

March 19, 2020

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Re: Recommendations for ensuring election continuity and voting access while responding to COVID-19

The undersigned organizations write today to offer initial recommendations for actions that North Carolina election officials should take in response to the challenges posed by the novel coronavirus. We offer the below recognizing that this is a fluid situation, and also that every stakeholder engaged in election administration is at the outset of their engagement on this issue. As plans develop, it will be critical for election officials to account for safety, access, and the needs of all North Carolina voters—especially those most affected by the current crisis, and those who face chronic and systemic barriers to the ballot. We expect to continue developing and refining these and other ideas, and welcome the opportunity to engage further on these issues moving forward.

I. Background | COVID-19 requires immediate emergency action by government agencies in order to protect voters and elections staff.

As North Carolina faces unprecedented challenges due to the novel coronavirus, we are urging government agencies at all levels to take decisive, necessary action to ensure that upcoming elections are accessible, safe, and secure for all voters. As of March 18, there were 4,275 of confirmed cases and 75 deaths in the United States¹ and 63 cases in North Carolina alone.² Governor Cooper has declared a State of Emergency and all major gatherings in the state are being suspended based on the Centers for Disease Control's (CDC) guidance.³

Voters are looking to the County Boards of Elections (CBOEs), the North Carolina General Assembly, and the State Board of Elections to take action to ensure that election officials and voters are safely able to access the ballot this spring and in the coming General Election in the Fall of 2020.

¹ US Centers for Disease Control and Prevention, *Cases in U.S.*, Coronavirus Disease 2019 (COVID-19), (March 17, 2020, 3:30 PM), <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html>.

² NC Department of Health and Human Services, *COVID-19 Case Count in North Carolina*, (March 19, 2020, 9:00 AM), <https://www.ncdhhs.gov/covid-19-case-count-nc>.

³ NC Department of Health and Human Services, *Community Events and Information for Groups*, Coronavirus Disease 2019 (COVID-19) Response in North Carolina, (March 16, 2020, 4:35 PM) <https://www.ncdhhs.gov/divisions/public-health/coronavirus-disease-2019-covid-19-response-north-carolina/community-events>. US Centers for Disease Control and Prevention, *Community Events*, Interim Guidance for Coronavirus Disease 2019 (COVID-19), (March 19, 2020, 9:00 AM) <https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/mass-gatherings-ready-for-covid-19.html>.

Our recommendations are based on the following: (1) Existing North Carolina authority to enact certain precautions in election administration, (2) Recommendations from national and state experts on infectious disease control, (3) Best practices and models from other jurisdictions regarding emergency preparedness in elections, and (4) Feedback from our advocates and coalition partners across the state.

There is an upcoming congressional primary runoff election and it is our sincere hope that all necessary resources and precautions can be in place prior to this election. We urge the SBOE to make mail ballots available to all voters, relax request requirements and eliminate witness and notary requirements, and provide voters the option of casting an in-person ballot at well-sanitized “super-precincts” that accept all voters participating in the primary runoff.

The below recommendations concern plans beyond the upcoming primary runoff, and are geared toward ensuring voting access and public safety in circumstances. In striking this balance, we believe that they align with the State Board’s March 12, 2020 communication on coronavirus response.⁴

II. Recommendations | The State Board of Elections must swiftly issue guidance and enact significant changes in election administration to ensure accessible, safe, and secure elections.

1. Institute digital or telephonic participation for County Board of Elections activities.

Counties are currently participating in the post-Primary canvass process, which requires in-person attendance. However, there are opportunities to allow remote public participation in this activity and other upcoming county elections-related meetings, including meetings related to Early Voting plans. Per North Carolina statute, County Boards of Elections (CBOE) are subject to open meetings requirements, including: public right of access to open meetings, notice, and minutes (general accounts).⁵ Given the high infection rate and new research that shows the ability of the virus to remain both in the air and on surfaces, we request that the State Board of Elections (SBOE) issue guidance on the use of telephonic and video meetings in lieu of in-person meetings. Ideally, this guidance would incorporate: (1) Method for sufficient notice of manner to join the meeting (whether via telephone and/or video), (2) Recording of all open meetings to be published on the SBOE website, (3) Minutes recorded and published on county websites in a timely manner, and (4) Recommendations for contractors and/or vendors to assist counties with implementation based on technology resources used by the SBOE. We believe this expanded remote access to public meetings will be necessary for continued meaningful public participation, as regardless of when the pandemic’s threat actually diminishes, there will likely be a period after which citizens are still hesitant to attend public meetings in person.

