

## Summary of Consent Decree

### ***1. Cure Provision for Witness Requirement***

If there is a problem with information on the absentee ballot container envelope (i.e., voter signature, witness signature, witness name/address), the county board will send a certification to the voter for the voter to affirm that she is the one who marked and returned the ballot and that the voter will not vote more than one ballot in this election.

The modification maintains the witness requirement. As ordered by a federal judge, it permits a cure consistent with the purpose of the witness requirement – to ensure that the actual voter cast his or her ballot. The voter swears or affirms, under pain of criminal penalty, to the board of the elections that he or she was the person who mailed in the ballot previously.

*Preexisting Rule:* The one-witness requirement was enacted in 2020, but Judge Osteen in the Middle District of North Carolina ruled that the absentee ballot requirements (including the witness provisions) were likely unconstitutional without an adequate cure procedure. He entered an order enjoining the State Board from rejecting any ballots that failed to meet the witness requirement without allowing for an adequate cure procedure.

### ***2. Absentee Ballot Receipt Deadline***

A voter's absentee ballot will be counted as being on time if it is returned to the county board of elections by 5 p.m. on Election Day or it is postmarked on or before Election Day *and* it is delivered by the postal service or commercial carrier to the county board of elections before 5 p.m. on November 12.

This modification does not change the date by when the ballot must be mailed; it still must be postmarked on or before Election Day. The requirement of the voter is the exact same.

This modification aligns the receipt deadline to the deadline under North Carolina law for when absentee ballots of military personnel must be received.

This modification was made in response to the letter written by the United States Postal Service declaring that it could not guarantee delivery consistent with North Carolina law.

*Preexisting Rule:* The ballot must be returned by 5 p.m. on Election Day or be postmarked on or before Election Day and it must be delivered by the postal service or commercial carrier to the county board of elections before 5 p.m. on November 6.

### ***3. Absentee Ballot Logging Procedure***

The person returning an absentee ballot in person confirms the person's name and whether that person is the voter or the voter's near relative or guardian to the county board official or election official orally. That information is logged by the elections official or county board official. If the official is unable to confirm that the person is the voter or the voter's near relative or guardian, the official will record the person's name, address, and phone number.

This modification is to allow touchless return of ballots to minimize risk of transmission of COVID-19. There are NO unmanned drop-boxes.

Furthermore, this procedure is entirely consistent with state law that requires that only a voter or near relative may possess a ballot. This procedure simply modifies an existing agency rule to accommodate public health concerns; it does not change law.

*Preexisting Rule:* The person returning an absentee ballot in person confirms the person's name, provides identifying and contact information, and confirms whether that person is the voter or the voter's near relative or guardian to the county board official or election official in writing.