proposed rule would codify a best practice requiring that those who deliver absentee ballots to the CBE also to complete a form identifying themselves. This is to comply better with statutory requirements that specify who may return an absentee ballot to the CBE office.*

08 NCAC 20 .0101 – *The proposed rule would codify SBE guidance from numbered memos regarding election observers at early voting sites and precinct locations.*

Comments may be submitted to: *Katelyn Love, Deputy General Counsel, State Board of Elections, 441 N. Harrington St., Raleigh, NC 27603; email rules@ncsbe.gov*

Comment period ends: *July 31, 2017*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or

facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).

- State funds affected
- Environmental permitting of DOT affected
Analysis submitted to Board of Transportation
- Local funds affected
- Substantial economic impact (\geq \$1,000,000)
- Approved by OSBM
- No fiscal note required by G.S. 150B-21.4
- No fiscal note required by G.S. 150B-21.3A(d)(2)

CHAPTER 01 - DEPARTMENTAL RULES

08 NCAC 01 .0104 PROCEDURES FOR POLITICAL COMMITTEES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

08 NCAC 01 .0106 EMERGENCY POWERS OF EXECUTIVE DIRECTOR

(a) The Executive Director acting under G.S. 163-27.1, as chief State elections official, may exercise emergency power to conduct an election when, having reviewed the totality of the circumstances, the Executive Director finds a substantial likelihood that one or more critical components of election administration has been impaired by a disruption arising from any of the following:

- (1) A natural disaster or extremely inclement weather, which may include any of the following:
 - (A) Hurricane;
 - (B) Tornado;
 - (C) Storm or snowstorm;
 - (D) Flood;
 - (E) Tidal wave or tsunami;
 - (F) Earthquake or volcanic eruption;
 - (G) Landslide or mudslide; or
 - (H) Catastrophe arising from natural causes resulted in a disaster declaration by the President of the United States or the Governor.
- (2) A military conflict that includes mobilization, pre-deployment, or deployment of active or reserve members of the United States armed forces or National Guard during a national emergency or time of war

(b) The Executive Director acting under G.S. 163-27.1 must ensure that remedial measures are substantially calculated to offset the practical effects of the disruption(s) found under Paragraph (a) of this Rule. In crafting appropriate relief, the Executive Director shall consider:

- (1) Geographic scope of disruption;
- (2) Effects on contests spanning effected and non-effected areas;
- (3) Length of forewarning and foreseeability of disruption;
- (4) Availability of alternative registration or voting opportunities;
- (5) Duration of disruption;
- (6) Displacement of voters or election workers;
- (7) Access to secure voting locations;
- (8) Sufficiency of time remaining for the General Assembly and the Governor to adopt emergency legislation addressing the disruption;
- (9) Detrimental effects on election integrity and ballot security; and
- (10) Aggregate effects on important Federal and State certification deadlines.

Authority G.S. 163-27.

CHAPTER 02 - ELECTION PROTESTS

SECTION .0100 – ELECTION PROTESTS

08 NCAC 02 .0110 ACTIONS OF COUNTY BOARD AS TO ELECTION PROTESTS

(a) The county board shall deliver or place in the mail, a copy of an election protest form and any attachments to it, to the State Board of Elections within 24 hours after it is filed. Faxing the protest, with attachments, on that same day it was filed to the State Board shall constitute the required delivery. Sending the protest and attachments, by e-mail, on the same day it was filed shall also constitute the required delivery.

(b) The county board may not consider election protests not filed in time, but shall refer all such untimely protests, along with copies of the protest and attachments, to the State Board of Elections office for consideration of a possible hearing by the State Board of Elections under G.S. 163-182.12.

(c) If after preliminary consideration of a protest, the county board determines that a hearing should be held as authorized by G.S. 163-182.10, the board shall set the hearing no later than ten business days from the date of the preliminary consideration, and shall start no

earlier than 8:00 a.m. and no later than 8:00 p.m. at any location set by the county board of elections. The county board may continue hearings for good cause. Only for good cause and upon informing the State Board of Elections office, may a hearing be set on or continued to a weekend day or holiday.

(d) Notice of hearing as required by G.S. 163-182.10 (b)(2) shall be given at least three business prior to the day of the hearing, and the notice required shall be actual notice by any means chosen by the county board. Any oral notice of the hearing shall be followed as soon as possible with a written notice. The oral notice shall constitute valid notice meeting the three-day notice requirement.

- (1) Upon a reasonable and relevant request by a protester or interested person, the chair or any two members of the county board may issue subpoenas for persons or documents. Such subpoenas shall be served in the same matter as allowed in the North Carolina Rules of Civil Procedure.
- (2) The county board shall notify the person protesting, any affected candidate, and any affected officeholder of its decision in a protest hearing no later than 5:00 p.m. the next day after the conclusion of the hearing itself. The board shall file at the board office a written decision within the mandates of G.S. 163-182.10 (d) by 5:00 p.m. five business days after the oral decision is given to the person filing the protest. Such written decision shall be served by any means of actual delivery upon the protestor and any affected candidate or officeholder within 24 hours after being filed at the board office. Nothing herein shall discourage more prompt decisions and written orders.
- (3) All election protest hearings before county boards shall be recorded by a court reporter. The hearing need not be transcribed unless the board's decision is appealed. Upon notice of appeal to the State Board of an election protest, the county board shall cause the record of the hearing to be transcribed and delivered to the State Board, at the county board's expense, within seven business days of the notice of appeal. A county board may cause hearings, that on their face do not present merit to be recorded by mechanical means and not by court reporter only with prior permission of the Executive Director of the State Board of Elections. Any non-transcribed record of the county hearings may be destroyed 60 days after the date of hearing if not appealed, or 60 days after the entry of any final order or decision in an appealed hearing. Transcripts of hearings shall be kept for two years after their creation.
- (4) If the State Board sets an appeal for hearing, it shall designate who shall appear on behalf of the county board.

