

# *North Carolina State Board of Elections*



## **Provisional Voting Administrative Procedures**

*Issued by the Administration Division of the  
North Carolina State Board of Elections*

## Table of Contents

Part A: Introduction	5
Part B: Who May Vote a Provisional Ballot?	6
Part C: Whose Provisional Ballots Will Count?	
1. Voters who moved to a new precinct within the county more than 30 days ago and did not report that move to the county board (“unreported move voters”).	7
2. Voters who are registered but do not appear on the precinct records (“unrecorded voters”).	7
3. Voters who were previously removed as part of list maintenance or “purge” but claim continuous residence and right to vote (“previously removed voters”).	8
4. Voters who are assigned to the wrong election district in a particular race (“jurisdictional dispute voters”).	8
5. Voters who are in a precinct other than the precinct of residence but who wish to vote in that precinct nonetheless (“out of precinct voters”).	8
6. Voters whose party affiliation has been incorrectly assigned in an administrative error (“incorrect party voters”).	8
7. Voters who appear after 7:30 p.m. and vote by virtue of a court or State Board order keeping the polls open (“extended hours voters”).	9
8. Voters required to show ID but who do not show ID (“ID not provided voters”).	9
Part D: Obligations of the County Board of Elections Before Election Day	
Pre-Election Day Obligation One: Learn and Apply the Law	10
Pre-Election Day Obligation Two: Develop Local Instructions for Precinct Officials	11
Pre-Election Day Obligation Three: Train Precinct Officials and Other Election Workers	11

Pre-Election Day Obligation Four: Name a Provisional Voting Coordinator for Each Precinct	11
Pre-Election Day Obligation Five: Provide the Required Provisional Voting Materials	11
Pre-Election Day Obligation Six: Develop Local Procedures for Verifying and Counting Provisional Ballots	12
 Part E: Duties of Precinct Officials at the Precinct	
Precinct Duty One: Try to Find the Voter's Information at the Precinct	13
Precinct Duty Two: Follow Local Instructions for Contacting the County Office	13
Precinct Duty Three: Inform the Voter of the Opportunity to Vote by Provisional Ballot	14
Precinct Duty Four: Prepare the Provisional Voting Items for the Voter	14
Precinct Duty Five: Give the Voter the Provisional Voting Items	15
Precinct Duty Six: Check the Provisional Ballot Envelope	15
Precinct Duty Seven: Place the Provisional Ballot Items in the Secure Container	16
Precinct Duty Eight: Seal and Transport the Ballot Container	16
 Part F: Obligations of the Provisional Voter	
Provisional Voter Obligation One: Be Cooperative	17
Provisional Voter Obligation Two: Complete the Provisional Ballot Envelope	17
Provisional Voter Obligation Three: Seal the Ballot in the Provisional Ballot Envelope	17
Provisional Voter Obligation Four: Return the Provisional Voting Materials	17

Provisional Voter Obligation Five: Retain the Voter Calling Instruction Sheet	18
Part G: Obligations of the County Board of Elections After the Voting	
Post-Voting Obligation One: Safeguard Provisional Ballots	19
Post-Voting Obligation Two: Determine the Eligibility of Each Provisional Voter	19
Post-Voting Obligation Three: Delegate Functions	20
Post-Voting Obligation Four: If Necessary, Correct the “Category” and “Disposition” on the Provisional Ballot Envelope in the Part Designated for Official Use	20
Post-Voting Obligation Five: Segregate the Ineligible Provisional Ballot Envelopes	20
Post-Voting Obligation Six: Open the Eligible Provisional Ballot Envelopes	21
Post-Voting Obligation Seven: Count the Ballots	21
Post-Voting Obligation Eight: Enter the Information in SEIMS	21
Post-Voting Obligation Nine: Preserve the Records	21
Part H: Special Circumstances	
Special Circumstance One: Segregate Ballots of Extended Hours Voters	22
Special Circumstance Two: Provisional Voters in Second Primary	23
Special Circumstance Three: ID-Required Voter Voting by Absentee	23
Appendix A: N.C.G.S. 163-166.11	24
Appendix B: Sec 8(e) of NVRA 42 USC 1973gg-6e	25
Appendix C: Title 42 Chapter 146 Subchapter III Part A §15482	26

## **Part A: Introduction**

Voting is very straightforward for most voters. When they come to the polling place, they will accurately state the required information—name, residence address, and party affiliation (for a primary)--and that information will appear on the poll book properly listed. They are immediately permitted to vote.

But it is not that straightforward every time. Occasionally the voter does not appear in the poll book at all. Years ago, that voter was simply out of luck and could not vote. Precinct officials would try to find the information, of course, but if they could not, the voter was turned away and his or her vote was lost.

