



NORTH CAROLINA VOTING ASSISTANCE GUIDANCE

Who is allowed to cast an absentee ballot?

“Any qualified voter of the State,” including any nursing home resident who is a registered NC voter, can submit a request for an absentee ballot “not later than 5:00 PM on the Tuesday before the election.” N.C. Gen. Stat. § 163-226(a); N.C. Gen. Stat. § 163-230.1(a). Requests can be submitted online at this link: <https://votebyemail.ncsbe.gov/app/home>

Can nursing home staff assist their residents with absentee voting?

No, unless the voter has a qualifying disability under federal law. It is a Class 1 felony for any person who is an “owner, manager, director, employee, or other person” affiliated with a “hospital, clinic, nursing home or rest home . . . to mark the voter’s absentee ballot or assist such voter in marking an absentee ballot,” or even to assist a voter in completing an absentee ballot application or serve as a witness. N.C. Gen. Stat. § 163-226.3(a)(4).

The only exceptions to this rule are for nursing home staff who are a “near relative” or “verifiable legal guardian” of the voter whom they are assisting. “Near relative” means a spouse, sibling, parent, grandparent, child, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, stepparent, or stepchild. N.C. Gen. Stat. § 163-226(f). “Legal guardian” means an individual who has been formally appointed as the voter’s guardian in accordance with North Carolina law. N.C. Gen. Stat. § 163-226(e).

Can nursing home staff assist a disabled resident in voting?

Yes. Under Section 208 of the federal Voting Rights Act of 1965, “[a]ny voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter’s choice, other than the voter’s employer or agent of that employer or officer or agent of the voter’s union.” 52 U.S.C. § 10508. Federal law defines a qualifying “disability” as “a physical or mental impairment that substantially limits one or more major life activities.” 42 U.S.C. § 12102(1)(A). According to [NC Board of Elections guidance](#), this can be “a physical or mental impairment” that “substantially impair[s] an activity that is involved in absentee voting,” meaning that disabilities that are unrelated to a person’s ability to cast a ballot do not qualify for assistance.

It is important to note that even under this exception, the disabled voter must still have the ability to choose the individual that assists them in casting their ballot. If the voter is unable to make such a specific request, then assistance cannot be rendered. Nursing home staff who are assisting a disabled voter are only entitled to mark the ballot “in the voter’s presence according to the voter’s instructions.” N.C. Gen. Stat. § 163-231(a)(1). If the voter is not present, or is unable to provide staff with instructions concerning their desired vote choice, then staff are not allowed to mark the voter’s absentee ballot.

Disclaimer: This legal guidance is current as of March 2024 and may be subject to change. You should always consult an attorney before taking action to ensure that recent changes in law have not altered your obligations.



If nursing home staff is not allowed to assist residents in voting, then who can?

Members of a “Multipartisan Assistance Team” (“MAT”). MATs are composed of “members, employees, or volunteers of the county board of elections” who are “trained and authorized by the county board of elections to assist voters with absentee ballots.” N.C. Gen. Stat. § 163-226.3(a)(4). A MAT must “consist of at least two registered voters of the county” belonging to each of the two major political parties. N.C. Gen. Stat. § 163-226.3(c). Requests for the assistance of a MAT can be made by telephone call to the relevant county board of elections.

A nursing home resident is only allowed to request voting assistance from another person if a MAT is not available within seven calendar days of a request for assistance. If a near relative or verifiable legal guardian is similarly unavailable to assist, “the voter may obtain such assistance from **any person other than** [] an owner, manager, director, employee of the hospital, clinic, nursing home, or rest home in which the voter is a patient or resident.” N.C. Gen. Stat. § 163-226.3(a)(4) (emphasis added). In short, there is no circumstance in which nursing home staff is authorized to assist a resident who does not have a qualifying disability in casting an absentee ballot.

Because MATs are professionally trained and familiar with all state and federal legal rules concerning absentee voting, it is best practice to submit a request for the assistance of a MAT team and allow them to assist voters within your care facility.

How should voted absentee ballots be returned?

A voter with a qualified disability who “requires assistance mailing his or her return envelope . . . may direct that the sealed envelope be taken directly to the closest U.S. mail depository or mailbox by a person selected by that voter,” so long as that person is not an owner, manager, director, or employee of the voter’s nursing home or a political candidate. 8 N.C.A.C. § 18.0101(a). If any individual assists a voter in returning the envelope, they must indicate that by making the appropriate space on the envelope.

Voters who do not have qualifying disabilities must return their own absentee ballots by mail or in-person to the appropriate county board of elections so long as it is received “not later than 7:30 PM on the day of the . . . election.” N.C. Gen. Stat. § 163-231(b)(1). Near relatives and verifiable legal guardians are also permitted to return ballots for voters who do not have qualifying disabilities.

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What conduct indicates that illegal activity may be occurring in a nursing home?

The NC State Board of elections highlights several factors that may be indicative of illegal absentee voting activity:

- Someone completing a voter's ballot outside the voter's presence, which should **never** happen. N.C. Gen. Stat. § 163-231(a)(1).
- An unusually high number of requests for the same person to provide assistance.
- Individuals aggressively seeking to assist voters residing in a care facility without any initial request for assistance from those voters.
- Individual seeking to interfere with or influence the voter's selection while they are voting, which is illegal.
- Individuals sharing how a voter voted, which is illegal.

If you are aware that any of the above activities are occurring in a particular nursing home, you should report that information to the State Board's Investigations Division at (919) 814-0700.

What other criminal offenses related to absentee voting should nursing home staff be aware of?

It is a Class G felony to intentionally fail to deliver or destroy a completed application or voted absentee ballot "with the intent of obstructing a vote by a registered voter." N.C. Gen. Stat. § 163-237(d2). Likewise, it is a Class G felony to attempt to vote "by fraudulently signing the name" of another voter. N.C. Gen. Stat. § 163-237(d).

Please contact our National Training Coordinator, Laura Williams OTR/L for questions at:
Laura.Williams@centerforvulnerablevoters.org

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