(e) A county board of elections shall timely hear and decide all protests, unless:

- (1) the protest is administratively dismissed pursuant to Rule .0114 of this Section; or
- (2) the county board of elections receives alternative instructions from the State Board issued under G.S. 163-182.12. If a protest does not concern the manner in which votes were counted or results tabulated, a county board of elections shall not delay canvass in order to hear the protest. A protest that alleges the occurrence of an election law violation regarding an insufficient number of votes to change the outcome of a contest within the jurisdiction of a county board of elections shall not delay canvass by a county board of elections.

Authority G.S. 163-22; 163-182.10.

08 NCAC 02 .0111 ELECTION PROTEST FORM

All persons ~~filing bringing an~~ election protest under Article 15A with a county board of election shall complete and timely file use the following form. Please note this form should not be used to challenge the registration of an individual voter or to report an incident other than an irregularity affecting the outcome of an election.

ELECTION PROTEST

(Use of this form is required by G.S. 163-182.9(c))

This form must be filed with the county board of elections within the timeframes set out in G.S. 163-182.9 (b)(4). Please print or type your answers. ~~Feel free to use and attach~~ Use additional sheets if needed to ~~fully answer the questions below~~ questions fully. Number the pages of all additional sheets. Please note that filings will be a public record. Please redact all confidential information, such as date of birth, Social Security number, and driver's license number. You may also attach relevant exhibits and documents. Please number the pages of such additional sheets and attachments.

Respond to all prompts. Failure to complete this form as required may result in the dismissal of your protest. Attach additional sheets as necessary, including all exhibits and supplemental documents. All attachments are deemed incorporated and covered under the Protest Certification.

PROTESTOR

1. Provide your preferred contact information:

Name: _____ County of Residence: _____
Email: _____ Phone: _____
Mailing Address: _____

NOTE: You will be deemed to consent to service at all of the above addresses (including email), unless you attach an addendum indicate otherwise.

2. Are you represented by counsel? Yes No

NOTE: If you answered Yes, above, your counsel must complete and you must attach the Counsel Certification Addendum.

3. Mark all that describe you:

- Candidate for the office of _____
- Registered voter eligible to participate in the protested election contest
- Neither of the above*

**If you select this option, you are not eligible to file a protest.*

PROTEST SCOPE

4. List all election contests subject to your protest and calculate the margin of votes separating the apparent winner from the runner-up as of the date of filing. Your response does not waive your right to contest the validity of the current vote count. If your protest concerns all contests on the ballot, you must include the vote margin for each contest.

Protested Contest(s)	Current Vote Margin (subtract runner-up totals from apparent winner's totals)
<i>Example: Mayor of Townsville</i>	<u>75</u>

5. This protest alleges (select at least one):

- A defect in the manner by which votes were counted or results tabulated sufficient to cast doubt on the apparent results of the election.
- A violation of election law, irregularity, or misconduct sufficient to cast doubt on the apparent results of the election.

FACTUAL BASIS & LEGAL ARGUMENT

6. Provide all factual allegations in support of your protest. If any fact you allege is outside the scope of your personal knowledge, you may attach affidavits from those who have personal knowledge of that fact. All facts you allege in connection with this protest must be true and accurate to the best of your knowledge, and brought in the sincere belief that the facts alleged form a good faith basis to protest the conduct and results of the election.

7. List all individuals, if any, you may call as witnesses to substantiate facts listed in Prompt 6. If there are multiple individuals, summarize the facts of which the individual has personal knowledge.

8. Cite any statute or case, administrative rule or decisions, and election policy or procedure that supports your claim set out under Prompt 5.

RELIEF

9. What effect do you believe the facts alleged in response to Prompt 6, if proven, will have on the electoral outcome in the protested contest(s)? Your response should account for the current vote margin calculated in response to Prompt 4.

- The electoral outcome of the protested contest(s) will change.
- The electoral outcome of the protested contest(s) will not change.
- I am uncertain whether the outcome of the contest(s) will change.
- Other _____

10. What relief do you seek?

- Correct the vote count
- A new election
- Other: _____

ASSISTANCE

11. List all persons who assisted you in preparing the contents of this protest and indicate the nature of the assistance provided:

Note: For protestors represented by an attorney, this protest is the initial filing in a proceeding as defined by N.C. State Bar Rules. See 27 NCAC 02 Rule 1.00(n).

12. Has any candidate, political party, organization, or person acting on behalf of the same requested that you bring this protest?

- Yes.
- No.

13. Have you received any financial or other benefit or promise of future financial or other benefit in exchange for filing this protest?

- Yes.
- No.

AFFECTED PARTIES & SERVICE

You must serve copies of all filings on every person with a direct stake in the outcome of this protest ("Affected Parties"). Affected Parties include every candidate seeking nomination or election in the protested contest(s) listed under Prompt 4, not only the apparent winner and runner-up. If a protest concerns the eligibility or ineligibility of particular voters, all such voters are Affected Parties and must be served. Address information for registered voters is available from the county board of elections or using the Voter Lookup at www.ncsbe.gov.

Materials may be served by personal delivery, transmittal through U.S. Mail or commercial carrier service to the Affected Party's mailing address of record on file with the county board of elections or the State Board of Elections, or by any other means affirmatively authorized by the Affected Party. If you know the Affected Party is represented by an attorney, service must be made on his or her counsel. Service must occur within one (1) business day of filing materials with the county board of elections. If service is by transmittal through the U.S. Mail or commercial carrier service, service will be complete when the properly addressed, postage-paid parcel is deposited into the care and custody of the U.S. Mail or commercial carrier service. It is your responsibility to ensure service is made on all Affected Parties.