Today, we no longer simply turn people away. Precinct officials still try, as they did in years past, to find the voter's information. Perhaps it was listed in a way that made it momentarily difficult to recognize. But if the precinct officials cannot find the proper information to enable the voter to vote immediately, they will provide the voter with the opportunity to mark a provisional ballot.

A provisional ballot differs from a regular ballot in several significant ways

1. The voter fills out a Provisional Ballot Envelope at the same time s/he marks the ballot. The envelope includes an application to register to vote. The voter puts the provisional ballot in the Provisional Ballot Envelope, seals it, and returns the entire package to the precinct officials.
2. Precinct officials keep provisional ballots in a separate, secure storage place, not mixed with regular ballots.
3. Precinct officials do not count provisional ballots. Instead, they take them to the county board office on election night.
4. Between election day and canvass, the county board of elections determines whether the provisional voter was in fact entitled to vote, and, if so, counts the votes in all races for which the provisional voter was eligible.
5. If the county board cannot determine that the provisional voter was eligible to vote, it will not count the ballot at all.
6. The provisional voter is entitled to know whether the provisional ballot was counted, and, if not, why not.

These Provisional Voting Administrative Procedures spell out the obligations of the county board of elections, precinct officials, and voters at each step of the provisional ballot process.

## **Part B: Who May Vote a Provisional Ballot?**

Precinct officials should not turn away a voter who wishes to vote a provisional ballot. A voter may request a provisional ballot for any reason. If a voter requests a provisional ballot, s/he should be given one. In this sense, then, the answer to the question “Who may vote a provisional ballot?” is “Anyone.”

Of course, the real question at issue is “Whose provisional ballot will be counted in the election vote total?” The short answer to that question is, “The provisional ballot of every eligible voter will be counted in all races for which the voter was entitled to vote.”

That is the subject of Part C.

## **Part C: Whose Provisional Ballots Will Count?**

There are eight categories of provisional voters whose provisional ballots may count in the election vote totals:

### **1. Voters who moved to a new precinct within the county more than 30 days ago and did not report that move to the county board (“unreported move voters”).**

A voter is still eligible to vote in person at her/his old precinct polling place for 30 days after moving. After 30 days, however, that eligibility expires, and the voter should have reported her/his move to the county board. If s/he did, s/he would then be eligible to vote in her/his new precinct. But if s/he did not, s/he may appear at her/his old precinct and get a precinct transfer to her/his new precinct, or s/he may vote a provisional ballot.

S/he may vote the provisional ballot in her/his new precinct. S/he will be eligible there, for all races, and her/his provisional ballot will be counted for all races.

Or s/he may vote the provisional ballot in her/his old precinct. S/he will be eligible there, but not necessarily for all races. S/he will be eligible only for those races in which s/he would also be eligible if s/he were properly at her/his new precinct.

### **2. Voters who are registered but do not appear on the precinct records (“unrecorded voters”).**

A voter may in good faith believe that s/he is registered and that the fault lies with the elections records. Perhaps s/he filled out a registration application at a Division of Motor Vehicles office and the paperwork simply has not yet come through. Perhaps an error was in fact made and the registration record was misplaced at the county board office.

In any event, if it can be determined after the voting and before the canvass that the voter did in fact properly register and should have appeared in the precinct records, s/he is an eligible voter and her/his provisional ballot will be counted.

**3. Voters who were previously removed as part of list maintenance or “purge” but claim continuous residence and right to vote (“previously removed voters”).**

County boards of elections regularly attempt to update their voter registration records by deleting the names of individuals who have moved away or died or otherwise become ineligible. A voter who does not appear on the registration records as an active voter may have been removed as part of such a previous list maintenance action.

If the voter has in fact maintained continuous residence, so that the removal was in error, s/he is an eligible voter and the provisional vote will be counted.

**4. Voters who may be assigned to the wrong election district in a particular race (“jurisdictional dispute voters”).**

A voter may be in the proper precinct but may believe that s/he has been assigned to the wrong electoral district in a particular race. For instance, s/he may be offered the ballot to vote in the County Commissioner District One race but believe that her/his residence is in fact in County Commissioner District Two.

In that case, the voter may vote a provisional ballot and the vote will count in the District Two race if it is determined that the voter is in fact eligible to vote in District Two.

**5. Voters who are in a precinct other than the precinct of residence who wish to vote in that precinct nonetheless (“out of precinct voters”).**

A properly registered, eligible voter of the county may vote a provisional ballot at any precinct in the county. Her/his vote will count in all races in which s/he would have been eligible to vote if s/he voted at her/his correct precinct, but not in other races.

A person who is a resident of another county or another state will, of course, not be eligible to vote in any North Carolina race. If an ineligible voter casts a provisional ballot, it will not be counted in any race, including races for federal offices.

