

## North Carolina’s Absentee Ballot Cure Process: Impact Analysis

*For the first time in history, North Carolina implemented a state-wide uniform process for voters submitting absentee mail-in ballots to receive notice of any material issues with their ballot applications and the ability to either fix or “cure” these issues or vote another way. Our analysis indicates this cure process allowed nearly 20,000 voters in North Carolina to have their votes counted despite issues with their absentee ballot applications.*

### Background

North Carolina affords every eligible voter the option of voting by mail in statewide elections.<sup>i</sup> To successfully vote by mail, voters in North Carolina have to fulfill a long list of requirements that include properly filling out their absentee ballot application envelopes, and having those application envelopes signed by either two witnesses or a notary (see [figure 1](#)).<sup>ii</sup> **Until the 2020 general election, there was no statewide uniform process for voters to fix issues with their absentee ballot envelopes.** In other words, county boards of elections were not required to notify voters of issues with their absentee ballot application envelopes or to give voters an opportunity to fix or “cure” any issues before rejecting them and not counting the ballots.

**This lack of any cure process meant county boards of elections rejected thousands of absentee mail-in ballots each election without voters having timely notice and the chance to have their votes count.** In the March 2020 primary, for example, county boards of elections did not count almost 15% (14.6%) of absentee mail-in ballots statewide.<sup>iii</sup> At least 41% (1,843) of these were mail-in ballots rejected due to non-compliance with form requirements, i.e., they were not properly notarized, had a voter’s signature missing, had incomplete witness information, or the signature of the voter was found to not match the name of the voter. A full breakdown of ballots rejected in the March 2020 primary is provided in [figure 2](#).<sup>iv</sup>

Figure 1: representative envelope

**Absentee application and certificate**

**Step 1: Get your witness ready.**  
You must have one witness who is near by when you mark your ballot. Anyone who is 18 years of age or older can be a witness except a candidate unless the candidate is your near relative or legal guardian.

- An owner, manager, director, or employee, of a hospital, clinic, nursing home or rest home in which you are a patient or resident.
- A person who holds any federal, state, or local elective office.
- A person who holds office in a state, congressional district, county or precinct political party or organization, or who is a campaign manager or treasurer for any candidate or political party.

**If you are a patient or resident in a hospital, clinic, nursing home or adult care home, your witness certifies they are not:**

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**Step 2: Voter, sign and complete below.**  
As a Voter, my signature below means I certify that I:

- am registered to vote in this county.
- will have lived at my address listed here at least 30 days before this election.
- am a US citizen.
- am at least 18, or will be by this election.
- have not been convicted of a felony or if I have been convicted of a felony I have completed my sentence, including probation, post release supervision and parole.
- understand it is a felony to vote more than once in an election.

I marked the enclosed ballot or it was marked for me according to my instructions.

**Voter, sign here.**

Name correction (if applicable): \_\_\_\_\_

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**Step 3: Witness, sign and complete below.**  
As the Witness, my signature below means I certify that I:

- meet the qualifications outlined in Step 1.
- confirm the Voter marked the enclosed ballot in my presence, or caused it to be marked in my presence according to their instructions.
- respected the secrecy of the ballot and the Voter's privacy, unless I assisted the Voter at their request.

Witness, print name: \_\_\_\_\_

Address: \_\_\_\_\_

Witness signature:

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**If needed, Voter assistant certification.**  
Only required if the Voter has received assistance in marking the ballot or needs assistance mailing the ballot.

As the Voter's Assistant, my signature below means I certify that:

- I helped mark the ballot and/or the Absentee Application and Certificate according to the Voter's instruction.
- I assisted only while in the Voter's presence.
- I am the Voter's near relative or verifiable legal guardian, or I am providing assistance because a near relative or legal guardian is unavailable to assist the Voter and I am not disqualified from assisting the Voter.
- I understand that individuals who are disqualified from serving as a witness as described in Step 1 are also disqualified from serving as the Voter's assistant.
- If the Voter indicated they have a disability that prevents them from mailing the ballot, I will place the sealed absentee return envelope in the closest U.S. Mail depository or mailbox.

