VOTER ID
Requirements & Exceptions

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Two quick things before we begin . . .

Our state is **not** the first to incorporate photo ID into the voting process.

We are **proud** of the focused way you have embraced the new responsibilities you now owe the voters.
Uniform Training

USING THE TOOLS AND TAKING OWNERSHIP OF THE PROCESS
SOURCES of AUTHORITY

**General Statutes**

**Administrative Law**
8 NCAC 17.0101—17.0106

**State Board Directives**
Numbered Memos 2015-08, 2015-05, 2015-04, 2015-01, 2013-04; Mandated Procedures, Materials, & Forms
UNIFYING PRINCIPLES

Voter ID is **just a tool** to verify the identity of a voter, whose right to participate is **fundamental**.

Voter ID requirements and exceptions must be **uniformly** applied throughout our state.

All evidence is viewed in the **light most favorable** to the voter.

It is your **County Board of Elections'** responsibility to ensure elections officials are prepared to serve your County’s voters.
SBE has translated all the sources of authority into comprehensive training tools:

**Comprehensive Video Training Series**
- Detailed and professionally produced training videos
- Clearly communicates requirements and exceptions, with scenarios.

**Tabletop NC Voting Site Station Guide**
- Comprehensive, station-by-station guide for Check-in, Curbside, Help, and Ballot Station
- Contains clear scripts and helpful graphic aids

**Train-the-Trainer Presentations & Webinars**
- Mandatory regional trainings across the state, with webinar viewable online.
- Summarizes how each voting station handles voter ID procedures.
Your county’s election officials will be prepared because . . .

**Elections Directors**: Use the tools.

**County Board Members**: Hold directors accountable for using the tools in your training program.

These tools are *mandated* for use in all North Carolina counties.
The law requires that everyone know his/her role.

Let’s review how voter ID affects a few of the roles your county board oversees.
Greeter

- Provide preliminary guidance to voters on voting procedures.
- Provide information on acceptable photo ID.
- Ask voters to remove their ID from their wallets or purses prior to presenting to the check-in station.
- If county desires, the greeter can complete help referral and route voter to Help Station.
- And certainly, provide confidence and reassurance that all voters will be given the opportunity to cast a ballot.
Check-In

- **Review** voters’ **photo ID** and make a determination that the ID is acceptable and bears a reasonable resemblance to the voter.
- **Refer** to the Help Station any voter who may not be eligible to cast a regular ballot or who may not reasonably resemble the photo ID.
Curbside

- **Review** voters’ **identification** document or their photo ID and determine whether the ID is acceptable.
- If voter presents a photo ID, determine whether the ID bears a reasonable resemblance to the voter.
- Enforce the electioneering buffer zone and secure the voted ballot.
Help Station

- Ensure judges of elections are informed of the need to review reasonable resemblance.
- Explain *alternative voting options* to voters who are unable to cast a regular ballot.
- Inform provisional voters regarding deadlines to cure deficiencies
Judges

- Conduct an impartial and respectful review of reasonable resemblance when called upon to do so at the voting location and at the county office.
- Train all elections officials.
- Ensure voting locations have appropriate signage and guidance tools.
- Research provisional applications and facilitate review of photo IDs brought in before canvass.
- Notice all parties to any evidentiary hearing on a reasonable impediment challenge.
- Verify SSN4 & DOB if provided by voters declaring a reasonable impediment.
• Make determinations on provisional ballots.
• Conduct impartial evidentiary hearings on reasonable impediment challenges.
• Seek guidance from county counsel where appropriate.
Key Procedures

LIFECYCLE OF ACCEPTABLE PHOTO ID // EVALUATION OF REASONABLE RESEMBLANC // REASONABLE IMPEDIMENT DECLARATION
Acceptable Photo ID
Acceptable Photo ID

The General Assembly has authorized the following types of photo ID for in-person voting at the polls under ordinary circumstances:

- NC Drivers License or Permit
- NC DMV State Identification Card
- U.S. Passport
- U.S. Military ID
- U.S. Veterans ID Card
- Tribal Enrollment Card
Acceptable Photo ID

*NC Voting Site Station Guide* goes into detail on the **format** and **expiration requirements** for each ID type:
Acceptable Photo ID

Expiration requirements differ between ID types and there are exceptions for voters over the age of 70.