**6. Voters whose party affiliation has been incorrectly assigned in an administrative error (“incorrect party voters”).**

A properly registered voter may believe that, in a primary election, the registration records erroneously show him as affiliated in the wrong political party. S/he may vote a provisional ballot of the other party, but her/his vote will count only if it can be determined that the records were in fact erroneous. S/he may not vote a provisional ballot for more than one party.

**7. Voters who appear after 7:30 p.m. and vote by virtue of a court or State Board order keeping the polls open (“extended hours voters”).**

The polls close at 7:30 p.m. Voters in line at that time may vote, even if they in fact cast their vote after 7:30. But voters who arrive after 7:30 are too late and are not allowed to vote.

Occasionally, however, a court or the State Board may order that one or more polls be kept open after 7:30. In that case, all voters arriving after 7:30 will be permitted to vote, but they must vote by provisional ballot. If it is later lawfully determined that the extended hours were proper, the provisional votes will be counted.

See Part H, Special Circumstance One.

**8. Voters required to show ID who do not show ID (“ID not provided voters”).**

The great majority of voters are not required to show identification at the polls. A small minority of voters are, however, required to show ID in an election in which a federal office is on the ballot. They are generally voters who registered by mail, have not previously voted, and who did not provide required identification when registering by mail. The registration books will indicate if a person is required to show ID.

If such a voter does not present ID at the polls, s/he may vote a provisional ballot, and her/his provisional ballot will count if s/he later provides, in a timely fashion, proper ID to the county board.

## **Part D: Obligations of the County Board of Elections Before Election Day**

The county board of elections has six principal obligations regarding provisional ballots before the election even begins. Most of these it can delegate to the county director of elections to carry out.

### **Pre-Election Day Obligation One: Learn and Apply the Law**

The first obligation of members of county boards of elections, county directors of elections and elections staff is to learn and apply the law. The chief statute is a North Carolina statute found at N.C.G.S. 163-166.11. The full text of that statute is in Appendix A of these Provisional Voter Administrative Procedures. Here, in layman's language, is what that law says:

If an individual seeking to vote says that s/he is a registered voter of the county but he does not appear in the poll book, the precinct officials must offer the voter the opportunity to cast a provisional ballot. Once the voter has filled out an affirmation, s/he may mark a provisional ballot. The precinct officials must inform the voter how s/he can learn whether her/his provisional ballot was counted. The precinct officials secure the provisional ballots and transfer them to the county board. The county board verifies the voter's eligibility, and counts the ballot in all races for which s/he was eligible. The State Board of Elections has the authority to adopt guidelines to carry out this statute.

That is the gist of the state statute on provisional voting. It has been adopted by the North Carolina General Assembly to assure that eligible voters are able to cast their votes and not be turned away at the polls, and to comply with federal law. The two relevant federal statutes are Section 8(e) of the National Voter Registration Act, 42 USC §1973gg-6(e), (found in Appendix B) and Section 302 of the Help America Vote Act, 42 USC § 15482, (found in Appendix C).

The statutory provisions are to be carried out through these Provisional Voter Administrative Procedures, adopted by the State Board of Elections under the authority of the state law.

## **Pre-Election Day Obligation Two: Develop Local Instructions for Precinct Officials**

The second obligation of the county board, the county director and staff is to develop local instructions for precinct officials at the polls. If a precinct official cannot find a voter's information in the poll book, exactly what is the precinct official to do? Is the precinct official to make a call? To whom? Or send an email? Or take the matter to the precinct chief judge? These local instructions should be fully in place and clearly spelled out for the precinct officials.

## **Pre-Election Day Obligation Three: Train Precinct Officials and Other Elections Workers**

Once the county board members and directors of elections have become familiar with the statutes and these Provisional Voter Administrative Procedures and local instructions, it is their obligation to fully train all precinct officials and county board employees who will be involved in handling provisional ballots.

## **Pre-Election Day Obligation Four: Name a Provisional Voting Coordinator for Each Precinct**

The county board must name (or it may delegate to the director the responsibility to name) one precinct official at each precinct as the Provisional Voting Coordinator. The Provisional Voting Coordinator will be in charge of all provisional voting instructions on election day, and may also be designated as the Precinct Transfer Assistant.

