



# NORTH CAROLINA

## State Board of Elections

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**KIM WESTBROOK STRACH**  
*Executive Director*

TO: Interested parties

RE: Proposed Rules on photo identification requirements for in-person voting as required by law starting in 2016

DATE: May 1, 2015

In 2013, the North Carolina General Assembly passed the Voter Information Verification Act (S.L. 2013-381), which requires photo identification for in-person voting starting in 2016. The law mandates that the State Board of Elections adopt Rules to administer these new laws. The State Board of Elections proposes the attached Rules and invites comment from interested parties.

Written comments may be submitted until Tuesday, June 30, 2015. Comments can be e-mailed to [rules@ncsbe.gov](mailto:rules@ncsbe.gov) or mailed to P.O. Box 27255, Raleigh, NC 27611-7255 to the attention of Rule-making Coordinator George McCue.

Public comment hearings will be held at the following places and times:

**State Board of Elections Office, Board Room**

441 North Harrington Avenue, Raleigh, NC  
Wednesday, June 3, 2015, 5:00 p.m. to 7:00 p.m.

**Dare County Administration Building, Room 168**

954 Marshall C. Collins Drive, Manteo, NC  
Thursday, June 4, 2015, 5:00 p.m. to 7:00 p.m.

**New Hanover County Human Resources Department, Conference Room 401**

230 Government Center Drive, Suite 135, Wilmington, NC  
Friday, June 5, 2015, 5:00 p.m. to 7:00 p.m.

**Hal Marshall Auditorium**

700 North Tryon St., Charlotte, NC  
Monday, June 8, 2015, 5:00 p.m. to 7:00 p.m.

**Forsyth County Government Center, Multi-Purpose Room**

201 Chestnut Street, Winston-Salem, NC

Tuesday, June 9, 2015, 5:00 p.m. to 7:00 p.m.

**Watauga County Administration Building, Board of Commissioners Meeting Room**

814 West King Street, Boone, NC

Wednesday, June 10, 2015, 5:00 p.m. to 7:00 p.m.

**Jackson County Board of Elections Office, Conference Room**

876 Skyland Drive, Suite 1, Sylva, NC

Thursday, June 11, 2015, 5:00 p.m. to 7:00 p.m.

**Cumberland County Board of Elections, Training Room**

227 Fountainhead Lane, Suite 101, Fayetteville, NC

Friday, June 12, 2015, 5:00 p.m. to 7:00 p.m.

**Edgecombe County Administrative Building, Auditorium\***

201 St. Andrew St., Tarboro NC

Monday, June 15, 2015, 5:00 p.m. to 7:00 p.m.

*\*New location added*

Representatives from the Voter Outreach Team of the State Board of Elections will also be available with materials to help educate voters about new requirements and to help any voter who needs assistance with obtaining photo ID.

**Note about how these proposed Rules were developed:**

Session Law 2013-381 mandates that the State Board of Elections administer photo ID requirements in a manner that confirms a voter's identity as accurately as possible without restriction, and construes all evidence in the light most favorable to the voter. See S.L. 2013-381 pmb., § 2.2. Consistent with that goal, agency staff worked collaboratively and reviewed rules and elections procedures from other states that have implemented photo ID requirements.

This notice is posted on the North Carolina State Board of Elections website, [www.ncsbe.gov](http://www.ncsbe.gov).

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3 **CHAPTER 17 – PHOTO IDENTIFICATION**

4 **08 NCAC 17 .0101 DETERMINATION OF REASONABLE RESEMBLANCE AT CHECK-IN**

5 (a) Photo identification at check-in procedure: An election official shall check the registration status of all persons  
6 presenting to vote in-person on election day or during one-stop early voting pursuant to G.S. 163-166.7, and then shall  
7 require that all persons presenting to vote provide one of the forms of photo identification listed in G.S. 163-166.13(e),  
8 subject to the exceptions outlined in Paragraph (b) of this Rule. If a person not satisfying the exceptions described in  
9 Paragraph (b) of this Rule does not provide any photo identification, the election official shall inform the person  
10 presenting to vote that he or she may cast a provisional ballot, which shall be counted in accordance with G.S. 163-  
11 182.1A.