⁴ North Carolina State Board of Elections, *Statement on COVID-19 Response*, March 12, 2020. Accessible at: https://www.ncsbe.gov/Press-Releases?udt_2226_param_detail=2037

⁵ NCGS § 143-318.10.

https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_143/Article_33C.pdf

2. Institute significant changes regarding the provision and design of absentee ballots in order to expand access and provide the opportunity for all voters to vote by absentee ballot. The coronavirus pandemic requires the reduction of gatherings of large groups of people, which will gravely impact voting, particularly for those at highest risk, including those over 60 years old and the immunocompromised. In order to ensure that elections are accessible, safe, and secure, it will be necessary to implement changes for the absentee ballot process.

Our recommendations include the following:

- a. Provide an absentee ballot request form to all registered voters at least 15 days before the election and urge the General Assembly institute phone, fax, and email options for absentee ballot requests;
- b. Accept and count ballots submitted by mail up to 3 days after the election regardless of lack of postmark;⁶
- c. Increase advertising to the public to ensure there is common knowledge of the mail-in absentee ballot option for both the Primary run-off and General Election;
- d. Remove the "continued or expected illness or injury" requirement for receiving future absentee ballots from the request form;
- e. Allow anyone to assist a voter to complete a request form, as prior legislation permitted.
- f. Ensure free return-mail postage, which expands upon the SBOEs great bi-partisan, common sense work on a postage-paid pilot post NC09 for request forms.⁷
- g. Additionally, allow for absentee ballots to be delivered to drive-by drop-off boxes at libraries and other designated locations, in addition to election boards and polling places.
- h. Adopt a new ballot design to ensure maximum participation and fewer rejected ballots:
 - i. Ensure the ballot itself is understandable for all literacy levels,
 - ii. Make sure experts are on hand to design it for ease of people with learning disabilities,
 - iii. Offer multilingual ballots and/or language assistance in the following languages per the American Community Survey data for North Carolina: Spanish, Chinese, Korean, Japanese, Arabic, French, Vietnamese, German, and other highly prevalent languages,⁸ and
 - iv. Remove the requirement for 2 witnesses or 1 notary signature or, alternatively, institute an exception to this requirement for persons quarantined due to illness.

⁶ See N.C.G.S § 163-234 (1) ("Only those absentee ballots returned to the county board of elections no later than 5:00 p.m. on the day before election day in a properly executed container-return envelope or absentee ballots received pursuant to G.S. 163-231(b)(ii) or (iii) shall be counted, except to the extent federal law requires otherwise.")

⁷ North Carolina State Board of Elections, *House Committee on Elections and Ethics Laws*, March 13 2019, https://s3.amazonaws.com/dl.ncsbe.gov/Requests/20190319_House%20Committee%20on%20Elections%20and%20Ethics%20Law.pdf

⁸ North Carolina Council for Women and Youth Involvement, *Limited English Proficiency and Less Commonly Spoken Languages in North Carolina*, July 2019, <https://files.nc.gov/ncdoa/cfw/documents/Limited-English-Proficiency-and-Less-Commonly-Spoken-Languages-in-NC.pdf>

3. Develop contingency plans for moving to an all-mail election and protocols for when such a measure should be taken. While we do not know what the future holds, and would not advocate, today, for a shift to all-mail voting, all options must be kept on the table should the situation get more dire. Given the credible possibility that access to the ballot will be compromised for voters, the SBOE must look to other states that engage in large-scale absentee or mail-in ballot voting, including Colorado, Oregon, and Washington. We urge the Board to consider contingency options that may need to be utilized if the public health threat worsens or extends past a certain point.

4. Support intensive poll worker recruitment in order to ensure that the upcoming elections are fully staffed. As you are aware, the majority of poll workers across the state are over 60 years old and are in the high-risk category of individuals impacted by coronavirus. Their health and the health of voters must be a priority for the SBOE. We are concerned about counties' ability to staff upcoming elections given the virus's impact on older individuals and that population's important role in current polling place staffing.