14. List all Affected Parties, including their service address:

<u>Affected Party</u>	<u>Service Address</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

PROTESTOR CERTIFICATION

15. By signing this protest application, you affirm the following:

I, _____ (full name), swear, under penalty of perjury, that the information provided in this protest filing is true and accurate to the best of my knowledge, and that I have read and understand the following:

- (initial)
_____ I have reviewed the statutes and administrative rules governing election protests, including all deadlines.
- _____ My protest must originate with a filing at the county board of elections.
- _____ I must timely serve all Affected Parties.

I must prove by *substantial evidence* either the existence of a defect in the manner by which votes were counted or results tabulated or the occurrence of a violation of election law, irregularity, or misconduct, either of which were sufficient to cast doubt on the apparent results of the election.

It is a crime to interfere unlawfully with the conduct and certification of an election.

It is a crime to interfere unlawfully with the ability of a qualified individual to vote and to have that vote counted in the election.

The facts I allege in connection with this protest are true and accurate to the best of my knowledge, and I have a good faith basis to protest the conduct and results of the election.

Submitting fraudulently or falsely completed declarations is a Class I felony under Chapter 163 of the General Statutes. This notice is provided pursuant to S.L. 2013-381 § 5.4.

Signature of Protestor: _____ Date: _____

(This signature must be signed in the presence of a notary)

State of North Carolina, County of _____

Sworn to (or affirmed) and subscribed before me this the _____ day of _____, 20_____.

(Official Seal)

Official Signature of Notary

_____, Notary Public

Printed Name

My commission expires: _____

.....
1. Full name and mailing address of person filing the protest.

2. Home and business phone number, fax number, and e-mail address.

3. Are you either a candidate or registered voter eligible to vote in the protested election. If a candidate, for what office?

4. List the date, location, and exact nature of the election protested. Name all candidates in the election and the number of votes each received. Note the winning candidate(s) elected or nominated.

5. Does this protest involve an alleged error in vote count or tabulation? If so, please explain in detail.

6. Does this protest involve an irregularity or misconduct not described in number 5 above? If so, please give a detailed description of such misconduct or irregularity and name those who committed such action.

7. Please set out all election laws or regulations that you allege were violated in your responses to 5 or 6 above. State how each violation occurred. Please provide the names, addresses, and phone numbers of those who you allege committed such violations.

8. Please provide the names, addresses, and phone numbers of any witnesses to any misconduct alleged by you in this protest, and specify what each witness listed saw or knows.

9. What action do you desire the county board of elections to take in this matter?

10. Do you contend the allegations set out by you are sufficient to have affected or cast doubt upon the results of the protested election? If your answer is yes, please state the factual basis for your opinion.

11. Have you read and reviewed the North Carolina law pertaining to election protests as set out in G.S. 163-182.9 through G.S. 163-182.14 and current North Carolina State Board of Elections regulations pertaining to election protests?

12. How many pages of additional answer are attached to this protest? _____ How many pages of attachments are attached? _____

Signature of Protestor _____

Date/Time Filed with County Board _____

(to be filled out completed by the county board)

NOTE: The county board must provide the State Board with a complete copy of a filed protest within one business day after it is filed. In addition, the county board shall provide a copy of the election audit with this copy of the protest.

Please direct any questions to your county board of elections or the North Carolina State Board of Elections, PO Box 27255, Raleigh, NC 27611-7255, (919) 733-7173, 27611-7255.

COUNSEL OF RECORD ADDENDUM

If you answered Yes to Prompt 2 on the above, your attorney must complete this form and you must file it with your Election Protest Application.

Attorney Must complete all of the following:

Protestor Name: _____ Protestor County: _____
Attorney Name: _____
Attorney Email: _____ Attorney Phone: _____

I am a member in good standing with the North Carolina State Bar
 I am not licensed to practice law in North Carolina but am a member in good standing in _____ (State or District of Columbia), and do hereby apply to appear *pro hac vice* and certify that I have or will file all appropriate documents required under G.S. § 84.4.1.

Law Firm: _____
Bar Number: _____

I (choose one) am am not:
Subject to any order of any court or administrative agency disbarring, suspending, enjoining, restraining, or otherwise restricting me in the practice of law. If you are subject to any orders, explain in the space below.

I represent the Protestor whose name is provided above. I have read and understand the laws governing election protests in North Carolina General Statutes Chapter 163 and Title 8 of the N.C. Administrative Code. I swear/attest that the information I have provided in this Addendum is true and accurate to the best of my knowledge.

Attorney Signature Date

Authority G.S. 163-22; 163-182.9.

- 08 NCAC 02 .0112 APPEAL TO THE STATE BOARD OF ELECTIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**
- 08 NCAC 02 .0113 NEW ELECTIONS ORDERED BY STATE BOARD OF ELECTIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

08 NCAC 02 .0114 DISMISSAL OF IMPROPER FILINGS
(a) Dismissal on the basis of one or more defects listed in Paragraph (b) of this Rule may be entered administratively in the manner described in Paragraphs (c) through (e) of this Rule, or by a majority vote of the county board of elections or of the State Board of Elections.

(b) The county board of elections shall, and the State Board of Elections may, dismiss any matter purporting to arise under G.S. 163-182.9 on the following bases:

- (1) The matter fails to contest the manner in which votes were counted or results tabulated, or fails to allege a violation of election law or irregularity or misconduct sufficient to cast doubt on the results of the election;
- (2) The individual submitting the matter was neither a registered voter eligible to participate in the protested contest within the county nor a candidate for nomination or election in the protested contest;
- (3) The matter was submitted after the statutory deadline, filed on improper or incomplete forms, or was brought in the incorrect jurisdiction;
- (4) The protest is duplicative or was made in bad faith or for the purpose of delay;
- (5) The protest filing, taking into account the totality of the circumstances, fails to include evidence which, if true, substantiates the probable occurrence of an outcome-determinative defect in the manner in which votes were counted or results tabulated, or the probable occurrence of an outcome-determinative violation of election law, irregularity, or misconduct; or

- (6) The matter, including the initial filing and all subsequent oral or written submissions, fails to allege facts sufficient to constitute substantial evidence of the occurrence of an outcome-determinative violation of election law, irregularity, or misconduct.

