

TITLE 08 – STATE BOARD OF ELECTIONS

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Board of Elections intends to adopt the rules cited as 08 NCAC 18 .0201, and .0501-.0505.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://www.ncsbe.gov/about-elections/legal-resources/rulemaking>

Proposed Effective Date: September 1, 2026

Public Hearing:

Date: June 22, 2026

Time: 10:00 A.M.

Location: State Board of Elections, Dobbs Building, 430 N. Salisbury St., Raleigh, NC 27603

Reason for Proposed Action: *The State Board of Elections is authorized to adopt rules that establish procedures to provide appropriate safeguards in the implementation of N.C.G.S. 163-230.1 for absentee ballots. The State Board is proposing a series of rules that will govern how county boards of elections are to proceed when a deficiency with a returned absentee ballot is identified by county board staff. Proposed rule 08 NCAC 18 .0201 is a definitions rule. Proposed rule 08 NCAC 18 .0501 directs county board staff to review for deficiencies when an absentee ballot is received. Proposed rule 08 NCAC 18 .0502 identifies deficiencies that can be cured and directs the county board staff and voter processes to do so. Proposed rule 08 NCAC 18 .0503 identifies deficiencies that cannot be cured and will result in the ballot being cancelled and reissued, if there is enough time to do so. Proposed rule 08 NCAC 18 .0504 identifies irregularities that must be documented but which do not require a cure process or the ballot to be reissued. Proposed rule 08 NCAC 18 .0505 identifies irregularities that must be documented and the voter contacted to determine whether the issue can be cured or must result in the ballot being spoiled and reissued.*

Comments may be submitted to: Adam Steele, P.O. Box 27255, Raleigh, NC 27611; email rulemaking.sboe@ncsbe.gov (Comments may be submitted online during the comment period at <https://www.ncsbe.gov/about-elections/legal-resources/rulemaking>)

Comment period ends: July 14, 2026

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 a written objection to the Rules Review Commission. 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 letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact ($\geq$ \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

CHAPTER 18 - ABSENTEE BALLOTS

SECTION .0200 – GENERAL RULES FOR ABSENTEE VOTING

08 NCAC 18 .0201 DEFINITIONS

For purposes of this Chapter:

- (1) "Application" means the absentee ballot application printed on the ballot envelope as provided by G.S. 163-229.
- (2) "Absentee ballot package" means the combination of the outer return envelope, ballot envelope, application, instructions, absentee ballot, and blank photo identification affidavit.
- (3) "Absentee voter" means a registered voter who has requested to vote by absentee ballot.
- (4) "Ballot envelope" means the envelope provided by a county board of elections to a voter pursuant to G.S. 163-230.1 that is designated to contain a voted absentee ballot when the ballot is returned to the county board of elections.
- (5) "Curable deficiency" means a deficiency that can be cured with supplemental documentation or an attestation provided by the absentee voter.
- (6) "Cure" means the process by which a voter submits additional documentation or an attestation that corrects a curable deficiency.
- (7) "Cure notice" means a written notice sent to an absentee voter identifying a curable deficiency and informing the voter that the voter, the voter's verifiable legal guardian or near relative, or a person of the voter's choice if the voter needs

assistance due to the voter's disability, may cure the deficiency by submitting required documentation or a completed attestation with required information.

- (8) "Deficiency" means noncompliance with the requirements for absentee voting that requires the voter to cure the deficiency or the county board of elections to spoil the ballot and reissue the absentee ballot package.
- (9) "Irregularity" means noncompliance with the requirements for absentee voting that requires documentation and may require further action to determine if the irregularity is a curable or non-curable deficiency.
- (10) "Non-curable deficiency" means a deficiency that requires the absentee ballot to be spoiled because the deficiency does not meet the definition of a curable deficiency.
- (11) "Photo identification affidavit" means the affidavit to claim an exception to the photo identification requirement under G.S. 163-166.16 and 163-230.1.
- (12) "Photo identification documentation" means the photocopy of an acceptable photo identification or a photo identification affidavit required to be included with an application pursuant to G.S. 163-230.1(f1).
- (13) "Outer return envelope" means the envelope provided by a county board of elections to a voter for the voter to transmit the voter's sealed ballot envelope and photo identification documentation to the county board of elections.
- (14) "Spoil" means the act of cancelling an absentee ballot that has been or will be issued to a registered voter.

History Note: Authority G.S. 163-22; 163-229; 163-230.1; 163-231; 163-234;
Eff. September 1, 2026.

SECTION .0500 – ABSENTEE DEFICIENCIES AND IRREGULARITIES

08 NCAC 18 .0501 REVIEW FOR DEFICIENCIES

County board staff shall, within one business day of the receipt of a voter's returned absentee ballot, determine whether there is a deficiency or irregularity. If staff identify a deficiency, then they shall determine whether the deficiency is one identified in Rule .0502 or Rule .0503 of this Section and proceed in accordance with the corresponding Rule. If staff identify an irregularity, then they shall determine whether the irregularity is one identified in Rule .0504 or Rule .0505 of this Section and proceed in accordance with the corresponding Rule.