Assistant, print name: \_\_\_\_\_

Address: \_\_\_\_\_

Assistant signature:



March 3, 2020 Primary Absentee Mail-In Rejected Ballots		
Ballot Return Status (Rejected)	# of Rejected Ballots	% of Rejected Ballots
DUPLICATE	6	0.13%
E-TRANSMISSION FAILURE	1	0.02%
NOT PROPERLY NOTARIZED	13	0.29%
PENDING	13	0.29%
RETURNED AFTER DEADLINE	800	17.64%
RETURNED UNDELIVERABLE	166	3.66%
SIGNATURE DIFFERENT	25	0.55%
SPOILED	1,705	37.60%
VOTER SIGNATURE MISSING	1,543	34.03%
WITNESS INFO INCOMPLETE	262	5.78%
TOTAL	4,534	100.00%

These ballot rejections disproportionately impacted voters of color, with 19% of mail-in ballots submitted by black voters rejected and almost 16% of mail-in ballots submitted by LatinX voters rejected in the March 2020 primary (compared to the overall rate of 15%).

Figure 2

**North Carolina Requires a Cure Process for the first time in the 2020 General Election**

The lack of a cure process in North Carolina changed on August 4, 2020, when the Middle District of North Carolina granted in part the Plaintiffs motion for a preliminary injunction in the *Democracy NC v. NC State Board of Elections*.<sup>v</sup> Plaintiffs Democracy North Carolina, League of Women Voters of North Carolina, and eight individual plaintiffs, represented by SCSJ and co-counsel WilmerHale and Federal Elections Center, alleged that the lack of a uniform cure process for absentee ballots violated the Procedural Due Process rights guaranteed to all voters under the U.S. Constitution. The Court agreed that Plaintiffs were likely to succeed on the merits of this claim, and ordered that the State Board of Elections was “prohibited and enjoined from the disallowance or rejection, or permitting the disallowance or rejection, of absentee ballots without due process as to those ballots with a material error that is subject to remediation.”<sup>vi</sup>

**The Cure Process used in the 2020 General Election**

Following the preliminary injunction granted in *Democracy NC*, the North Carolina State Board of Elections issued a series of Numbered Memos under its supervisory authority that ultimately required the county boards of elections in North Carolina’s 100 counties to implement a cure process.<sup>vii</sup>

**Under this process, counties were required to notify voters if there were material issues with their ballots that**

**would prevent them from being counted.** For some issues, like a missing voter signature, a voter signature in the wrong place, or a missing witness or assistant name or address, the voter could choose whether to fix them by sending in a Cure Certification or to be issued a new ballot or vote in person. For



**NORTH CAROLINA**  
STATE BOARD OF ELECTIONS

Mailing Address:  
P.O. Box 27555  
Raleigh, NC 27611  
(919) 814-0700 or  
(866) 522-4725  
Fax: (919) 715-0135

**Numbered Memo 2020-19**

**TO:** County Boards of Elections  
**FROM:** Karen Brinson Bell, Executive Director  
**RE:** Absentee Container-Return Envelope Deficiencies  
**DATE:** August 21, 2020 (revised on September 22, 2020; further revised on October 17, 2020 in light of orders in *Democracy NC v. North Carolina State Bd. of Elections*, No. 20-cv-457 (M.D.N.C.) and *NC Alliance for Retired Americans v. North Carolina State Bd. of Elections*, No. 20-CVS-8881 (Wake Cty. Sup. Ct.))



other issues that couldn't be fixed using a Cure Certification, voters were told they could either submit a new absentee ballot (if there was time) or to vote in person.

### ***Votes Counted Due to the Cure Process in the 2020 General Election***

Ultimately, almost 20,000 voters either cured their ballot (9,461) or received notice of an issue with their ballot and were able to vote another way (10,006).<sup>viii</sup> The process also addressed the disproportionate impact that absentee ballot rejections had on voters of color. Of the 7,183 ballot applications that had material errors submitted by black voters, 27.1% (1,946) were cured and about 60% (4,313) of voters were able to find another way to vote.<sup>ix</sup> Overall, over 87% of black voters who submitted ballots with a material issue were able to have their votes counted either by mail or in person, compared to a total rate of about 83% for all voters who submitted ballots with a material error.