Nothing in this rule shall be construed to limit the State Board in its exercise under G.S. 163-182.12.

(c) If the matter is filed with a county board of elections, the county director of elections shall promptly review the allegations and evidence presented in or attached to the filing. If the director of elections finds that the filing must be dismissed pursuant to Paragraph (b) of this Rule, the director shall transmit his or her administrative recommendation that the matter be dismissed, citing applicable defects and the requirements of this Rule. The director's administrative recommendation shall be transmitted in writing to the county board members and the executive director of the State Board no later than two business days after the matter was filed. The director of elections shall attempt to confirm that the county board members have received all filings and the director's administrative recommendation before proceeding to issue a notice of dismissal. The executive director of the State Board may designate an appropriate proxy authorized to receive notices required under this Paragraph. Nothing in this Paragraph shall delay the county board of elections in proceeding to consider the protest required under G.S. 163-182.10. If after two calendar days, following the transmission required under this Paragraph, neither a county board member nor the executive director of the State Board has raised any oral or written objection to the county director's recommendation for administrative dismissal, the county director shall issue a written notice of administrative dismissal to the individual(s) who has filed the matter. The notice shall:

- (1) Be sent by certified mail or commercial courier such that the date of delivery may be verified, unless the recipient has agreed in writing to receive notice by electronic means.
- (2) State that the matter was provided to the county board of elections members, but will not be heard by the county board.
- (3) State that the matter has been dismissed administratively, citing this rule and all applicable bases listed in Paragraph (b) of this Rule.
- (4) Enclose an appeal form required under Paragraph (d) of this Rule.

If within two calendar days, any county board member or the executive director of the State Board of Elections raises any oral or written objection to the recommendation for administrative dismissal by the county director, the county board of elections shall proceed to hear the matter. An objection raised under this Subparagraph shall in no way affect or limit the county board of election's authority to dismiss the matter under Paragraph (b) of this Rule or any other basis permitted by law.

(d) Individuals subject to an administrative dismissal entered by the director of elections may appeal the decision to the executive director of the State Board of Elections. All appeals brought under this Paragraph shall be in writing on a form prescribed under this Paragraph and must be received by the State Board of Elections office no later than five business days after receipt of the written notice of administrative dismissal from the county director. The State Board of Elections shall be deemed to have received the written appeal when it receives the physical form required under this Paragraph either by U.S. mail, courier service, or hand delivery. All appeals shall be made on a form that includes the following statements:

- (1) I am appealing from an administrative dismissal of a matter that I filed at the [county name] Board of Elections on [date].
- (2) I received an administrative notice of dismissal on [date].
- (3) I have enclosed a copy of my original materials filed with the county board of elections.
 YES NO
- (4) I have enclosed a copy of the written notice of administrative dismissal.
 YES NO
- (5) This matter should be heard for the following reasons:

- (6) I request notice of any action on this appeal at the following address:
Mailing Address: _____
Phone Number: _____
Email Address: _____

(e) The executive director of the State Board of Elections shall immediately inspect all appeals filed under Paragraph (d) of this Rule. Within two business days after the receipt of an appeal, the executive director shall transmit a copy of the appeal to the State Board of Elections members along with a written statement indicating the executive director's administrative determination either to grant or to deny the appeal. If the executive director's administrative determination is to grant the appeal, the executive director shall issue written notice to the county board of elections and to the appealing party indicating that the matter is remanded to the county board of elections for a hearing. The executive director's administrative determination under this Subparagraph shall in no way affect the county board of election's authority to dismiss the matter under Paragraph (b) of this Rule or any other basis permitted by law. If the executive director's administrative determination is to deny the appeal, but any State Board of Elections member raises any oral or written objection within three calendar days, the executive director shall grant the appeal, issue written notice, and remand the matter to the county board of elections. If no State Board of Elections member raises any oral or written objection within three calendar days, the executive director shall issue a written notice to the appealing party and to the county board of elections stating that the appeal is denied. Dismissal under this Subparagraph shall be considered a final agency action for purposes of seeking judicial review.

(f) If the matter is filed directly with the State Board of Elections, the executive director of the State Board of Elections shall proceed in a manner substantially similar to that process outlined in Paragraph (b) of this Rule, including distribution to the State Board of Elections members, the opportunity to interpose an objection, and the issuance of notice, except that there shall be no right of appeal under Paragraph (d) and that the executive director may administratively remand the matter for hearing by the county board of elections in the manner prescribed under Paragraph (e) of this Rule.

(g) The executive director of the State Board of Elections may delegate to counsel responsibilities under this Section.

CHAPTER 03 - CHARGES AGAINST COUNTY ELECTION OFFICIALS

SECTION .0100 - MEMBERS OF COUNTY BOARD OF ELECTIONS

- 08 NCAC 03 .0101 VOTER COMPLAINTS (READOPTIOIN WITHOUT SUBSTANTIVE CHANGES)**
- 08 NCAC 03 .0102 CHARGES (READOPTIOIN WITHOUT SUBSTANTIVE CHANGES)**
- 08 NCAC 03 .0103 HEARING (READOPTIOIN WITHOUT SUBSTANTIVE CHANGES)**
- 08 NCAC 03 .0104 RIGHTS (READOPTIOIN WITHOUT SUBSTANTIVE CHANGES)**
- 08 NCAC 03 .0105 SCOPE (READOPTIOIN WITHOUT SUBSTANTIVE CHANGES)**
- 08 NCAC 03 .0106 WITNESSES (READOPTIOIN WITHOUT SUBSTANTIVE CHANGES)**