Ensure your election workers are familiar with the step-by-step *NC Voting Site Station Guide.*
Acceptable Photo ID: Out-of-State

Voters who register within **90 days** of Election Day can present any unexpired out-of-state driver license or non-operator ID issued in U.S.

Note: Nearly 300,000 North Carolinians didn’t reside here one year ago. (U.S. Census 2014 Estimate). Every county must train its election workers to check the registration date in the voter’s record, when necessary.
Acceptable Photo ID: Curbside Voters

Those eligible to vote curbside may present acceptable photo ID or

- current utility bill
- bank statement
- government check
- paycheck
- other government document

bearing the voter’s name and address.
When the photo ID is *unacceptable* or voter is *unwilling* to provide ID
The voter has options:

**COUNTY BOARD**
Ensure county staff are adequately supported.
Board members rule on provisional ballots at county canvass.

**COUNTY OFFICE**
Provisional Ballot
A provisional voter who does not qualify under any other exception must appear in person and present acceptable photo ID at the county office no later than noon on the day before County Canvass.

(NEW) The County Office must ensure check-in officials are present to review the photo ID along with at least two judges of election to resolve questions of reasonable resemblance. Officials must be present during business hours beginning on the first day of One-Stop Early Voting through the deadline before county canvass.

**VOTING LOCATION**
Mail-in absentee
Present another ID
Return with another ID
Provisional Ballot
(NEW) Elections officials must transport all provisional applications and ballots to the county office every day.
Remember, SBE has outlined procedures and scripts to address scenarios.

Use the resources.
Training materials also include detailed guidance regarding alternative voting procedures, the availability of an exception within 60 days of a declared natural disaster, and for posting required signage.
Evaluation of Reasonable Resemblance
Reasonable Resemblance

Statute requires that elections officials make a determination whether the photo ID *reasonably resembles* the voter.

G.S. §§ 163-166.13, 166.14, and 182.1A.

SBE engaged in administrative rulemaking to define *reasonable resemblance* in two phases.

Check-in Official  
08 N.C.A.C 17.0101

Judges of Elections  
08 N.C.A.C 17.0102
Check-in Official

08 N.C.A.C. 17.0101

The Check-in Official must determine . . .

Whether, considering the totality of the circumstances and construing all evidence in the light most favorable to the voter, the photo ID bears any reasonable resemblance to the person presenting to vote.
Check-in Official
08 N.C.A.C. 17.0101

Reasonable Resemblance

Face
Photo depicts the voter

Name
Name on voter record is the same or substantially equivalent
Check-in Official
08 N.C.A.C 17.0101

Photo depicts the voter

Depicts the voter even if there are perceived differences due to:
- weight
- hair features and styling, including changes in length, color,
- facial hair
- complexion or skin tone
- cosmetics or tattooing
- apparel, including the presence or absence of eyeglasses or
- contact lenses
- characteristics arising from a perceptible medical condition,
- disability, or aging
- photographic lighting conditions or printing quality
Check-in Official
08 N.C.A.C. 17.0101

Name on voter record is the same or substantially equivalent

Substantially equivalent even if differences are attributable to:
- omission of one or more parts of the name
- use of a variation or nickname rather than a formal name
- use of an initial in place of one or more parts of a given name
- use of a former name, including maiden name
- name variation that includes or omits
- hyphenation
- ordering of names
- variation in spelling or typographical errors
Check-in Official

08 N.C.A.C. 17.0101

The scope of the check-in official’s determination on reasonable resemblance is limited to the photo ID, voter record, and any explanation or document offered by the voter.

Check-in officials cannot probe deeper.
Check-in Official

08 N.C.A.C. 17.0101

**Remember:** All issues or concerns *must* be resolved in the light most favorable to the voter.
Check-in Official
08 N.C.A.C. 17.0101

If a Check-in Official is unable to confirm reasonable resemblance, the official must completes a Help Referral Form and sends the voter to the Help Station.
Judges of Election

08 N.C.A.C. 17.0102

The Judges of Election must determine . . .