Given these concerns, we recommend the following robust recruitment efforts at the state and county levels:

- a. Increase and expand state and county efforts to recruit younger, more diverse, culturally competent, and tech-savvy poll workers. In doing so, state and county BOEs should partner with community groups, like those who participate in Election Protection work, who are deeply invested in the intricacies of the voting process. We recommend that the first step be an assessment of current barriers to poll worker service and a meeting with interested stakeholders to begin brainstorming shared solutions.⁹
- b. State and county election officials should work together to provide a clearer pathway to becoming a poll worker for unaffiliated voters. Currently, each county BOE handles requests to become a poll worker differently; some refer volunteers to their local political party, others have an online sign-up process. Streamlining and clarifying the process for unaffiliated voters in particular will improve the ability of counties to attract new poll workers and that of interested outside groups to promote poll worker service as a critical form of civic engagement.¹⁰
- c. Any existing laws that pose a barrier to recruitment should be identified and temporarily amended to allow for maximum recruitment for the 2020 election.

5. If in-person voting is to remain available, polling locations must be moved out of buildings that serve populations at high risk for contracting the coronavirus, such as retirement facilities.

⁹ Gutiérrez, Isela. *From the Voter's View: Lessons from the 2016 Election*, Democracy NC, at 20. https://democracync.org/wp-content/uploads/2018/01/PostElectionReport_DemNC_web.pdf

¹⁰ *Id.*

6. Monitor and ensure adequate sanitation at all polling locations across the state. Per recent developments in understanding about coronavirus transmission, it is imperative that the SBOE partner with the Center for Disease Control and Prevention (CDC), Department of Homeland Security (DHS) and the NC Department of Health and Human Services to issue required sanitation methods specific to voting style (e.g. machines, pens/ballots, curbside, etc.). As your March 12 statement indicates,¹¹ election officials should follow CDC and state issued guidelines.¹² These guidelines must be updated as information becomes available and these guidelines should be shared with elections officials and the general public alike, in order to foster voter trust. Additionally, the SBOE should prioritize providing technical assistance to counties that have a high volume of voters, serve predominantly older voters, and under-funded counties.

7. Fast track the transition to current online DMV registration in light of challenges facing in-person voter registration. By its nature, voter registration activities are high-contact endeavors that often involve close interpersonal contact, sharing of writing utensils, and is often conducted via door-to-door canvassing or through tabling at large gatherings. We strongly recommend that the SBOE and other relevant agencies move quickly to implement online voter registration (OVR). While this would be a new system in North Carolina, the state has the ability to build on recent policy and technical advances in DMV's efforts to comply with its obligations under the National Voter Registration Act. And because OVR is now available in 39 other states and the District of Columbia,¹³ North Carolina stands to benefit from significant precedent and expertise from other states as to effective practices for testing, user experience, and availability.

8. Ensure adequate Curbside Voting as a low contact/no contact option. Access and participation in curbside voting is challenging in non-emergency situations without high volumes. Many polling locations do not have adequate parking, signage, or staffing. It is essential that the SBOE provide guidance to CBOEs on:

- a. Ensuring sufficient staffing, which will assist with traffic flow and expedient voting;
- b. Placing proper and adequate curbside signage to direct drivers to the proper location for curbside voting;
- c. Clearly communicate to CBOEs that staff may not assess whether a voter is eligible for curbside voting and are not permitted to discourage utilization of curbside; and
- d. Ensure proper health and sanitation measures for staff assisting curbside voters.

¹¹ North Carolina State Board of Elections, *Statement on COVID-19 Response*, March 12, 2020. https://www.ncsbe.gov/Press-Releases?udt_2226_param_detail=2037.

¹² US Centers for Disease Control and Prevention, *Election Management Resources*, Coronavirus (COVID-19) Resources (March 16, 2020, 4:30 PM), <https://www.eac.gov/election-officials/coronavirus-covid-19-resources>. NC Department of Health and Human Services, Coronavirus Disease 2019 (COVID-19) Resources (March 16, 2020, 5:30 PM), <https://www.ncdhhs.gov/divisions/public-health/coronavirus-disease-2019-covid-19-response-north-carolina>.

¹³ National Conference of State Legislatures, *Online Voter Registration* (March 17, 2020, 9:49 AM), <https://www.ncsl.org/research/elections-and-campaigns/electronic-or-online-voter-registration.aspx>.

III. Implementation | The State Board of Elections must utilize its powers to provide guidance to counties and advocate for implementation of the aforementioned recommendations.

We recommend that the SBOE use its rulemaking and guidance authority to build on its first steps by engaging in the following activities: providing regular, detailed guidance and recommendations to CBOEs, particularly those with limited or relatively fewer resources; provide technical assistance to CBOEs; working with the NC General Assembly to advocate for adequate funding to ensure safe and secure elections; and continuing to request extension of, and/or utilize, emergency powers granted by the NC General Assembly and Governor Cooper to ensure that the necessary precautions are instituted.