SECTION .0200 - PRECINCT ELECTION OFFICIALS

- 08 NCAC 03 .0201 FILING CHARGES: ADOPTION OF PROCEDURES (READOPTIOIN WITHOUT SUBSTANTIVE CHANGES)**
- 08 NCAC 03 .0202 HEARING DATE AND DISPOSITION (READOPTIOIN WITHOUT SUBSTANTIVE CHANGES)**

SECTION .0300 - INVESTIGATION AND REPORTS OF CRIMINAL VIOLATION

- 08 NCAC 03 .0301 SUMMARY INVESTIGATION (READOPTIOIN WITHOUT SUBSTANTIVE CHANGES)**
- 08 NCAC 03 .0302 REPORTS OF EVIDENCE OF CRIMINAL VIOLATION (READOPTIOIN WITHOUT SUBSTANTIVE CHANGES)**

CHAPTER 04 – VOTING EQUIPMENT

SECTION .0300 – APPROVAL AND OPERATION OF VOTING SYSTEMS

- 08 NCAC 04 .0301 REQUIREMENTS OF VOTING SYSTEMS (READOPTIOIN WITHOUT SUBSTANTIVE CHANGES)**
- 08 NCAC 04 .0302 APPROVAL OF VOTING SYSTEMS (READOPTIOIN WITHOUT SUBSTANTIVE CHANGES)**
- 08 NCAC 04 .0304 OPERATION AND MATTER OF VOTING ON VOTING SYSTEMS (READOPTIOIN WITHOUT SUBSTANTIVE CHANGES)**
- 08 NCAC 04 .0305 INSTRUCTION OF PRECINCT OFFICIALS AND VOTERS IN THE USE OF VOTING SYSTEMS (READOPTIOIN WITHOUT SUBSTANTIVE CHANGES)**
- 08 NCAC 04 .0306 DUTIES OF CUSTODIANS OF VOTING SYSTEMS (READOPTIOIN WITHOUT SUBSTANTIVE CHANGES)**
- 08 NCAC 04 .0307 TESTING OF VOTING SYSTEM BEFORE USE IN AN ELECTION (READOPTIOIN WITHOUT SUBSTANTIVE CHANGES)**

CHAPTER 05 - MODIFIED FULL TIME REGISTRATION SYSTEM

08 NCAC 05 .0111 MODIFIED FULL-TIME OFFICES

County board of elections offices in counties with fewer than 6,501 registered voters shall be permitted, with the approval of the county board, to operate office hours on Mondays, Wednesdays, and Fridays instead of a five-day week.

08 NCAC 06B .0103 ARRANGEMENT OF OFFICIAL BALLOTS (READOPTED WITHOUT SUBSTANTIVE CHANGES)

08 NCAC 06B .0104 LATE CHANGES IN BALLOTS (READOPTED WITHOUT SUBSTANTIVE CHANGES)

08 NCAC 06B .0105 COUNTING OF OFFICIAL BALLOTS (READOPTED WITHOUT SUBSTANTIVE CHANGES)

CHAPTER 08 - COMPLIANCE WITH FEDERAL P.L. 98-435: THE VOTING ACCESSIBILITY FOR THE ELDERLY AND HANDICAPPED ACT

08 NCAC 08 .0104 HANDICAPPED TRANSFER PRIOR TO ELECTION DAY (READOPTED WITHOUT SUBSTANTIVE CHANGES)

CHAPTER 09 - CONDUCT OF VOTE RECOUNTS BY COUNTY BOARDS OF ELECTIONS

08 NCAC 09 .0106 GENERAL GUIDELINES (READOPTED WITHOUT SUBSTANTIVE CHANGES)

08 NCAC 09 .0107 RECOUNT OF OPTICAL SCAN/MARKSENSE/PUNCHCARD BALLOTS (READOPTED WITHOUT SUBSTANTIVE CHANGES)

08 NCAC 09 .0108 DIRECT RECORD ELECTRONIC AND LEVER (DIRECT RECORD MECHANICAL) VOTING MACHINES (READOPTED WITHOUT SUBSTANTIVE CHANGES) (READOPTED WITHOUT SUBSTANTIVE CHANGES)

08 NCAC 09 .0109 MANUAL HAND TO EYE RECOUNTS (READOPTED WITHOUT SUBSTANTIVE CHANGES)

CHAPTER 10 - BALLOT ROTATION RULES FOR PRIMARY ELECTION BALLOTS

SUBCHAPTER 10B - VOTING, VOTING PLACES AND PRECINCT OFFICIALS' DUTIES AND TASKS

08 NCAC 10B .0101 TASKS AND DUTIES OF PRECINCT OFFICIALS AT VOTING PLACES (READOPTED WITHOUT SUBSTANTIVE CHANGES)

08 NCAC 10B .0102 SETTING UP POLLING PLACE PRIOR TO VOTING (READOPTED WITHOUT SUBSTANTIVE CHANGES)

08 NCAC 10B .0103 VOTING PROCEDURES (READOPTED WITHOUT SUBSTANTIVE CHANGES)

08 NCAC 10B .0104 LEAVING THE VOTING ENCLOSURE, SPOILED OR INCOMPLETE BALLOTS (READOPTED WITHOUT SUBSTANTIVE CHANGES)

08 NCAC 10B .0105 PROCEDURES AT THE CLOSE OF VOTING (READOPTED WITHOUT SUBSTANTIVE CHANGES)

08 NCAC 10B .0106 ELECTION SUPPLIES RETURN (READOPTED WITHOUT SUBSTANTIVE CHANGES)

08 NCAC 10B .0107 ASSISTANCE TO VOTERS IN PRIMARIES AND GENERAL ELECTIONS (READOPTED WITHOUT SUBSTANTIVE CHANGES)

08 NCAC 10B .0108 CURBSIDE VOTING (READOPTED WITHOUT SUBSTANTIVE CHANGES)

08 NCAC 10B .0109 VOTING SITE UNIFORMITY

(a) Station Set-Up. All equipment and furniture in the voting enclosure shall be arranged so that it can be seen from the public space of the voting enclosure. Each voting enclosure shall contain at a minimum:

- (1) Check-in station, where voters may provide any required identification information and declare their intent to vote. The check-in station shall include the following:
 - (A) Voter lists or pollbooks. If the voting site utilizes an electronic pollbook, the site must also maintain a backup hardcopy for use in the event of technical difficulty or disruption;
 - (B) Authorization to Vote Forms and labels on Election Day or One-Stop Absentee Applications during the one-stop early voting period, and all such other supplies as may be required by the Executive Director of the State Board of Elections; and
 - (C) Guides, signage, and all other materials as may be required by the Executive Director of the State Board of Elections, displayed in the manner specified.
- (2) Ballot station, where elections officials distribute official ballots and provide ballot-marking instructions to voters who have completed required vote-authorization document(s).

- (3) Help station, where voters can receive assistance if there is any issue checking in the voter, pursue provisional voting, and where voter challenges shall be heard.
- (4) Voting stations (or "booths") shall be situated in a manner that ensures the privacy of the voter's selections and shall be maintained in an orderly manner clear of electioneering materials and sample ballots. The number of booths shall not be fewer than a minimum number determined by the county board of elections, unless a greater number is specified by the Executive Director of the State Board of Elections.
- (5) Exit station, where an election official ensures ballots are appropriately placed in the tabulator or ballot box.
- (6) Curbside station, where qualified voters may vote curbside in accordance with Rule .0108 of this Section.

(b) Technology and Connectivity. Every voting enclosure must have access to a phone or other device, including a cell phone when service is available in the building, that facilitates communication with the county board of elections office and emergency services. The county board of elections office shall keep a record of contact information for each voting enclosure within the county and ensure all elections officials have contact information for the county board of elections office and emergency services. Elections officials shall monitor the phone or device.

(c) Check-in Station. Persons seeking to vote shall enter the voting enclosure through the appropriate entrance and present at the Check-in Station. The election official at the check-in station shall:

- (1) Ask the voter to state their current name. If, due to disability, a voter is unable to state his or her name, he or she may otherwise signal to the elections official, including by way of a person providing assistance or through documents. The election official shall indicate that state law requires that the voter state his or her name, subject to any applicable disability exceptions.
- (2) Ask the voter to state the address where he or she resided for at least 30 days as of Election Day. The election official shall indicate that state law requires that the voter state his or her address, subject to any applicable disability exceptions.
- (3) Announce the name and address of the voter and inform the voter they are required by state law to do so.
- (4) If the election is a partisan primary: Ask the voter to indicate his or her party affiliation or, if the voter is unaffiliated, to state which of the available primary ballot he or she prefers;
- (5) If required under State or Federal law, ask the voter to provide acceptable identification. Examine identification document presented by the voter.
- (6) Search and correctly identify the voter in the pollbook or its equivalent.
- (7) Make any updates or corrections to the voter's name in the voter record.
- (8) Update the voter's address in the voter record (or alternately, complete documentation to make that change if the process is not automatic), if the voter has moved to a new address in the county and will have lived at the address for at least 30 days as of the date of the election
- (9) If the voter does not present acceptable identification necessary to verify the identity of a previously unverified voter:
 - (A) Provide the help referral form provided by the State Board of Elections
 - (B) Direct the voter to the Help Station
- (10) Provide the voter with an authorization to vote document or one-stop application and ask the voter to confirm the information and sign the document. The vote-authorizing documents should be numbered sequentially to aid in the voting site's required ballot reconciliation process.
- (11) Sign the authorization to vote document or one-stop application before directing the voter to the ballot station where, provided the voter is duly registered and has not been successfully challenged, the official assigned to distribute the official ballots shall hand the voter the official ballot that voter is entitled to vote, or that voter shall be directed to the voting equipment that produces the official ballot.
- (12) Refer a voter who is not found to be registered or cannot be directed to the ballot station to the help station for the purpose of receiving alternate voting options.

(d) Ballot Station. The ballot station official shall accept the vote-authorizing document from the voter and review the form carefully and ensure that it is signed by the voter. For counties using paper ballots, the official shall retrieve the ballot style listed on the vote-authorizing document. If the voting site has more than one ballot style, the official must scan the barcode on the ballot style retrieved and then scan the barcode on the vote-authorizing document to ensure that the voter is issued the correct ballot. During one-stop absentee voting, before issuing the ballot to the voter, the precinct official shall record the absentee application number on the ballot. For counties whose paper ballots are coded by style the official must record the precinct/voter tabulation district number on the ballot. The official shall sequentially number the authorization to vote document or one-stop application. Next, the precinct official shall:

- (1) Direct the voter to the voting equipment and provide instructions as necessary;
- (2) Instruct the voter to mark the ballot before placing the ballot into the tabulator;
- (3) Provide the voter with any technical information the voter desires as necessary to enable voting; and
- (4) If a voter makes a mistake and asks for a new ballot, the ballot station official shall follow procedures pursuant to Rule .0104 of this Section.

(e) Help Station. The help station is the location in the voting enclosure for discussion with voters about irregular situations including provisional voting or precinct transfers. A voter may be sent to the help station if there is some issue with the voter's registration or the voter is unable to receive a regular ballot. Each individual help station shall have:

- (1) A Voting Site Station Guide available and on display, as directed by the State Board of Elections;
- (2) Supplies as specified by the State Board of Elections; and
- (3) At least one voting booth set up at or near the station for provisional voters to mark their ballots.

(f) Exit Station. An election official shall be posted at the exit point of a voting enclosure where paper ballots are used and shall ensure only official ballots are deposited into the tabulator or ballot box. The exit station official shall ensure that no provisional ballots are placed in the ballot box and that voters do not leave the voting enclosure with a ballot.