Whether, considering the totality of the circumstances and construing all evidence in the light most favorable to the voter, the photo ID bears any reasonable resemblance to the person presenting to vote.
Reasonable Resemblance

Face
Photo depicts the voter

Name:
Name on voter record is the same or substantially equivalent

But ...
Judges can ask questions and consider any explanation by the voter or other persons along with the voter record, and any document presented by the voter (photos, credit cards, signatures, etc.)
Judges of Election
08 N.C.A.C. 17.0102

The scope of the judges’ review is **broader** than the check-in officials, and allows the judges to seeking information from the voter.

But all evidence is still considered in the **light most favorable to the voter.**
Judges of Election

08 N.C.A.C. 17.0102

After reviewing all the evidence, all judges must vote.

The voter will be offered a regular ballot if any judge finds a reasonable resemblance.
Judges of Election
08 N.C.A.C. 17.0102

If the judges unanimously agree that there is no reasonable resemblance, the voter is offered a provisional ballot that is only counted according to GS § 163-88.1 (the “challenged ballot statute”).

No challenge can be entered based on the voter’s identity after the judges vote.
Remember, SBE has outlined procedures and scripts to address scenarios

Use the resources.
Reasonable resemblance flowchart

Voter appears to vote in person on Election Day or at early voting site

- Acceptable type of photo ID, including any expiration requirements? G.S. 163-166.13(e)
  - No
  - Yes

Check-in election official determines:

- Does photo ID reasonably resembles voter? G.S. 163-166.13(d)
  - No
  - Yes

Election Judges determine:

- Does photo ID reasonably resembles voter? G.S. 163-166.14
  - No

- Yes

Only if there is a unanimous finding of no reasonable resemblance

Voter is offered provisional ballot that is treated in same manner as a "challenged ballot" G.S. 163-166.14(d), 163-88.1

Voter is provided three options:

1. Opportunity to vote a provisional ballot (voter would need to bring in acceptable photo ID to CBE office before canvass) G.S. 163-166.13(c)(1), 163-182.1A

2. Opportunity to complete a Reasonable Impediment Declaration (provisional ballot) G.S. 163-166.13(c)(2), 163-166.15, 163-182.1B

3. Reminder of mail-in absentee voting option G.S. 163-166.13(c)(3)
Reasonable impediment

Session Law 2015-103, Section 8

New statutes: GS 163-166.15: The Reasonable Impediment Declaration
GS 163-182.1B: Counting of provisional votes with the Reasonable Impediment Declaration
Reasonable impediment

If the voter cannot obtain acceptable photo ID but wishes to vote in person, the law provides that the voter the opportunity to

1. **Declare** the reason they were not able to obtain the photo ID;
2. **Provide** alternative identification documents or SSN4 and DOB (can be provided to the County Office no later than noon on the day before canvass) and
3. **Vote** a provisional ballot.

There is also a process to allow another registered voter of county to be able to challenge that reasonable impediment.
Reasonable impediment

What does the voter do:

- Complete a provisional ballot
- Provide one of the following to prove identity either at the voting location or the County Office by the deadline:
  - “HAVA Document” (bank statement, utility bill, etc.) OR Voter Registration Card
  - Last four digits of voter’s Social Security Number AND date of birth
- Complete and sign a **Reasonable Impediment Declaration** listing the reason for the reasonable impediment prevented the voter from obtaining acceptable photo ID
Reasonable impediment

The reasons for a reasonable impediment listed on the form:

- Lack of transportation.
- Disability or illness.
- Lack of birth certificate or other documents needed to obtain photo identification.
- Work schedule.
- Family responsibilities.
- Lost or stolen photo identification.
- Photo identification applied for but not received by the voter voting in person.
- Other reasonable impediment (with explanation written in)
- State or federal law prohibits the voter from listing reason*

These reasons were provided under penalty of law and should be presumed to be true unless there are specific facts to the contrary.

*It is not the election officials’ job to determine validity.
Reasonable Impediment Declaration Form
Reasonable impediment

So long as the voter is otherwise eligible, the only time a Reasonable Impediment can be questioned by the County Board of Elections is if the Board has grounds to believe the reason provided:

- *Is factually false*
- *Merely denigrates (criticizes) the photo ID requirement*
- *Makes obviously nonsensical statements*

These grounds could be based upon an evidentiary challenge of the declaration made by another registered voter of the county, on an Evidentiary Challenge Form, submitted to the County Office by 5 p.m. on the third business day after the Election.