## **Pre-Election Day Obligation Five: Provide the Required Provisional Voting Materials**

It is the obligation of the county board to insure that each precinct has a proper supply of these materials:

1. a secure container into which precinct officials may place provisional ballots and envelopes to be later transported to the county board office for verification and counting
2. a Provisional Poll Book for recording the provisional voter's information
3. Provisional Ballot Envelopes for the voter to fill out
4. Provisional Ballot Instruction Sheets for the voter to follow
5. Provisional ballot PIN labels printed through SEIMS to be attached to the Provisional Poll Book, the Provisional Ballot Envelope, and the Provisional Ballot Instruction Sheet
6. Voter Calling Instruction Sheets instructing the voter how to learn whether his provisional vote was counted

### **Pre-Election Day Obligation Six: Develop Local Procedures for Verifying and Counting Provisional Ballots**

Between the election and canvass day, the county board determines which provisional ballots are to be counted, and for what races. Procedures should be finalized well before that time for making these determinations.

These procedures must specify the following:

1. How Provisional Ballot Envelopes will be received on election night and stored securely
2. Whether and to what extent authority will be delegated to directors and employees to make initial determinations regarding a provisional voter's eligibility
3. How Provisional Ballot Envelopes will be opened and the ballots counted when a provisional voter's eligibility is confirmed.

Those obligations are laid out in Part G below.

## **Part E: Duties of Precinct Officials at the Precinct**

In almost every case, the voter comes to the polls expecting to be able to vote in the regular manner. The voter may learn from a precinct official that s/he does not appear on the poll book and must vote a provisional ballot. This is, of course, not the news the voter wants. Delivering the news is not a pleasant task for the precinct official, but it is a necessary one.

### **Precinct Duty One: Try to Find the Voter's Information at the Precinct**

The first duty of the precinct official is to try to find the voter's registration information among the records available at the precinct. Is it listed under a slightly different spelling? Is there a supplemental set of records that can be checked? Has the voter had a name change?

If the voter's information cannot be quickly found through this kind of effort, the precinct official must proceed to Precinct Duty Two.

### **Precinct Duty Two: Follow Local Instructions for Contacting the County Office**

The second duty kicks in if the effort to find the voter's registration information among the precinct records fails. The second duty is to contact the county board office to try to find the registration information.

This duty falls to the Provisional Voting Coordinator.

Exactly how this duty is to be carried out will vary from county to county. The county board of elections has the obligation to develop local instructions for the Provisional Voting Coordinator to follow. Most typically, the instructions will follow this pattern:

1. The precinct official gives the information to the Provisional Voting Coordinator
2. The Provisional Voting Coordinator calls the county board office by telephone at a specified number or contacts the board office by email at a specified email address
3. The Provisional Voting Coordinator provides the board office the relevant information and waits for the office to try to find the voter's information from the central registration records
4. If the county board office is able to verify that the voter is eligible to vote in the county, the voter is permitted to vote a regular ballot
5. If the county board office is not able to verify the voter's eligibility to vote in the county, the voter is permitted to vote a provisional ballot.

### **Precinct Duty Three: Inform the Voter of the Opportunity to Vote by Provisional Ballot**

If the county board office is not able to verify the voter's eligibility to vote in the county, the next duty of the Provisional Voting Coordinator is to inform the voter that s/he may vote by provisional ballot.

At this step, the voter must be told:

1. That voter registration information cannot be verified at the moment
2. The voter may vote by provisional ballot
3. If the voter chooses to vote by provisional ballot, the county board of elections will continue to attempt to verify the voter's registration information between election day and the official tallying of the votes
4. If the county board is able to verify the voter's information, her/his votes will be counted for all eligible races
5. If the county board is not able to verify the voter's information, the ballot will not be counted
6. The voter will be able to find out whether the ballot was counted
7. The voter will be asked to give up-to-date registration information
8. In the case of missing identification information, the date by which the voter must supply the information in order for the ballot to be counted

### **Precinct Duty Four: Prepare the Provisional Voting Items for the Voter**

For every provisional voter, the Provisional Voting Coordinator or other precinct official must complete the following steps:

1. Enter the name of the voter in the Provisional Poll Book (For "extended hours voters," see Part H, Special Circumstance One, p. 22, of these Provisional Voting Administrative Procedures)
2. Write the provisional ballot PIN number and the precinct name or number on the Provisional Ballot in location determined by CBE
3. Affix one provisional ballot PIN label (SEIMS produces three for each voter) to the Provisional Poll Book beside the name of the voter
4. Affix the second provisional ballot PIN label to the Provisional Ballot Envelope
5. Affix the third provisional ballot PIN label to the Provisional Ballot Instruction Sheet

### **Precinct Duty Five: Give the Voter the Provisional Voting Items**

If the voter is voting a provisional ballot, the Provisional Voting Coordinator or other precinct official offers the prepared provisional voting items to the voter. Follow these steps:

1. Tell the voter that the information on the Provisional Envelope is collected for two purposes. First, it permits the county board to update the voter's registration information so that it will be correct for future elections. Second, it will act as an application to vote at this election by provisional ballot
2. Tell the voter that s/he may use the Voter Calling Instruction Sheet to find out whether her/his provisional ballot was counted and if not, why not
3. Hand to the voter
  - the Provisional Ballot Instruction Sheet
  - the Provisional Ballot Envelope w/ the voter registration/update form attached
  - the ballot(s)
  - the Voter Calling Instruction Sheet
4. Tell the voter that s/he may ask for assistance filling out the Provisional Envelope
5. Instruct the voter to mark her/his ballot, insert the ballot into the Provisional Envelope, seal the envelope, and return the entire package to the Provisional Voting Coordinator or other designated precinct official
6. Direct the voter to the voting booth

The voter is entitled to the same assistance in marking his ballot that a voter voting a regular ballot is entitled to.