(g) Curbside Station. Every voting site in the state shall have an area where qualified voters may vote curbside in accordance with Rule .0108 of this Section.

Authority G.S. 163-22; 163-166.7; 163-182.1B.

CHAPTER 16 - MULTIPARTISAN ASSISTANCE TEAMS

08 NCAC 16 .0101 MULTIPARTISAN ASSISTANCE TEAMS

(a) Each ~~County county Board board~~ of ~~Elections elections~~ shall assemble and provide training to a Multipartisan Assistance Team ("Team") to respond to requests for voter assistance for any primary, general election, referendum, or special election.

(b) For every primary or election listed in Paragraph (a) of this Rule, the Team shall be made available in each county to assist patients and residents in every covered facility in that county in requesting or casting absentee ballots as provided by Subchapter VII of Chapter 163 of the General Statutes. For the purposes of this ~~Chapter Rule~~, a "covered facility" is any ~~facility hospital, clinic, nursing home, or rest home~~ that provides residential ~~or in-patient~~ healthcare in the State that is licensed or operated pursuant to Chapter 122C, Chapter 131D, or Chapter 131E of the General ~~Statutes; Statutes, including but not limited to a hospital, clinic, nursing home, or adult care home;~~ or by the federal government or an Indian tribe.

(c) The Team may assist voters in requesting mail-in absentee ballots, serve as witnesses to mail-in absentee voting, and otherwise assist in the process of mail-in absentee voting as provided by Subchapter VII of Chapter 163 of the General Statutes. Upon the voter's request, the Team shall assist voters who have affirmatively communicated, either verbally or nonverbally, a request for assistance.

Authority G.S. 163-226.3(a)(4); S.L. 2013-381, s. 4.6(b).

08 NCAC 16 .0102 TEAM MEMBERS

(a) For purposes of this Chapter, the ~~County county Board board~~ of ~~Elections elections~~ shall compose the Team as follows:

(1) At least two registered voters shall be on each Team. The two political parties having the highest number of affiliated voters in the State, as reflected by the registration statistics published by the State Board of Elections on January 1 of the current year, shall each be represented by at least one Team member of the party's affiliation. If the Team consists of more than two members, voters who are unaffiliated or affiliated with other political parties recognized by the State of North Carolina may be Team members.

(2) If a ~~County county Board board~~ of ~~Elections elections~~ finds an insufficient number of voters available to comply with Subparagraph (a)(1) of this Rule, the County Board, upon a unanimous vote of all of its sworn members, may appoint an unaffiliated voter to serve instead of the Team member representing one of the two political parties as set out in Subparagraph (a)(1) of this Rule.

(b) Team members shall not be paid or provided travel reimbursement by any political party or candidate for work as Team members. Team members shall not be employees or members of the county board of elections.

Authority G.S. 163-226.3(a)(4); S.L. 2013-381, s. 4.6(b).

08 NCAC 16 .0104 VISITS BY MULTIPARTISAN ASSISTANCE TEAMS

(a) The State Board of Elections shall provide annual notice regarding availability of Teams in each county. The notice shall provide information for covered facilities, or patients or residents of the facilities, to contact the County Board of Elections to arrange a Team visit.

(b) If a facility, or a patient or resident of a facility, requests a visit by the Team, the ~~County county Board board~~ of ~~Elections elections~~ shall notify the Team and schedule the visit(s) within seven calendar days if it is able to do so. If the ~~county Board board~~ of ~~Elections elections~~ is unable to schedule the visit within seven calendar days, the voter may obtain such assistance from any person other than:

- (1) an owner, manager, director, employee of the hospital, clinic, nursing home, or rest home in which the voter is a patient or resident;
- (2) an individual who holds any elective office under the United States, this State, or any political subdivision of this State;
- (3) an individual who is a candidate for nomination or election to such office; or
- (4) an individual who holds any office in a State, congressional district, county, or precinct political party or organization, or who is a campaign manager or treasurer for any candidate or political party; provided that a delegate to a convention shall not be considered a party office.

None of the persons listed in Subparagraphs (1) through (4) of this Paragraph may sign the application or certificate as a witness for the patient.

(c) On a facility visit, the composition of the visiting Team members shall comply with the requirements of Rule .0102(a)(1) or (a)(2) of this Section.

(d) All Team members shall remain within the immediate presence of each other while visiting or assisting patients or residents.

(e) At each facility visit, the Team shall provide the following assistance to patients or residents who request it:

- (1) Assistance in requesting a mail-in absentee ballot: The Team shall collect any request forms submitted by voters and deliver those request forms immediately to the ~~County county Board board~~ of ~~Elections elections~~ office upon leaving the facility. Upon the voter's request, the Team may also:
 - (A) Assist the voter in completing the request form, provided that the voter signs or, if unable to sign, makes his or her mark or directs that his or her mark to be placed on the form; and
 - (B) Coordinate a return visit to assist the voter in completing the absentee ballot.

- (2) Assistance in casting a mail-in absentee ballot: Before providing assistance in voting by mail-in absentee ballot, a Team member shall be in the immediate presence of another Team member whose registration is not affiliated with the same political party. Team members shall sign the return envelope as witnesses to the marking of the mail-in absentee ballot. If the Team members provide assistance in marking the mail-in absentee ballot, the Team members shall also sign the voter's return envelope to indicate that they provided assistance in marking the ballot.
- (f) The Team shall make and keep a record containing the names of all voters who received assistance or cast an absentee ballot during a visit as directed by the County county Board board of Elections, elections, and submit that record to the County county Board board of Elections, elections.
- (g) The Team shall assist patients or residents physically located in the Team's county, regardless of the voter's county of registration. If a patient or resident is registered to vote in another county, the county board of elections in the county where the voter is registered shall communicate any request for assistance to the County Board of Elections in the county where the voter is physically located.