**The reasonableness of the impediment cannot be questioned by the County Board.**

G.S. 163-182.1B
Reasonable impediment documentation

Because Reasonable Impediment Declarations are subject to challenge, those declarations are open to prompt inspection as public records if requested.

If a person requests to see a completed declaration, the following information, if on the form, should be redacted on the photocopy provided:

- Date of birth
- Social Security Numbers
- Voter’s signature
County Office Research

County officials must verify the SSN4 and date of birth if provided by the voter. This must be completed as follows:

1. Check the voter record. If the voter record does not contain this information, or if the information does not match, proceed to the next step.

2. Transmit the voter’s information to the State Board of Elections for verification through the Social Security Administration Database. The State Board will communicate the results of its search. If verification is still unsuccessful, and time permits, contact the voter to ensure the correct information was written on the Reasonable Impediment Declaration Form.
Consideration of provisional votes, with reasonable impediment, at county canvass

Step-by-step process for County Board to determine what to do with provisional vote:

1. Was the Declaration completely filled out, with voter’s identity established by information or documentation? If not, was that information or document provided to the County Board of Elections by noon on the day before canvass?

2. Was the impediment properly challenged by another registered voter?

3. Does the County Board have grounds to believe the reason of the impediment denigrates the photo ID requirement or is obviously nonsensical?

4. Was the vote challenged on any other grounds? (this would only apply to votes not cast on Election Day, otherwise challenge is decided by the precinct’s Election Judges).

5. Is there any other reason for the provisional ballot to not count in its entirety? (If there is, the provisional ballot envelope should be marked to note that the vote did meet the reasonable impediment requirements)
Reasonable impediment challenge

When can it be made: Up until third business day after Election Day

How: Submitting the form to the County Board of Elections office

By who: A registered voter of the County

Form: Is an affidavit that must lay out the full factual basis for the challenge – ALL evidence has to be included in or attached to the form. The County Board must be vigilant to limit the evidence presented at a hearing to the evidence alleged in or attached to the form.
Evidentiary Challenge Form

The county board cannot hear a challenge, unless it is made on the State Board’s Evidentiary Challenge Form, properly notarized, and delivered to the county office by the deadline.

Note: Challenger must declare all facts he has alleged are true and accurate to the best of his knowledge and provide all facts on the form or attached to the form.
Reasonable Impediment Challenge Hearing

County board deciding:

Whether, having considered all facts in the light most favorable to the voter, the challenger has shown by clear and convincing evidence that the stated impediment (1) merely denigrates the photo identification requirement, (2) is obviously nonsensical, or (3) is factually false.
Reasonable Impediment Challenge Hearing

Review:

1. **Light most favorable to the voter**
   
   If you can view a fact in a way that helps the voter, you must view it that way.

2. **Clear and convincing evidence**

   Evidence which should fully convince you. This is greater than “more likely than not”
Reasonable Impediment Challenge Hearing

Burden:
The challenger bears the burden of proof and of persuasion. Even if the voter does not show, the burden is entirely on the challenger.

Scope:
Limited to evidence of facts specifically alleged on the Evidentiary Challenge Form. County board should accept any evidence provided by the voter in advance of the hearing.
Reasonable Impediment **Challenge Hearing**

1. As with any type of hearing or proceeding, make sure your **county attorney** is present to provide legal guidance to the board.

2. Decision should be made immediately by the county board in **open meeting**. If the decision is split, the majority vote carries.

3. The board should provide written notice of its decision to all parties and inform the State Board of Elections as soon as possible.
Other reasonable impediments

The printed impediments on the Reasonable Impediment Declaration Form are valid as a matter of law. Therefore, a County Board may never find those reasons nonsensical or denigrating of the statute.

If a voter has written-in her specific impediment in the space provided, a County Board may never find that reason nonsensical or denigrating of the statute without a challenge if there exists any question of fact.

The reasonableness of the impediment cannot be questioned by the County Board.

G.S. 163-182.1B
Questions?