History Note: Authority G.S. 163-22; 163-229; 163-230.1; 163-231; 163-234;
Eff. September 1, 2026.

08 NCAC 18 .0502 CURABLE DEFICIENCIES

(a) A curable deficiency includes the following:

- (1) The absentee voter did not sign or make their mark on the application. If county board staff determine the voter's signature on the application appears to be the name of the voter assigned the application number on the ballot envelope that is required under G.S. 163-230.1(c)(2) and not some other person, then that is not a deficiency even if the signature is illegible.
- (2) The absentee voter signed the application in the wrong place.
- (3) The photo identification is not an acceptable type of identification under 08 NCAC 17 .0101(a)(1).
- (4) The photo identification does not meet an applicable expiration date requirement under G.S. 163-166.16(a).
- (5) The photocopy of the photo identification is not readable under 08 NCAC 17 .0109(a).
- (6) The name on the photo identification is not the same as or substantially equivalent to the name contained in the voter's voter registration record in accordance with 08 NCAC 17 .0101(a)(3).
- (7) The absentee voter did not sign the photo identification affidavit. If an absentee voter is unable to sign the affidavit due to a disability, then it is not a deficiency if the person of the voter's choice assisting the voter signed the affidavit on the absentee voter's behalf and completed the assistant certification on the application.
- (8) The absentee voter did not print their name on the photo identification affidavit. If the absentee voter signed the affidavit and that signature appears to be the name of the voter and not some other person, then the lack of a printed name is not a deficiency.
- (9) The absentee voter did not indicate their claimed exception or reasonable impediment to the photo identification requirement on the photo identification affidavit.
- (10) The absentee voter's personal identification number, when required to be provided by G.S. 163-230.1(g)(2) on the photo identification affidavit is deficient under 08 NCAC 17 .0109(b).
- (11) The absentee voter has failed to include any photo identification documentation with their application.

(b) When county board staff identify a curable deficiency under this Rule, staff shall send a cure notice to the voter by mail to the address at which the voter requested their ballot be sent within one business day of identifying the deficiency. The cure notice shall also be provided by telephone or email if the telephone number or email address was provided by the voter on the request form for the absentee ballot or, if one was not provided on the request form, in the voter's record. If the curable deficiency involves photo identification documentation, county board staff shall also proceed in accordance with 08 NCAC 17 .0109. If county board staff identify a likely curable deficiency but are unable to make such a determination, then staff shall present the deficiency to the county board to make the determination at its next absentee meeting held pursuant to G.S. 163-230.1.

(c) The voter, the voter's verifiable legal guardian or near relative, a multipartisan assistance team appointed under G.S. 163-226.3, or a person of the voter's choice if the voter needs assistance due to the voter's disability, may transmit the cure documentation or attestation in person, by mail, or by email to the county board of elections. If the cure attestation is submitted electronically, the voter shall not use a typed name as their signature or mark unless they are unable to sign the attestation due to a disability.

(d) The cure documentation or attestation shall be timely only if received by the county board by the deadline for curing a deficiency in G.S. 163-230.1(e1). County board staff shall review an absentee voter's cure documentation or attestation within one business day of receipt to determine whether the voter's submission is responsive to what was requested in the cure notice. The county board shall consider the cure documentation together with the application and photo identification documentation when making its decision whether to approve the application. The county board shall not disapprove an application or otherwise refuse to count the absentee ballot solely because it had a curable deficiency if the county board determines that the deficiency has been cured.

*History Note: Authority G.S. 163-22; 163-229; 163-230.1; 163-231; 163-234;
Eff. September 1, 2026.*

08 NCAC 18 .0503 NON-CURABLE DEFICIENCIES

(a) A non-curable deficiency includes the following:

- (1) The absentee ballot is inside the ballot envelope which is not sealed or which appears to have been opened and re-sealed, and the ballot envelope is not received in any outer return envelope.
- (2) The absentee ballot is inside the ballot envelope which is not sealed or which appears to have been opened and re-sealed, and the ballot envelope is received in an outer return envelope which is not sealed or which appears to have been opened and re-sealed.
- (3) The absentee ballot includes an indication that the voter is requesting a replacement ballot.
- (4) The ballot envelope includes an indication that the voter is requesting a replacement ballot.
- (5) The voter's signature on the application is the name of a person other than the voter assigned the application number on the ballot envelope that is required under G.S. 163-230.1(c)(2). If the voter's signature is the same signature as an assistant's signature on the application, then that is a curable deficiency and staff shall proceed in accordance with Rule .0502.
- (6) The name of a witness or an assistant is not printed on the application or is not legible such that the name can be identified, unless their name can be identified using the witness's or assistant's signature on the application.
- (7) A witness or assistant did not print their address on the application or their address cannot be determined using the address information provided on the application.
- (8) A witness or assistant did not sign the application.
- (9) A witness or assistant signed the application on the wrong line. If the witness or assistant signed the application and included all required information, then the signature on the wrong line is not a deficiency.
- (10) The notary used to satisfy the witness requirement did not sign the application.
- (11) The notary used to satisfy the witness requirement failed to include the notarial seal on the application or the notarial seal lacks information required by law for the seal to be valid.
- (12) The county board has approved the application, but upon opening the ballot envelope determines the envelope does not contain a ballot.
- (13) The county board has approved the application, but upon opening the ballot envelope determines the envelope contains more than one ballot.