12 (b) The election official shall not require photo identification of a person who has a sincerely held religious objection  
13 to being photographed and meets the requirements of G.S. 163-166.13(a)(2), or who is the victim of a natural disaster  
14 and meets the requirements of G.S. 163-166.13(a)(3). Persons falling within any exception listed in this Paragraph  
15 shall be allowed to proceed pursuant to G.S. 163-166.7.

16 (c) The election official shall inspect any photo identification provided by the person presenting to vote and shall  
17 determine the following:

- 18 (1) That the photo identification is of the type acceptable for voting purposes pursuant to G.S.  
19 163-166.13(e). A valid United States passport book or a valid United States passport card is  
20 acceptable pursuant to G.S. 163-166.13(e)(3).
- 21 (2) That the photo identification is unexpired or is excepted from an expiration requirement pursuant to  
22 G.S. 163-166.13(e).
- 23 (3) That the photograph appearing on the photo identification depicts the person presenting to vote.  
24 Perceived differences of the following features shall not be grounds for the election official to find  
25 that the photograph appearing on the photo identification fails to depict the person presenting to  
26 vote:
  - 27 (A) weight;
  - 28 (B) hair features and styling, including changes in length, color, hairline, or use of a wig or  
29 other hairpiece;
  - 30 (C) facial hair;
  - 31 (D) complexion or skin tone;
  - 32 (E) cosmetics or tattooing;
  - 33 (F) apparel, including the presence or absence of eyeglasses or contact lenses;
  - 34 (G) characteristics arising from a perceptible medical condition, disability, or aging;
  - 35 (H) photographic lighting conditions or printing quality.
- 36 (4) That the name appearing on the photo identification is the same or substantially equivalent to the  
name contained in the registration record. The name appearing on the photo identification shall be

37 considered substantially equivalent to the name contained in the registration record if differences  
38 are attributable to one or more of the following:

- 39 (A) Omission of one or more parts of the name (such as, for illustrative purposes only, Mary  
40 Beth Smith versus Beth Smith, or Patrick William Smith, Jr. versus Patrick William Smith,  
41 or Maria Guzman-Santana versus Maria Guzman);
- 42 (B) Use of a customary variation rather than a formal name (such as, for illustrative purposes  
43 only, Bill versus William, or Sue versus Susanne);
- 44 (C) Use of an initial in place of one or more parts of a given name (such as, for illustrative  
45 purposes only, A.B. Smith versus Aaron B. Smith);
- 46 (D) Use of a former name or a variation that includes or omits a hyphenation (such as, for  
47 illustrative purposes only, Mary Beth Smith versus Mary Beth Jacobson, or Mary C.  
48 Jacobson-Smith versus Mary C. Jacobson);
- 49 (E) Ordering of names (such as, for illustrative purposes only, Maria Eva Garcia Lopez versus  
50 Maria E. Lopez-Garcia).

51 (d) The election official shall not require any additional evidence outside the four corners of the photo identification.  
52 The election official shall not request that any person remove apparel for the purposes of rendering a determination  
53 under Paragraph (c) of this Rule. If the face of the person presenting to vote is covered such that the election official  
54 cannot render a determination under Subparagraph (c)(3) of this Rule, then the election official shall inform the person  
55 presenting to vote that he or she may cast a provisional ballot, which shall be counted in accordance with G.S. 163-  
56 182.1A, and shall inform the voting site's judges of election that the election official cannot affirmatively determine  
57 that the person bears any reasonable resemblance to the photo identification.

58 (e) Differences between the address appearing on the photo identification meeting the requirements of Subparagraph  
59 (c)(1) of this Rule and the address contained in the registration record shall not be construed as evidence that the  
60 photographic identification does not bear any reasonable resemblance pursuant to Subparagraphs (c)(3) and (c)(4) of  
61 this Rule.