### **Precinct Duty Six: Check the Provisional Ballot Envelope**

In the voter's presence, check to be sure that

1. The voter has filled in all fields in the Provisional Ballot Envelope, including the category for voting provisionally
2. The Provisional Ballot Envelope is properly sealed
3. The voter registration/update form is still attached to the envelope. If it has become separated, securely reattach it, along with any other documentation the precinct official may have collected from the voter
4. If a primary election, indicate on the envelope the party voted
5. Check to see that the Provisional Pollbook Number is on envelope
6. Be sure the envelope is **signed**.

### **Precinct Duty Seven: Place the Provisional Ballot Items in the Secure Container**

**Under no circumstances** shall precinct officials open the sealed Provisional Ballot Envelope. The precinct officials place all the provisional ballot items in the secure container provided by the county board and leave them there. Keep them separate and apart from all other ballots.

See Part H, Special Circumstance One, on p. 22 of these Provisional Voting Administrative Procedures for special handling of the provisional ballot items of extended hours voters.

### **Precinct Duty Eight: Seal and Transport the Ballot Container**

All the close of the elections, the Provisional Voting Coordinator or other precinct official must take the following steps:

1. Reconcile the number of Provisional Ballot Envelopes
  - a. Count the number of sealed, unused and spoiled provisional ballots and envelopes
  - b. Make sure the number of sealed envelopes equals the number of entries on the Provisional Poll Book
  - c. Include the number of sealed provisional envelopes on the ballot reconciliation form
2. Place all the Provisional Ballot Envelopes (and any attached documents) in a container and seal it. If the envelopes are already in a container, seal the container.
3. Have the Chief Judge, both Judges and the Provisional Voting Coordinator (if different) sign the seal
4. Have the Chief Judge, both Judges and the Provisional Voting Coordinator (if different) sign the Provisional Poll Book
5. Transport the provisional voting materials according to the regular “chain of custody” form that includes the signatures and times in which all ballots and materials are in the custody of each official
6. Make sure the provisional ballot materials are verified and signed for by a board of elections representative upon delivery

Precinct officials must be available for canvass or election protests.

## **Part F: Obligations of the Provisional Voter**

The individual who is offered the opportunity to vote a provisional ballot has four obligations.

### **Provisional Voter Obligation One: Be Cooperative**

The first obligation of the provisional voter is to be civil and to cooperate with elections officials. A sufficiently disruptive voter will be asked to leave and may be subject to arrest.

### **Provisional Voter Obligation Two: Complete the Provisional Ballot Envelope**

The provisional voter will be given a Provisional Envelope with information to be filled out. The information on the Provisional Envelope is collected for two purposes. First, it permits the county board to update the voter's registration information so that it will be correct for future elections. Second, it will act as an application to vote at this election by provisional ballot.

### **Provisional Voter Obligation Three: Seal the Ballot in the Provisional Ballot Envelope**

The Provisional Voting Coordinator or other precinct official will give the provisional voter a ballot and a Provisional Ballot Instruction Sheet. It is the obligation of the voter to follow the instructions, to mark his ballot, and then to seal the ballot inside the Provisional Ballot Envelope. It will not be opened again until the voter's eligibility is determined by the county board of elections.

### **Provisional Voter Obligation Four: Return the Provisional Voting Materials**

The provisional voter must return to the Provisional Voting Coordinator or other designated precinct official the Provisional Ballot Envelope containing the ballot, along with the Provisional Ballot Instruction Sheet and any other documentation provided to him, except the Voter Calling Instruction Sheet, which the voter retains.

### **Provisional Voter Obligation Five: Retain the Voter Calling Instruction Sheet**

The provisional voter may follow the directions on the Voter Calling Instruction Sheet to find out whether his provisional ballot was counted, and, if not, the reason it was not. The instructions will tell the voter that the information will be available one day after the board certifies the results of the election.

The information will be available on the State Board of Elections web site or by toll free telephone call to a special number at the State Board. The voter will be required to provide his name and PIN number to receive the information by web or by telephone. The information can also be obtained in person at the offices of the county or state boards of elections.

