



# NORTH CAROLINA

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## STATE BOARD OF ELECTIONS

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### THIRD EMERGENCY EXECUTIVE ORDER

Saturday, September 7, 2019

G.S. § 163A-750; 08 NCAC 01.0106

1. Hurricane Dorian (“Dorian”) made landfall on or about September 5, 2019, damaging property and causing power outages across eastern North Carolina. The Governor of North Carolina declared a State of Emergency in anticipation of Dorian on August 31, 2019.
2. Due to the disruption caused by Hurricane Dorian, certain county boards of elections in Congressional District 9 and all county boards of elections in Congressional District 3 special election were closed for certain portions of the one-stop early voting period. These counties (“Affected Counties”) are:

Bladen	Chowan	Lenoir
Cumberland	Craven	Onslow
Robeson	Currituck	Pamlico
Scotland	Dare	Pasquotank
Beaufort	Greene	Perquimans
Camden	Hyde	Pitt
Carteret	Jones	Tyrrell

3. The State Board of Elections (“State Board”) staff continue to monitor the effects of Dorian across the State and remain in communication with state and federal partners, emergency response personnel, the U.S. Postal Service, and county elections administrators. This is the third executive order issued for the September 10 election, and additional executive orders may be issued if needed.
4. The State Board convened in open session on September 5, 2019. During that meeting, members of the State Board and the Executive Director discussed the effects of Dorian on voting populations and the September 10 special congressional election.
5. Statute provides that the Executive Director, as chief State elections official, may exercise emergency powers to conduct an election in districts where the normal schedule has been disrupted by a natural disaster. G.S. § 163A-750(a)(1). The exercise of such powers must avoid unnecessary conflict with existing law. G.S. § 163A-750(a).

6. Administrative rules provide standards for the exercise of emergency powers. See 08 NCAC 01. 0106. Pursuant thereto, the Executive Director finds the following:
- a. 08 NCAC 01. 0106(a): Dorian and its aftermath have disrupted the normal schedule for the election and impaired critical components of election administration by displacing persons, damaging property, and disrupting the one-stop early voting period across the district. Each Affected County closed its one-stop sites for portions or all of the day on Wednesday, Thursday, and/or Friday of the last week of the early voting period.
  - b. 08 NCAC 01. 0106(b)(1)(A): Hurricane Dorian is a qualifying natural disaster permitting the Executive Director to assess the propriety of emergency action.
  - c. 08 NCAC 01. 0106(c): The Executive Director has defined the scope of the exercise of emergency power having considered the following:
    - 08 NCAC 01. 0106(c)(1): The geographic scope of disruption covers the entire Congressional District 3 and parts of Congressional District 3. Some Affected Counties experienced a more substantial disruption than other Affected Counties, but all Affected Counties experienced some disruption.
    - 08 NCAC 01. 0106(c)(2): Congressional District 3 spans the entire affected area. Congressional District 9 spans affected and non-affected areas. The remedies herein address only those portions of Congressional District 9 that were affected by Dorian.
    - 08 NCAC 01. 0106(c)(3): Only one day has passed since Dorian made landfall. While the disruption in advance of the election was foreseeable, the specific impacts of Dorian were not. The State Board has created a page on its website to inform the public about closures of early voting sites. Nevertheless, the types of disruptions addressed in this Order, including disruptions in one-stop voting, cannot be adequately addressed by public awareness.
    - 08 NCAC 01. 0106(c)(4): Alternative registration options were not available in Affected Counties. While voters may have the opportunity to vote on Election Day at their precinct locations, they are not be able to same-day register on Election Day. The deadline to register to vote had already passed when Dorian made landfall, as had the deadline to request an absentee ballot.
    - 08 NCAC 01. 0106(c)(5), 01. 0106(c)(6), and 01 .0106(c)(7): The duration of the disruption includes a disruption to one-stop voting that occurred Wednesday, Thursday, and/or Friday of the last week of early voting in

Affected Counties. Some voters remain displaced due to mandatory evacuation orders, power outages, and road closures. Some precinct officials will not be available to work on Election Day due to these and other issues.

The remedy in this Order extending early-voting hours is tailored to make up for closures that occurred earlier in the week that have not already been accounted for. However, it is not possible to make up for the early-voting closures in every county. Some county boards of elections do not have power or are not currently able to assess their voting sites. Some election workers cannot be reached or are no longer available to serve due to the disruption or because they were never scheduled to work over the weekend. County boards of elections are also preparing over the weekend and on Monday for Election Day on Tuesday. This includes uploading voter history from one-stop pollbooks, syncing and printing pollbooks for Election Day, and preparing other supplies for distribution to voting sites. The one-stop sites and hours provided for in this Order are what is assessed to be possible in the Affected Counties based on current information and conditions. This information may be imperfect due to changing conditions and limited time for decisionmaking.

- 08 NCAC 01. 0106(c)(8): There is not time for the General Assembly to respond since Election Day is on Tuesday, and one-stop voting must be extended today in order to occur tomorrow. The Executive Director transmitted a copy of Numbered Memo 2019-05 to the Governor, President Pro Tempore of the Senate, and Speaker of the House, and the political parties, on September 3, 2019, detailing preparations made by the agency prior to landfall of Dorian. The letter also cited the administrative rule permitting the executive director to exercise emergency powers in certain circumstances. Political parties have submitted correspondence to the Executive Director requesting certain extensions of one-stop voting.
- 08 NCAC 01. 0106(c)(9): Emergency remedial measures contained in this Order do not erode election integrity or ballot security. State Board staff have consulted with Affected Counties to ensure they will be able to securely carry out the directives in this Order. The remedies provided herein are specifically tailored to the circumstances based on what county boards of elections have reported is possible without compromising elections security or integrity.
- 08 NCAC 01. 0106(c)(10): Emergency remedial measures are not anticipated to affect certification deadlines.

7. In evaluating the disruption and establishing remedial effects, every effort has been made to treat similarly situated persons equally, while appropriately tailoring relief to offset the nature and scope of the disruption as required by law.

Based upon the foregoing findings and conclusions, and in exercise of G.S. § 163A-750 and 08 NCAC 01. 0106, the Executive Director hereby ORDERS:

- A. Early voting, including same-day registration, is ordered to take place on **Sunday, September 8, 2019, from 12 p.m. to 3 p.m.**, at the county board of elections office in the following counties:

Camden	Dare	Perquimans
Currituck	Pasquotank	Tyrrell

This directive modifies the schedule of one-stop early voting contained in G.S. § 163A-1300(b) and S.L. 2019-22 only, and in no other respect.

- B. For all Affected Counties (all counties in Congressional District 3, and Bladen, Cumberland, Robeson, and Scotland counties in Congressional District 9): Notwithstanding G.S. § 163A-821(b), the chair of each political party in an Affected County may submit the list of persons to be appointed as observers to the county board of elections by Sunday, September 8, 2019, at 5 p.m. This includes lists of precinct-specific and at-large observers. A political party chair who has already submitted a list of observers may update the list by this deadline. Lists may be submitted by fax, email, or in-person.

This the 7th day of September, 2019.



Karen Brinson Bell  
Executive Director  
State Board of Elections