62 (f) The election official shall construe all evidence, along with any explanation or documentation voluntarily proffered  
63 by the person presenting to vote, in the light most favorable to that person. After an examination performed in the  
64 manner set out in Paragraphs (a) through (d) of this Rule, the election official shall proceed as follows:

- 65 (1) If the election official determines that the photo identification meets all the requirements of  
66 Paragraph (c) of this Rule, then the person presenting to vote shall be allowed to proceed pursuant  
67 to G.S. 163-166.7 and G.S. 163-166.13(b); or
- 68 (2) If the election official determines that the photo identification does not meet all of the requirements  
69 of Subparagraphs (c)(1) and (c)(2) of this Rule, the election official shall inform the person  
70 presenting to vote of the reasons for such determination (such as, for illustrative purposes only, that  
71 the photo identification is expired) and shall invite the person to provide any other acceptable photo  
72 identification that he or she may have. If the person presenting to vote does not produce photo  
73 identification that meets all the requirements of Subparagraph (c)(1) and (c)(2) of this Rule, then the

74 election official shall inform the person presenting to vote that he or she may cast a provisional  
75 ballot. The election official shall provide the person presenting to vote with information on the  
76 provisional voting process and the address of the county board of elections office.

- 77 (3) If the election official determines that the photo identification does not meet all the requirements of  
78 Subparagraphs (c)(3) and (c)(4) of this Rule, the election official shall notify the voting site's judges  
79 of election that the person presenting to vote does not bear any reasonable resemblance to the photo  
80 identification.

81  
82 *Authority G.S. 163-82.6A; 163-82.15; 163-166.7; 163-166.13; 163-166.14; 163-182.1A.*

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84 **08 NCAC 17 .0102 DETERMINATION OF REASONABLE RESEMBLANCE BY JUDGES OF**  
85 **ELECTION**

86 (a) The judges of election shall make a determination as to reasonable resemblance pursuant to G.S. 163-166.14 only  
87 if the person presenting to vote is referred to them by an election official as set out in Rule .0101(f)(3) of this Section.

88 (b) The judges of election shall inspect the photo identification provided by the person presenting to vote and shall  
89 make a determination as to all requirements set out in Rule .0101(c)(3) and (4) of this Section. The judges of election  
90 shall make their determinations based on the totality of the circumstances, construing all evidence in the light most  
91 favorable to the person presenting to vote. The judges of election may consider the following:

- 92 (1) Any information contained in the photo identification meeting the requirements of Rule .0101(c)(1)  
93 of this Section and the registration record (such as, for illustrative purposes only, date of birth, sex,  
94 or race);  
95 (2) Any explanation proffered by the person presenting to vote or by other persons; and  
96 (3) Any additional documentation provided by the person presenting to vote or by other persons.

97 (c) The judges of election shall follow Rule .0101(e) of this Section with regard to addresses appearing on the photo  
98 identification.

99 (d) After considering the evidence, the judges of election shall vote to determine whether the photo identification  
100 bears any reasonable resemblance to the person presenting to vote. All judges of election must vote either yea or nay,  
101 and the result shall be governed by the following:

- 102 (1) Unless the judges of election unanimously find that the photo identification does not bear any  
103 reasonable resemblance to the person appearing before them as set out in Subparagraph (d)(2) of  
104 this Rule, the person presenting to vote shall be allowed to proceed pursuant to G.S. 163-166.7 and  
105 G.S. 163-166.13(b).  
106 (2) If the judges of election unanimously find that the photo identification does not meet all the  
107 requirements of Rule .0101(c)(3) and (4) of this Section, the judges of election shall enter a  
108 determination that the photo identification does not bear any reasonable resemblance to the person  
109 presenting to vote, and shall record their determinations in the manner set out in Paragraph (e) of  
110 this Rule. The judges of election shall inform the person presenting to vote that he or she may cast

111 a provisional ballot, which shall be counted in accordance with G.S. 163-182.1A. The judges of  
112 election shall provide the person presenting to vote with information on the provisional voting  
113 process and the address of the county board of elections office.