(b) When county board staff identify a non-curable deficiency, staff shall proceed as follows within one business day of identifying the deficiency:

- (1) If the deficiency is identified more than three days before the date of the election under G.S. 163-1 or G.S. 163-279, staff shall spoil the returned absentee ballot and reissue the absentee ballot package to the voter by mail to the address to which the voter requested their ballot be sent. County board staff shall include with the reissued absentee ballot package a written notice identifying the deficiency, explaining the spoil and reissue process, explaining that the voter will need to resubmit photo identification documentation when submitting the reissued ballot, and informing the voter of their options to vote in person during the early voting period or on election day. The notice shall also be provided by telephone or email if the telephone number or email address was provided by the voter on the request form for the absentee ballot or is in the voter's record.
- (2) If the deficiency is identified on or after the third day before the date of the election under G.S. 163-1 or G.S. 163-279, county board staff shall, on the same day of identifying the deficiency, contact the voter using any telephone number or email address that was provided by the voter on the request form for the absentee ballot or is in the voter's record. Staff shall inform the voter that their ballot must be spoiled, that there is not sufficient time to mail them a reissued absentee ballot package, and that they may vote in-person during the early voting period or on election day if the time for the polls to close under G.S. 163-166.25 has not passed.

(c) If the non-curable deficiency is one that is not identified until after the application is approved, the county board of elections shall revisit the decision to approve the application, and staff shall proceed under Paragraph (b) of this Rule.

*History Note: Authority G.S. 163-22; 163-229; 163-230.1; 163-231; 163-234;
Eff. September 1, 2026.*

08 NCAC 18 .0504 IRREGULARITIES THAT DO NOT REQUIRE FURTHER ACTION FROM THE VOTER

(a) An irregularity that does not require further action from the voter to have their application approved and ballot counted includes the following:

- (1) The absentee ballot is inside a sealed ballot envelope, but the outer return envelope is not sealed or appears to have been opened and re-sealed.

- (2) The absentee ballot is inside an unsealed ballot envelope that is hand-delivered by the voter to an early voting site or the county board office, but the voter seals the ballot envelope before an election official or county board staff take receipt of the sealed ballot envelope.

(b) When county board staff identify an irregularity listed in this Rule, the irregularity shall be documented in writing and county board staff shall inform the county board of elections of the irregularity at the meeting at which the county board will consider approval of the application. The county board shall not disapprove the application or otherwise refuse to count the absentee ballot solely based on an irregularity that is listed in this Rule.

History Note: Authority G.S. 163-22; 163-229; 163-230.1; 163-231; 163-234;
Eff. September 1, 2026.

08 NCAC 18 .0505 IRREGULARITIES THAT REQUIRE FURTHER ACTION

(a) An irregularity that requires county board staff to contact the voter to determine whether the irregularity is a curable or non-curable deficiency includes the following:

- (1) The absentee ballot is inside the ballot envelope that appears to have been opened and re-sealed, but the ballot envelope is received by the county board of elections in a sealed outer return envelope.
- (2) The absentee ballot is not inside a sealed ballot envelope, but the ballot envelope and ballot are received by the county board of elections in a sealed outer return envelope.
- (3) The county board has approved the application, but upon the opening of the ballot envelope staff determines that the ballot in the envelope is a different ballot than the ballot transmitted to the voter.

(b) When county board staff identify an irregularity listed in this Rule, the irregularity shall be documented in writing and the voter shall be contacted in accordance with Paragraph (c) of this Rule. Staff shall, before re-sealing the absentee ballot materials, determine whether there is a deficiency under Rule .0501 of this Section.

(c) Staff shall send written notice of the irregularity to the voter by mail to the address at which the voter requested their ballot be sent. The written notice shall identify the irregularity and state that the voter is required to contact the county board to determine whether the absentee ballot can be cured or should be spoiled. The notice of the irregularity shall also be provided by telephone or email if the telephone number or email address was provided by the voter on the request form for the absentee ballot or, if one was not provided on the request form, in the voter's record. County board staff shall then proceed as follows:

- (1) If the voter attests in writing that they transmitted the absentee ballot package in the manner in which it was received, then county board staff shall treat the irregularity as cured and proceed in accordance with Rule .0502(d) of this Section. The voter shall provide the attestation in person, by mail, or by email to the county board of elections.
- (2) If the voter confirms in writing that they did not transmit the absentee ballot package in the manner in which it was received, then county board staff shall spoil the ballot and proceed in accordance with Rule .0503(b) of this Section.

History Note: Authority G.S. 163-22; 163-229; 163-230.1; 163-231; 163-234;
Eff. September 1, 2026.