



NORTH CAROLINA

STATE BOARD OF ELECTIONS

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SECOND 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, all county boards of elections in the Congressional District 3 special election were closed for certain portions of the one-stop early voting period. These counties (“Affected Counties”) are:

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

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 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. However, some Affected Counties are experiencing a more substantial disruption than other Affected Counties. In some counties, mandatory curfews and mandatory evacuations continue. There are widespread power outages. Some areas are unreachable by road. Other areas experienced disruptions but conditions have largely returned to normal at the time of the issuance of this Order.
- 08 NCAC 01. 0106(c)(2): The contest at issue, Congressional District 3, spans the entire affected area.
- 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 and mail delivery, 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. Voters who need to vote absentee by mail, due to disability or other reason that prevents them from physically voting at a voting site, do not have an alternative other than to send their ballot by mail or commercial carrier.
- 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. Mail disruptions are ongoing in some areas. 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 the closures that occurred earlier in the week. 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:

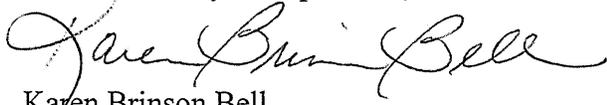
- A. Early voting, including same-day registration, is ordered to take place on Saturday, September 7, 2019, from 9 a.m. to 5 p.m., at the county board of elections office or in lieu of site in the following counties:

Beaufort	Greene	Onslow
Carteret	Hyde	Pamlico
Chowan	Jones	Pitt
Craven	Lenoir	

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): Notwithstanding Numbered Memo 2019-03, canvass for Congressional District shall take place on Friday, September 20, 2019 at 11 a.m.
- C. For all Affected Counties (all counties in Congressional District 3): Civilian absentee ballots delivered by mail or commercial courier service to the appropriate county board of elections office in any of the Affected Counties shall be counted if received no later than 5 p.m. on Wednesday, September 18, 2019, if the container-return envelope was postmarked on or before Election Day, September 10. This directive modifies the deadlines contained in G.S. § 163A 1310(b)(2) only, and in no other respect.
- D. For all Affected Counties (all counties in Congressional District 3): In any precinct in an Affected County where, due to the effects of Dorian, the county board finds that an insufficient number of precinct officials are available to fill the majority of the three positions of chief judge and judges with residents of that precinct, the county board may appoint nonresidents of the precinct to a majority of the positions provided, that the officials otherwise meet all requirements.

This the 6th day of September, 2019.

A handwritten signature in black ink, reading "Kayen Brinson Bell". The signature is written in a cursive style with a large initial "K".

Kayen Brinson Bell

Executive Director

State Board of Elections