### ***The Cure Process Going Forward***

In June 2021, the State Board of Election issued a Numbered Memo requiring counties to continue this cure process, with some modifications, in elections going forward.<sup>x</sup> However, this cure process is still in place pursuant to the preliminary injunctive relief awarded in *Democracy NC*, and is administered under the supervisory powers of the State Board of Elections and the Executive Director. In other words, there is currently no requirement under the North Carolina General Statutes for counties to offer a cure process, and without additional advocacy, North Carolina may return to the dark days of high rejection rates. Given the anticipated increase in voters who wish to vote by mail-in absentee ballot again, it is crucial this cure process becomes a permanent fixture of elections in North Carolina.

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Contact: Hilary Klein, [hilaryhklein@scsj.org](mailto:hilaryhklein@scsj.org)

Last Updated: July 2021

**Disclaimer:** These statistics in this report rely on coding fields drawn from publicly-available data and are dependent upon information provided by county boards of elections, including specific ballot coding information, during the 2020 election processing of mail-in ballots. Accordingly, this analysis is subject to change with any updates or further information about the processing of absentee ballots in the 2020 general election.

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#### References

<sup>i</sup> See N.C. Gen. Stat. § 163-226(a).

<sup>ii</sup> See, e.g., N.C. Gen. Stat. §§ 163-231, 163-229(b)

<sup>iii</sup> Data available at

[https://s3.amazonaws.com/dl.ncsbe.gov/ENRS/2020\\_03\\_03/absentee\\_20200303.zip](https://s3.amazonaws.com/dl.ncsbe.gov/ENRS/2020_03_03/absentee_20200303.zip). This data file is accessible by going to <https://dl.ncsbe.gov/> then navigate to "ENRS" --> "2020\_03\_03" --> "absentee\_20200303.zip"

<sup>iv</sup> "Spoiled" ballots are ballots that were rejected or not counted for unspecified reasons, and in the March 2020 primaries possibly included ballots where the voter did not understand a form requirement, including the witness requirement.

<sup>v</sup> See *Democracy N.C. v. N.C. State Bd. of Elections*, 476 F. Supp. 3d 158, 168 (M.D.N.C. 2020).

<sup>vi</sup> *Democracy N.C. v. N.C. State Bd. of Elections*, 476 F. Supp. 3d 158, 182 (M.D.N.C. 2020).



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vii See N.C. State Bd. of Elections, *Numbered Memo 2020-19: Absentee Container-Return Envelope Deficiencies* (Aug. 21, 2020, revised Sept. 22, 2020),

[https://s3.amazonaws.com/dl.ncsbe.gov/sboe/numbermemo/2020/Numbered%20Memo%202020-19 Absentee%20Deficiencies.pdf](https://s3.amazonaws.com/dl.ncsbe.gov/sboe/numbermemo/2020/Numbered%20Memo%202020-19%20Absentee%20Deficiencies.pdf).

viii The number of ballots touched by the cure process was determined by taking daily snapshots of cure data submitted by counties during the 2020 elections and adding up all ballots that were coded as having cure-related issues at any point during processing. These fields include “assistant info incomplete,” “no time for cure – contacted,” “pending cure,” “signature different,” and “witness info incomplete.” Ballots that were “cured” in this process were calculated by adding up those touched by the cure process that were coded “accepted” or “accepted-cured” as their last entry. Finally, the number of voters who were able to successfully vote via another absentee mail-in ballot or in person was determined by matching NCID numbers across databases for votes counted in the 2020 general election.

ix Approximately 144 voters requested multiple ballots that were touched by the cure process. For example, a single voter voted a first ballot with a material error and, upon notice, voted a second ballot, also with a material error. Accordingly, the total number of ballots with a material error, 7,183, is higher than the number of voters.

x N.C. State Bd. of Elections, *Numbered Memo 2021-03: Absentee Container-Return Envelope Deficiencies* (June 11, 2021), [https://s3.amazonaws.com/dl.ncsbe.gov/sboe/numbermemo/2021/Numbered%20Memo%202021-03 Absentee%20Deficiencies.pdf](https://s3.amazonaws.com/dl.ncsbe.gov/sboe/numbermemo/2021/Numbered%20Memo%202021-03%20Absentee%20Deficiencies.pdf).

