



September 8, 2020

Sara Knotts
Director
Brunswick County Board of Elections

Delivered by E-mail

Dear Director Knotts,

As you are aware, this year we are likely to see recording-breaking levels of absentee voting in North Carolina, with upwards of 40% of voters expected to vote absentee. We are writing because we are concerned that unless clear guidance is provided to all staff members reviewing absentee ballots for deficiencies, there will be a significant delay in processing ballots and uneven treatment for similarly situated voters.

For those reasons, we believe it is crucial that each county provide clear, written instructions to all personnel involved in the absentee application review process in advance of that process beginning. **Therefore, we are urging counties to provide written guidance to staff charged with reviewing absentee applications that, at a minimum, includes the following simple but important points:**

- **Signatures** - Any signature or mark, even an illegible one, must be presumed to be the signature of the voter, witness, or voter assistant (where applicable).¹
- **Witness Requirement** - The county may not throw out a voter's ballot due to a failure to provide a complete name or address. Where a voter provides a name or address that is incomplete, staff must use common sense, the totality of the information provided by the witness and any other information in the possession

¹ NCSBE Numbered Memo 2020-19 ("the county board shall presume that the voter's signature is that of the voter, even if the signature is illegible. A voter may sign their signature or make their mark.").

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of, or readily available to, the county to fill in the gaps. As long as this may be accomplished, including with reference to the voter file (if the witness happens to be a registered NC voter) or other information in the possession of the county, then the ballot must be accepted.

- **Witness Name** - Ballots should not be rejected based on the reviewer's preconceived notions of what constitutes a "name." It is important to remember that names come in many different lengths, languages, styles, formats, scripts, and characters (including from non-English alphabets). To note one common example, cursive scripts must be accepted.² Further, a witness can be virtually any adult, anywhere in the world, and a name should not be presumed invalid for not following a particular convention.³
- **Witness Address** - Any address must be accepted. The address requirement does not require a residential address or a mailing address, just an address.⁴ The address also is not required to follow any specific formulation (e.g., a missing zip code is fine) as long as it is possible to identify the location of the address based on the information provided and with reference to sources within the Board's possession (such as the voter file, if the witness happens to be a registered NC voter). Further, as with names, addresses can come in many shapes and sizes. A ballot may not be rejected simply because an address appears in a non-traditional format. A witness may live abroad, for example, or may reside in a location that does not have a street number.⁵
- **Information Outside Designated Areas** - A ballot should not be rejected on the basis that a signature or other required information appears outside of the designated blocks or line. If the information appears somewhere "on the container return envelope," that is sufficient under the law.⁶

² NCSBE Numbered Memo 2020-19 ("even if it is written in cursive script, for example, it does not invalidate the container-return envelope.").

³ Under North Carolina law, a witness can be *any* person over the age of 18 (with limited exceptions for candidates for office or certain employees of congregate care facilities). See G.S. 163-226.3(a)(4), 163-237(c).

⁴ North Carolina law requires voters to list their "address of ... residence" on absentee ballot applications, but requires witnesses to merely include their "address" on absentee ballots. See *id.* §§ 163-230.2(a)(1), -229(b)(3).

⁵ See, e.g., *State v. Worley*, 198 N.C. App. 329, 338 (N.C. Ct. App. 2009) (noting examples of non-traditional addresses, such as "a homeless shelter, a location under a bridge or some similar place.").

⁶ See SL 20-17, §1(a) (requiring only "that the person signed the application and certificate as a witness and printed that person's name and address on the container-return envelope.").

- **Legibility/Readability** - Ballot applications should not be rejected because of subjective determinations about legibility or readability. Please bear in mind that voting is not a handwriting or dexterity contest, and that there are many ways in which marks on an envelope can get distorted through the mail process.

We are sure you will agree that it is important to ensure that the right to vote is equally available to all eligible North Carolinians and that no voter should be disenfranchised because of review processes that may disproportionately, if unintentionally, impact voters based on their or their witness's race, primary language, national origin, cultural practices, gender identify, level of housing security, or similar factors.

We appreciate the sizable and unique challenges involved in administering an election this year, and thank you for your efforts to ensure that all voters have an opportunity to equally participate in the democratic process.

Thank you,



John Wallace
Counsel



Seth Morris
Voter Protection Director

Cc: Boyd C. Williamson