

Formal Opposition to Proposed Rule 08 NCAC 10C .0104 Conduct at Voting Sites

Dear Members of the North Carolina State Board of Elections,

I am writing to formally oppose proposed rule 08 NCAC 10C .0104, which would ban the use of sound amplification devices at voting sites and impose a vague, subjective noise standard on anyone near a polling place. This rule does not exist in a vacuum. It follows a proposed rule change to 08 NCAC 17 .0101 that would lower the threshold for a county board to discard a voter's ID exception affidavit from a unanimous vote to a simple majority — part of a broader pattern of election administration changes that consistently make voting harder for Black, brown, low-income, and young voters. Targeting the community traditions that most effectively mobilize those same voters is not a coincidence. It is a continuation of that pattern, and I urge the Board to reject it.

This Rule Targets the Events That Work

Souls to the Polls, Party at the Polls, and Student March to the Polls are not feel-good events. They are organized, intentional responses to decades of voter suppression — and they work. That is exactly why they are being targeted by a rule that bans the amplified sound these events depend on.

Souls to the Polls has been a cornerstone of Black voter mobilization in North Carolina for years. In communities like Durham, Greensboro, and Charlotte, Black churches have organized transportation, music, and collective marches to early voting sites, turning early voting into a community celebration and an act of resistance. A blanket ban on amplified sound at voting sites threatens that tradition directly.

Party at the Polls events across the state, from Raleigh to Wilmington, have used music, food, and community energy to make voting feel safe and joyful for voters who have every reason to distrust a system that has historically excluded them. Restricting amplified sound near polling locations does not make elections more orderly. It makes them more hostile to the voters these events were built to welcome.

Student March to the Polls events at universities including North Carolina Agricultural and Technical State University, UNC, Duke, and North Carolina Central University have turned out hundreds of young voters, particularly young Black voters, who might otherwise have stayed home. These marches are loud, proud, and effective. This rule would silence them.

A Pattern, Not a Coincidence

This proposed rule does not exist in a vacuum. North Carolina has a well-documented history of voter suppression, from the 1898 Wilmington coup, in which a mob violently overthrew a duly

elected, multiracial local government and drove Black officeholders and voters from the city,¹ to the Jim Crow-era literacy tests and poll taxes that followed it, to a voter ID law that the Fourth Circuit found was crafted, in the court's own words, to "target African Americans with almost surgical precision."² A rule that silences the events most effective at mobilizing Black, brown, and young voters fits squarely within that history.

Ask directly: who benefits when Souls to the Polls cannot march? Who benefits when a Party at the Polls goes silent? Who benefits when students can no longer drum their way to the ballot box? A rule that answers those questions in favor of silence, rather than participation, is not a neutral administrative measure.

The Rule Also Fails on Its Own Terms

Even setting aside its disparate impact on voter mobilization, the rule as written is legally overbroad and unworkably vague.

The ban on sound amplification devices applies across the entire voting site, not merely within the voting enclosure where it might plausibly protect the orderly conduct of voting. That means it reaches into the electioneering zone that a companion rule, 08 NCAC 10C .0103, specifically designates as the area where election-related activity is permitted. One rule creates a space for protected civic activity; the next strips away the tools — music, a megaphone, a portable speaker — that make that activity effective.

The noise standard in Subparagraph (c)(1) prohibits "any noise at a volume that is audible to the chief judge or a judge" while that official happens to be inside the voting enclosure. That is not an objective decibel level or a fixed distance from the voting place. It depends entirely on where a given official is standing and how well-insulated the building happens to be, and it sweeps in ordinary singing, chanting, and celebration that pose no actual threat to anyone's ability to cast a ballot.

The definition of "sound amplification device" is written broadly enough to include "any vehicle's internal audio system that is audible beyond the interior of the vehicle," a phrase that

¹1898 Wilmington Race Riot Commission, Final Report (May 31, 2006), prepared pursuant to N.C. Session Law 2000-137, documenting the 1898 Wilmington coup and massacre and its role in disenfranchising Black voters and officeholders in North Carolina.

²North Carolina State Conference of the NAACP v. McCrory, 831 F.3d 204, 214 (4th Cir. 2016) ("[T]he new provisions target African Americans with almost surgical precision.").

could capture a curbside voter's own car radio or a driver dropping off a family member, not just organized electioneering.

Finally, the rule places sole, real-time discretion over what counts as disruptive in the hands of one or two officials at each voting site, with no defined objective threshold to guide or constrain that judgment. That is an invitation to inconsistent enforcement, particularly against the advocacy groups and get-out-the-vote efforts a given official may be less inclined to favor.

What Elections Should Look Like

Polling locations should be places where every eligible voter feels empowered to participate. Community mobilization events that use music, energy, and collective joy to get people to the polls strengthen democracy, not threaten it. I urge the Board to reject this proposed rule and protect the right of communities to organize and mobilize voters without being silenced.

Respectfully submitted,

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