## **Part G: Obligations of the County Board of Elections After the Voting**

Once the polls close, the second stage of county board of elections obligations begins. This stage consists of determining which provisional ballots are to be counted, and in which races.

### **Post-Voting Obligation One: Safeguard Provisional Ballots**

The first obligation of the county board is to follow its own instructions for receiving and securing Provisional Ballot Envelopes on election night.

### **Post-Voting Obligation Two: Determine the Eligibility of Each Provisional Voter**

The county board has the obligation with respect to each provisional voter to make an individualized determination of that voter's eligibility to vote in the election, applying the following principles:

1. Only registered voters of the county are eligible
2. If a voter is registered in the county but for any reason did not appear on the records at the precinct in which s/he has resided for more than 30 days, s/he is an eligible voter and her/his ballot should be counted
3. If a voter is a registered voter of the county but for any reason cast a provisional ballot at a precinct other than the precinct for which her/his residence would qualify her/him to vote, s/he is an eligible voter. Only count votes for those races in which s/he would have been eligible to vote had s/he in fact voted at her/his resident precinct
4. If it cannot be determined from an audit of voter records that the voter was in fact a registered voter, s/he is ineligible
5. Determination is based solely on documentation provided to the county board office.
6. All material questions as to eligibility must be resolved by the county board of elections.

*For unrecorded voters, at a minimum check*

reject queue in SEIMS  
file of registrations received after the voter registration deadline  
declinations from state agencies  
DMV files using form provided by the State Board of Elections

*For unreported move voters, at a minimum check*

that the voter did not vote at the old precinct or by absentee

*For previously removed voters, at a minimum check*

cancellations from state agencies  
reject queue in SEIMS  
possible previous names

*For jurisdictional dispute voters, at a minimum check*

that the voter did not vote at another precinct  
that the person is properly registered

*For ID required voters who vote mail in absentee ballot*

check all of the above and note that appropriate ID must be provided  
before canvass

### **Post-Voting Obligation Three: Delegate Functions**

The board may delegate to the director and employees (in accordance with the board's own procedures) responsibility for making determinations regarding voter eligibility. If the board makes this delegation, it must instruct the director and employees to reserve for determination by the board itself all cases in which any material question as to eligibility exists.

### **Post-Voting Obligation Four: If Necessary, Correct the "Category" and "Disposition" on the Provisional Ballot Envelope in the Part Designated for Official Use**

Once the determination as to eligibility has been made, that determination must be marked on the Provisional Ballot Envelope and the category for the provisional vote must be noted. The provisional voter himself will already have chosen a category. If that entry must be corrected, make the correction in the gray area reserved for office use.

### **Post-Voting Obligation Five: Segregate the Ineligible Provisional Ballot Envelopes**

For provisional voters who are found to be ineligible, leave the Provisional Ballot Envelopes sealed. **Do not open them.**

Store all the sealed Provisional Ballot Envelopes of all ineligible voters together in a secure place.

### **Post-Voting Obligation Six: Open the Eligible Provisional Ballot Envelopes**

For provisional voters who are found to be eligible, follow this procedure:

1. Unseal the Provisional Ballot Envelopes
2. Remove the ballots—immediately check that the ballot is numbered and if not, add the number to the ballot
3. If this is primary election be sure that the ballot is the party marked on the envelope
4. Store all the Provisional Ballot Envelopes of all eligible voters together in a secure place
5. Collect the ballots for counting.

### **Post-Voting Obligation Seven: Count the Ballots**

After all provisional ballots have been considered, count the collected ballots of the eligible provisional voters, applying these instructions:

1. Add the total provisional votes to the abstract below the total absentee votes and precinct transfer votes (in Election Night Reporting)
2. Do not add provisional votes to the individual precinct totals
3. Count only the races in which the provisional voter was eligible to vote.
4. Secure the ballots and store according to local procedures

### **Post-Voting Obligation Eight: Enter the Information in SEIMS**

To make it possible for voters to learn whether their provisional ballot was counted, provisional ballot determinations must be entered into the Provisional Ballot module of SEIMS. The ideal time to enter this data is during the research process, as the determinations are made.

### **Post-Voting Obligation Nine: Preserve the Records**

Retain the Provisional Ballot Envelopes and all materials attached to the envelopes for the same period of time that other elections materials are retained for that election.

Tear off the voter registration/update form from the envelope. Secure the ballots.

## **Part H: Special Circumstances**

### **Special Circumstance One: Segregate Ballots of Extended Hours Voters**

The polls close at 7:30 p.m. Voters in line at that time may vote, even if they in fact cast their vote after 7:30. But voters who arrive after 7:30 are too late and are not allowed to vote.

