

08 NCAC 01 .0106 is proposed for amendment under temporary procedures with changes as follows:

08 NCAC 01 .0106 EMERGENCY POWERS OF EXECUTIVE DIRECTOR

(a) In exercising his or her emergency powers and determining whether the "normal schedule" for the election has been disrupted in accordance with G.S. ~~163A-750~~, 163-27.1, the Executive Director shall consider whether one or more components of election administration has been impaired. The Executive Director shall consult with State Board members when exercising his or her emergency powers if feasible given the circumstances set forth in this Rule.

(b) For the purposes of G.S. ~~163A-750~~, 163-27.1, the following shall apply:

(1) A natural disaster or extremely inclement weather include ~~a-~~ any of the following:

(A) Hurricane;

(B) Tornado;

(C) Storm or snowstorm;

(D) Flood;

(E) Tidal wave or tsunami;

(F) Earthquake or volcanic eruption;

(G) Landslide or mudslide; or

(H) Catastrophe arising from natural causes ~~resulted and resulting~~ in a disaster declaration by the President of the United States or the ~~Governor~~ Governor, a national emergency declaration by the President of the United States, or a state of emergency declaration issued under G.S. 166A-19.3(19). "Catastrophe arising from natural causes" includes a disease epidemic or other public health incident. The disease epidemic or other public health incident must make ~~[that makes]~~ it impossible or extremely hazardous for elections officials or voters to reach or otherwise access the voting ~~[place or that creates]~~ place, create a significant risk of physical harm to persons in the voting place, or ~~[that]~~ would otherwise convince a reasonable person to avoid traveling to or being in a voting place. Emergency powers exercised under this Part shall only be exercised for the duration of the disaster declaration, national emergency declaration, or state of emergency declaration.

(2) An armed conflict includes mobilization, pre-deployment, or deployment of active or reserve members of the United States armed forces or National Guard during a national emergency or time of war.

(c) The Executive Director acting under G.S. ~~163A-750~~ 163-27.1 to conduct an election in a district where the normal schedule for the election is disrupted must ensure that remedial measures are calculated to offset the nature and scope of the disruption(s). In doing so, the Executive Director shall consider the following factors:

(1) Geographic scope of disruption;

(2) Effects on contests spanning affected and non-affected areas;

(3) Length of forewarning and foreseeability of disruption;

(4) Availability of alternative registration or voting opportunities;

- 1 (5) Duration of disruption;
- 2 (6) Displacement of voters or election workers;
- 3 (7) Access to secure voting locations;
- 4 (8) Sufficiency of time remaining for the General Assembly and the Governor to adopt emergency
- 5 legislation addressing the disruption;
- 6 (9) Detrimental effects on election integrity and ballot security; and
- 7 (10) Aggregate effects on important Federal and State certification deadlines.

8 (d) Emergency powers exercised pursuant G.S. 163-27.1 may include the following:

- 9 (1) Delaying the hearing of quasi-judicial proceedings including candidate challenges conducted under
- 10 Article 11B of Chapter 163, election protests and election protest appeals conducted under Article
- 11 15A of Chapter 163 and Chapter 02 of Title 08 of the NC Administrative Code;
- 12 (2) Delaying or modifying statutory and administrative deadlines at the county and State level,
- 13 including the dates set for the county and State canvass under G.S. 163-182.5, the deadline to
- 14 complete and report the sorting of ballots by precinct as required by G.S. 163-132.5G, the voter
- 15 registration deadline under G.S. 163-82.6(d), and the deadline for receipt of postmarked absentee
- 16 by-mail ballots under G.S. 163-231(b);
- 17 (3) Moving election dates that are not prescribed by Federal law;
- 18 (4) Suspending the requirements of G.S. 163-128 regarding the temporary transfer of voters to an
- 19 adjacent precinct;
- 20 (5) Allowing county boards of elections to appoint nonresidents of the precinct to a majority of the three
- 21 positions of chief judge and judges in a precinct, so long as the chief judge and judges are registered
- 22 voters of the county; and
- 23 (6) Extending one-stop hours beyond the uniform hour and date requirements that county boards can
- 24 adopt in G.S. 163-227.6(c) in response to a disruption of more than 15 minutes of early voting,
- 25 provided that any extension is equal to the number of minutes of the disruption.

26 Emergency powers defined in G.S. 163-27.1 and this Rule shall not include suspending or delaying requirements

27 provided in Federal law or eliminating the option to vote in-person or absentee by-mail.

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29 *History Note: Authority G.S. ~~163A-750~~; 163-27.1;*

30 *Eff. October 1, 2018;*

31 *Emergency Amendment Eff. March 20, 2020;*

32 *Temporary Amendment Eff. June 1, 2020.*