Authority G.S. 163-226.3(a)(4); S.L. 2013-381, s. 4.6(b).

CHAPTER 18 – ABSENTEE BALLOTS

08 NCAC 18 .0101 ABSENTEE BALLOT DELIVERY

If, due to a disability, a voter requires assistance mailing his or her return envelope containing an executed absentee ballot, the sealed envelope may be taken directly and without delay to the closest U.S. mail depository or mailbox by a person selected by the voter, so long as the individual is also qualified to assist the voter. Any individual who assists in the manner described in this Rule shall indicate that he or she assisted the voter by marking the space provided for assistors on the return envelope containing the executed absentee ballot. Reliance on this Rule shall be limited to cases in which a voter is unable to place the ballot into the mail due to his or her disability. This Rule is adopted in accord with Title II of the Americans with Disabilities Act of 1990, which provides that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity."

Authority G.S. 163-22; 163-230.1(e); 163-231(b)(1); 42 U.S.C. 12132; Nat'l Federation of the Blind v. Lamone, 813 F.3d 494 (4th Cir. 2016).

08 NCAC 18 .0102 IN-PERSON RETURN OF ABSENTEE BALLOTS

A ballot issued under the provisions of Article 20 or Article 21 of Chapter 163 of the General Statutes may be delivered in person to the county board of elections by the voter or the voter's near relative or verifiable legal guardian. It is unlawful for any other person to take into that person's possession for delivery to a voter or for return to a county board of elections the absentee ballot of any voter, with the exception of delivery by agents of the U.S. Postal System or commercial carrier service. Any person who returns an absentee ballot in person to a county board of elections office shall, upon delivery, provide the following information in writing:

- (1) Name of voter;
- (2) Name of person delivering ballot;
- (3) Relationship to voter;
- (4) Phone number (if available) and current address of person delivering ballot;
- (5) Date and time of delivery of ballot; and
- (6) Signature or mark of person delivering ballot certifying that the information provided is true and correct and that the person is the voter or the voter's near relative or verifiable guardian.

At the absentee meeting held under G.S. 163-230.1(c), the county board of elections may consider the improper delivery of a ballot in conjunction with other evidence in determining whether the container-return envelope has been properly executed. The improper delivery of a ballot does not constitute evidence sufficient to establish that the voter did not lawfully vote his or her ballot.

Authority G.S. 163-22; 163-226.3(a)(6); 163-231(b)(1).

CHAPTER 20 – ELECTION OBSERVERS

08 NCAC 20 .0101 ELECTION OBSERVERS

(a) Observer Lists. The chair of each political party in a county may designate two precinct-specific observers to attend each voting place on Election Day and each one-stop site during a primary or general election. The party chair may designate 10 additional at-large observers who may attend any voting place in the county. The list of observers for one-stop must designate the names of the observers who will be present on each day of early voting and, for precinct-specific observers, at each one-stop site. At-large observers may serve at any one-stop site.

(b) Submission of Lists. The party chair shall submit a written, signed list of at-large observers to the county director of elections, with two copies provided to the chair of the county board of elections, prior to 10:00 a.m. on the fifth day prior to Election Day. The party chair shall submit a written, signed list of the observers appointed for each precinct to the chief judge of each precinct, with two copies provided to the chair of the county board of elections, prior to 10:00 a.m. on the fifth day prior to Election Day; the list may be delivered in care of the county director of elections. The party chair shall submit the list of observers for one-stop before 10:00 a.m. on the fifth day before the observer is to observe. It is permissible for submissions to be made by facsimile or email provided the letters are signed. The list of at-large observers to serve on Election Day may be amended prior to Election Day to substitute one or all of at-large observers. The list of at-large observers who serve during early voting and the list of precinct-specific observers may not be amended after the submission deadline.

(c) Number of Observers at Voting Place. No more than two precinct-specific observers from each political party may be in the voting enclosure at any time. Only one at-large observer from each political party may be in the voting enclosure at any time, even if no precinct-specific observers are present. All observers, whether precinct-specific or at-large, may be relieved after serving no less than four hours. An observer may leave the voting place without having served for four hours, but the observer cannot be replaced by a new observer until at least four hours have passed since the first observer began serving. An observer who leaves the voting place for any reason may be prohibited by the chief judge from returning if the observer's return would cause a disruption in the voting enclosure.

(d) Observer Conduct. Observers in the voting enclosure are prohibited from engaging in certain activities. Observers who engage in prohibited conduct after receiving a warning may be required by the chief judge to leave the voting enclosure. Prohibited activities by observers includes:

- (1) Wearing or distributing campaign material or electioneering;
- (2) Impeding or disrupting the voting process or speaking with voters or election assistants;
- (3) Interfering with the privacy of the voter, including positioning themselves in such a way that they can view confidential voter information on poll books or laptops or standing in such a way that they can view the contents of ballots inserted into a tabulator;
- (4) Using an electronic device to film or take photographs inside the voting enclosure;
- (5) Taking photographs, videos, or recording a voter without the consent of the voter and the chief judge;
- (6) Entering the voting booth area or attempting to view voted ballots;
- (7) Boarding a vehicle containing curbside voters; and
- (8) Providing voter assistance.

(e) Eligibility. Persons appointed as observers must be registered voters of the county for which appointed and must have good moral character. No person who is a candidate on the ballot in a primary or general election may serve as an observer or runner in that primary or that general election. No person who serves as an observer or runner in a primary or general election may serve as a precinct official or one-stop election official in that primary or that general election.

(f) Observers for unaffiliated candidates. An unaffiliated candidate or the candidate's campaign manager may appoint two observers at each voting place as specified herein.

(g) The use of the term "chief judge" includes one-stop site managers.

Authority G.S. 163-22; 163-45; 166-166.6; 163-166.7.