Occasionally, however, a court or the State Board may order that one or more polls be kept open after 7:30. In that case, all voters arriving after 7:30 will be permitted to vote, but they must vote only by provisional ballot. If it is later lawfully determined that the extended hours were proper, the provisional votes will be counted.

All provisional voting documents of extended hours voters must be kept separate from documents of other provisional voters.

At the precinct, precinct officials must:

1. maintain a separate section of the Provisional Poll Book for recording extended hours voter information
2. enter extended hours voter information in the separate section of the Provisional Poll Book
3. be certain that the returned Provisional Ballot Envelopes for extended hours provisional voters accurately indicate that extended hours voting is the reason that the voter voted a provisional ballot. Once the precinct official is certain that the Provisional Ballot Envelope is properly marked in this way, then the envelope may be deposited in the secure container with the other Provisional Ballot Envelopes

At the county board office after the election, county board officials must:

1. identify all Provisional Ballot Envelopes marked for extended hours voting and keep them separate
2. open the Provisional Ballot Envelopes and count the ballots only if the order allowing extended voting remains valid at the time of canvass.

### **Special Circumstance Two: Provisional Voters in Second Primary**

If a voter voted by provisional ballot in the first primary and was determined to be an eligible voter, then that voter is eligible to vote in the second primary in all races for which s/he was found to be eligible in the first primary.

The county board of elections must prepare lists of eligible voters by precinct and provide each precinct with its list. If the voter appears at the precinct in the second primary and the voter's name is not on the voter registration list but is on that precinct's list of eligible provisional voters, her/his name is to be added to the voter registration list and s/he is allowed to vote a regular (not a provisional) ballot.

### **Special Circumstance Three: ID-Required Voter Voting by Absentee**

As noted above on page 9, a small minority of voters are required to show ID. They are certain voters who registered by mail and have not previously voted when a federal office was on the ballot. It can happen that such an ID-required voter may vote by mail-in absentee ballot and fail to provide the required ID. In that case, the mailed-in absentee ballot becomes a provisional ballot. The following steps must be taken

1. record the voter's information in the Provisional Poll Book
2. complete a Provisional Ballot Envelope using the information provided on the absentee ballot materials
3. attach PIN labels to the Provisional Poll Book, the Provisional Ballot Envelope, and a Voter Instruction Sheet
4. place the absentee envelope containing the absentee ballot in the Provisional Ballot Envelope and seal it
5. store the Provisional Ballot Envelope in the appropriate secure provisional ballot storage container
6. mail the Voter Instruction Sheet to the voter.

## Appendix A

### **§ 163-166.11. Provisional voting requirements.**

If an individual seeking to vote claims to be a registered voter in a jurisdiction as provided in G.S. 163.82.1 and though eligible to vote in the election does not appear on the official list of eligible registered voters in the voting place, that individual may cast a provisional official ballot as follows:

- (1) An election official at the voting place shall notify the individual that the individual may cast a provisional official ballot in that election.
- (2) The individual may cast a provisional official ballot at that voting place upon executing a written affirmation before an election official at the voting place, stating that the individual is a registered voter in the jurisdiction as provided in G.S. 163.82.1 in which the individual seeks to vote and is eligible to vote in that election.
  - (2a) A voter who has moved within the county more than 30 days before election day but has not reported the move to the board of elections shall not be required on that account to vote a provisional ballot at the one-stop site, as long as the one-stop site has available all the information necessary to determine whether a voter is registered to vote in the county and which ballot the voter is eligible to vote based on the voter's proper residence address. The voter with that kind of unreported move shall be allowed to vote the same kind of absentee ballot as other one-stop voters as provided in G.S. 163-227.2(e2).
- (3) At the time the individual casts the provisional official ballot, the election officials shall provide the individual written information stating that anyone casting a provisional official ballot can ascertain whether and to what extent the ballot was counted and, if the ballot was not counted in whole or in part, the reason it was not counted. The State Board of Elections or the county board of elections shall establish a system for so informing a provisional voter. It shall make the system available to every provisional voter without charge, and it shall build into it reasonable procedures to protect the security, confidentiality, and integrity of the voter's personal information and vote.
- (4) The cast provisional official ballot and the written affirmation shall be secured by election officials at the voting place according to guidelines and procedures adopted by the State Board of Elections. At the close of the polls, election officials shall transmit the provisional official ballots cast at that voting place to the county board of elections for prompt verification according to guidelines and procedures adopted by the State Board of Elections.
- (5) The county board of elections shall count the individual's provisional official ballot for all ballot items on which it determines that the individual was eligible under State or federal law to vote.