IV. Funding Recommendations

We understand that coronavirus is negatively impacting our economy and that this will likely continue. Vital services and disaster response to the virus should be concentrated on slowing the rate of infection and supporting families with the least access to medical care and economic resources. The State Board of Elections has a responsibility to provide free and fair elections, even in uncertain times. Upholding this responsibility in 2020 will require targeted resources from the state to CBOEs. Below are a few of the estimated costs, which will depend heavily on the rate of infection and fatalities in the coming months. These figures are based in part on spending data from both North Carolina and other states.

1. Request funding through the NC General Assembly.¹⁴

SBOE Activity	Explanation of cost	Cost per unit	Total cost estimate
Universal vote-by-mail	SBOE would need to provide counties with enough funding to print, mail, and include postage for the return of one ballot for approximately 7 million voters	Most CO counties spent between \$1 and \$10 per registered voter to administer vote-by-mail elections ¹⁵	At \$5 per voter, the state would need to provide about \$35 million in funding to CBOEs (inclusive of many of the costs below)

¹⁴ All of these calculations are estimates and could vary widely depending on the coming months.

¹⁵ Accountability in Colorado Elections, Election Cost Statistics, <https://www.sos.state.co.us/pubs/elections/ACE/ElectionCostStatistics/atlas.html?indicator2=i0&date2=Gr oss%20Cost>

Sanitation equipment	Each polling site would need materials to keep poll workers and voters safe	A conservative estimation would be \$100-\$1000 per polling site. There were 2705 active polling sites in NC for the 2016 General Election. ¹⁶	At \$500 per polling site, CBOEs would need approximately \$1.35 million (unless the number of polling sites is dramatically reduced to contain the virus)
Poll workers	Replace poll workers impacted by or vulnerable to the virus	Most CA counties spend between \$.04 and \$.06 per registered voter on poll workers ¹⁷	At \$.05 per registered voter, the state should be prepared to provide about \$350,000 to CBOEs
Technology	In lieu of in-person meetings, technical capacity should be expanded to allow all public meetings to be recorded and posted online.	CA estimated that recording and posting all public meetings would cost between \$1-2 million in the first year and an additional \$1 million year after ¹⁸	At least \$1.5 million to record state public meetings, additional costs to local governments to post and promote local public meetings
Rapid response fund	In addition to the costs above, the SBOE should be given discretionary funds that can be re-granted to support CBOEs in responding to unexpected issues as they arise.		

¹⁶ North Carolina State Board of Elections. Past Polling Places and One-Stop Sites. <https://www.ncsbe.gov/Public-Records-Data-Info/Election-Results-Data>

¹⁷ California Association of Code Enforcement Officers, Cost Composition by County Population Tier, <http://results.caceoelectioncosts.org/#/county>

¹⁸ Legislative Analyst's Office, Legislature. Legislation and Proceedings. Initiative Constitutional Amendment and Statute, July 18 2016, <https://lao.ca.gov/ballot/2016/Prop54-110816.pdf>

2. Request and utilize any available federal funds. North Carolina should use as much of the \$11,624,810 that it was allocated in 2020 HAVA funding to implement the recommendations above.¹⁹ Additional funding from the federal government will be needed to cover costs associated with administering elections in 2020 while preventing the spread of COVID-19. Additional state revenue may also be needed to ensure that costs are adequately covered. Revenue should be collected equitably and fairly taking into account the revenue has been lost due to the 2013 tax cuts.

We recognize that election administration is always complicated work, and that the current circumstances pose significant logistical, technical, and policy challenges. We also believe that SBOE’s mission and function are of heightened importance in a moment like this— the continuity of democratic structures is essential to preserving public trust, equity, and accountability. The Board’s initial steps on this front have been encouraging, and we urge the agency to move thoughtfully in the time ahead. We hope that in doing so you will center the needs of all North Carolina voters, including those most impacted by the current crisis and those who face chronic barriers to participation in elections.

We welcome the opportunity to discuss these ideas further, and are prepared to support statewide efforts to ensure free and fair elections this year.

Signed,

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¹⁹ State Board of Elections and Ethics Enforcement. Funding Request Letter, January 27, 2020. https://www.eac.gov/sites/default/files/paymentgrants/fundsrequest2020/NC_ES_Funding_Request_Letter.pdf

Cc:

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