



# NORTH CAROLINA

## STATE BOARD OF ELECTIONS

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### EMERGENCY EXECUTIVE ORDER

Friday, September 6, 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, the following counties in the Congressional District 9 special election ("Affected Counties") were closed for certain portions of the one-stop early voting period:
  - Bladen
  - Cumberland
  - Robeson
  - Scotland
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. 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 has 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. 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. Cumberland and Scotland counties reopened their sites for voting on Friday.

- 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 is limited to the Affected Counties identified above. The other counties in Congressional District 9 did not experience a disruption at early voting locations or otherwise.
- 08 NCAC 01. 0106(c)(2): The contest at issue, Congressional District 9, spans affected and non-affected areas. The considered exercise of power works to preserve the rights of candidates and voters participating in this contest. Extending one-stop hours in only Affected Counties works to ensure that voters across the district are given a fair opportunity to participate in the election.
- 08 NCAC 01. 0106(c)(3): Only one day has passed since Dorian made landfall, and inclement weather continues in the State. 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 by the exercise of emergency power contained in this Order cannot be adequately addressed by public awareness because the closure of the final day(s) of one-stop voting in Affected Counties prevented some voters from having an opportunity to cast their ballots.
- 08 NCAC 01. 0106(c)(4): Alternative registration options were not available in Affected Counties. While voters may have the opportunity 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) and 01. 0106(c)(6): The duration of the disruption of one-stop voting was Wednesday, Thursday, and/or Friday of the last week of early voting in Affected Counties. It is not anticipated that large numbers of voters in Congressional District 9 were displaced by Dorian. The remedy in this Order, extending certain early voting hours, is tailored

to make up for the closures that occurred earlier in the week. However, it is not possible in every county to make up for the early-voting closures on an hour-by-hour basis. The Executive Director has communicated with each county board of elections in Affected Counties to understand their ability to administer extended early voting hours. 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.

- 08 NCAC 01. 0106(c)(7): State Board staff remain in ongoing contact with county elections officials, who are best positioned to advise on the feasibility of any modifications. One-stop sites identified in this Order are available for voting.
- 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. The 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 and 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.
- 08 NCAC 01. 0106(c)(10): Emergency remedial measures will not 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:

Early voting, including same-day registration is ordered to take place in Affected Counties as follows:

Bladen

Friday, September 6, 2019

County Board of Elections office from 12 p.m. to 7 p.m.

Tar Heel Municipal Building from 12 p.m. to 7 p.m.

Saturday, September 7, 2019

County Board of Elections office from 8:30 a.m. to 7 p.m.

Tar Heel Municipal Building from 8:30 a.m. to 7 p.m.

Cumberland

Saturday, September 7, 2019

County Board of Elections office and East Regional Library from 8 a.m. to 2 p.m.

Robeson

Friday, September 6, 2019:

County Board of Elections office from 12 p.m. to 5:15 p.m.

All other one-stop sites from 1 p.m. to 7 p.m.

Saturday, September 7, 2019:

County Board of Elections office from 7 a.m. to 7 p.m.

All other one-stop sites from 8 a.m. to 5:30 p.m.

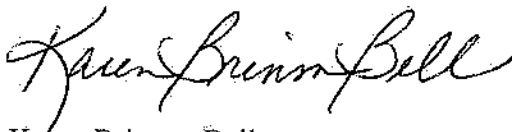
Scotland

Saturday, September 7, 2019:

County Board of Elections office from 7 a.m. to 7 p.m.

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.

This the 5th day of September, 2019.



Karen Brinson Bell

Executive Director

State Board of Elections