(2003-226, s.15; amended by S.L. 2005-02, s.4, effective March 2, 2005; S.L. 2005-428, s. 6(b) added subsection (2a), effective September 22, 2005)

**Appendix B**  
**Sec 8(e) of NVRA 42 USC 1973gg-6e**

**(e) PROCEDURE FOR VOTING FOLLOWING FAILURE TO RETURN CARD.-**

**(1)** A registrant who has moved from an address in the area covered by a polling place to an address in the same area shall, notwithstanding failure to notify the registrar of the change of address prior to the date of an election, be permitted to vote at that polling place upon oral or written affirmation by the registrant of the change of address before an election official at that polling place.

**(2) (A)** A registrant who has moved from an address in the area covered by one polling place to an address in an area covered by a second polling place within the same registrar's jurisdiction and the same congressional district and who has failed to notify the registrar of the change of address prior to the date of an election, at the option of the registrant-

**(i)** shall be permitted to correct the voting records and vote at the registrant's former polling place, upon oral or written affirmation by the registrant of the new address before an election official at that polling place; or

**(ii) (I)** shall be permitted to correct the voting records and vote at a central location within the same registrar's jurisdiction designated by the registrar where a list of eligible voters is maintained, upon written affirmation by the registrant of the new address on a standard form provided by the registrar at the central location; or

**(II)** shall be permitted to correct the voting records for purposes of voting in future elections at the appropriate polling place for the current address and, if permitted by State law, shall be permitted to vote in the present election, upon confirmation by the registrant of the new address by such means as are required by law.

**(B)** If State law permits the registrant to vote in the current election upon oral or written affirmation by the registrant of the new address at a polling place described in subparagraph (A)(i) or (A)(ii)(II), voting at the other locations described in subparagraph (A) need not be provided as options.

**(3)** If the registration records indicate that a registrant has moved from an address in the area covered by a polling place, the registrant shall, upon oral or written affirmation by the registrant before an election official at that polling place that the registrant continues to reside at the address previously made known to the registrar, be permitted to vote at that polling place.

**Appendix C**  
**Title 42 Chapter 146 Subchapter III Part A §15482.**  
**Provisional voting and voting information requirements**

**(a) Provisional voting requirements**

If an individual declares that such individual is a registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in an election for Federal office, but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual is not eligible to vote, such individual shall be permitted to cast a provisional ballot as follows:

- (1) An election official at the polling place shall notify the individual that the individual may cast a provisional ballot in that election.
- (2) The individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is—
  - (A) a registered voter in the jurisdiction in which the individual desires to vote; and
  - (B) eligible to vote in that election.
- (3) An election official at the polling place shall transmit the ballot cast by the individual or the voter information contained in the written affirmation executed by the individual under paragraph (2) to an appropriate State or local election official for prompt verification under paragraph (4).
- (4) If the appropriate State or local election official to whom the ballot or voter information is transmitted under paragraph (3) determines that the individual is eligible under State law to vote, the individual's provisional ballot shall be counted as a vote in that election in accordance with State law.
- (5)
  - (A) At the time that an individual casts a provisional ballot, the appropriate State or local election official shall give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain under the system established under subparagraph (B) whether the vote was counted, and, if the vote was not counted, the reason that the vote was not counted.
  - (B) The appropriate State or local election official shall establish a free access system (such as a toll-free telephone number or an Internet website) that any individual who casts a provisional ballot may access to discover whether the vote of that individual was counted, and, if the vote was not counted, the reason that the vote was not counted. States described in section 1973gg-2 (b) of this title may meet the requirements of this subsection using voter registration procedures established under applicable State law. The appropriate State or local official shall establish and maintain reasonable procedures necessary to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used by the free access system established under paragraph (5)(B). Access to information about an individual provisional ballot shall be restricted to the individual who cast the ballot.

**(b) Voting information requirements**

**(1) Public posting on election day**

The appropriate State or local election official shall cause voting information to be publicly posted at each polling place on the day of each election for Federal office.

**(2) Voting information defined**

In this section, the term “voting information” means—

**(A)** a sample version of the ballot that will be used for that election;

**(B)** information regarding the date of the election and the hours during which polling places will be open;

**(C)** instructions on how to vote, including how to cast a vote and how to cast a provisional ballot;

**(D)** instructions for mail-in registrants and first-time voters under section 15483 (b) of this title;

**(E)** general information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and

**(F)** general information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation.

**(c) Voters who vote after the polls close**

Any individual who votes in an election for Federal office as a result of a Federal or State court order or any other order extending the time established for closing the polls by a State law in effect 10 days before the date of that election may only vote in that election by casting a provisional ballot under subsection (a) of this section. Any such ballot cast under the preceding sentence shall be separated and held apart from other provisional ballots cast by those not affected by the order.

**(d) Effective date for provisional voting and voting information**

Each State and jurisdiction shall be required to comply with the requirements of this section on and after January 1, 2004.