114 (e) The judges of election shall record their determination as to reasonable resemblance on a form provided by the  
115 State Board of Elections that provides the date and time, the voting site, the names of the judges of election, the name  
116 of the person presenting to vote, and the determination of each individual judge of election.

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118 *Authority G.S. 163-82.6A; 163-82.15; 163-166.7; 163-166.13; 163-166.14; 163-182.1A.*

119

120 **08 NCAC 17 .0103 IDENTIFICATION REQUIRED OF CURBSIDE VOTERS**

121 An election official assisting curbside voters shall require identification of curbside voters pursuant to G.S. 163-  
122 166.9(b). If the curbside voter provides one of the forms of photo identification listed in G.S. 163-166.13(e), the  
123 provisions of Rule .0101 of this Section shall apply.

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125 *Authority G.S. 163-166.9; 163-166.13.*

126

127 **08 NCAC 17 .0104 OPPORTUNITY TO UPDATE NAME OR ADDRESS AFTER REASONABLE**  
128 **RESEMBLANCE IS DETERMINED**

129 A person able to vote a regular ballot pursuant to either Rule .0101 or .0102 of this Section, but whose name or address  
130 does not match the name or address appearing in the registration record shall be provided the opportunity to update  
131 his or her name or address in the registration record pursuant to G.S. 163-82.15(d) and G.S. 163-82.16(d) to reflect  
132 the person's true and current name and address. If the person updates his or her name or address, the person shall be  
133 permitted to vote as set out in G.S. 163-166.7 and G.S. 163-166.13(b), so long as the person remains eligible to vote  
134 based on residence within the county of the voting place.

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136 *Authority G.S. 163-82.15(d); 163-82.16(d); 163-166.7; 163-166.13(b).*

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138 **08 NCAC 17 .0105 DECLARATION OF RELIGIOUS OBJECTION TO PHOTOGRAPH**

139 (a) Declaration form: Every county board of elections shall have available a Declaration of Religious Objection to  
140 Photograph form, as prescribed by the State Board of Elections. This form shall contain:

- 141 (1) The voter's information;
- 142 (2) The following declaration: "I, [voter's name], have a sincerely-held religious objection to being  
143 photographed. My voter registration will be identified as excepted from the photo identification  
144 requirements associated with in-person voting beginning in 2016. This declaration will be effective  
145 for all future elections at least 25 days from the date of this declaration being received by my local  
146 County Board of Elections, or, if I have already cast a provisional ballot for an election, at the time  
147 I make this declaration and provide one of the documents listed in G.S. 163-166.12(a)(2) to the

148 County Board of Elections. I understand that if at some time in the future I no longer hold such  
149 religious objection to being photographed, I may request a cancellation of this declaration with my  
150 local County Board of Elections. I understand that a false or fraudulent declaration is a Class I  
151 felony."; and

152 (3) The voter's dated signature.

153 (b) A signed declaration form will be effective for all elections going forward that are held at least 25 days from the  
154 date of the completed declaration being received by the county board of elections, or until the voter cancels the  
155 declaration.

156 (c) The voter may cancel the declaration at any time by submitting a written statement, signed and dated, to the county  
157 board of elections.

158 (d) Upon moving to a new county in the State of North Carolina, a voter who has completed a declaration that is still  
159 in effect shall continue to be excepted from the photo identification requirements associated with in-person voting.

160 (e) Upon receiving a completed declaration form that is received at least 25 days prior to the next election, or receiving  
161 a new voter registration for a voter that has completed a still-current declaration from another county, the county board  
162 of elections shall identify the voter as excepted from the photo identification requirements set out in G.S. 163-  
163 166.13(a)(2), so that the voter is identified as such in all voter registration lists and pollbooks associated with in-person  
164 voting.

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166 *Authority G.S. 163-82.7A; 163-166.12(a)(2); 163-166.13(a)(2); 163-182.1A(b)(2); 163-275.*