UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

COLLEGE DEMOCRATS OF NORTH CAROLINA, *et al.*, *Plaintiffs,* V. NORTH CAROLINA STATE BOARD OF ELECTIONS, *et al.*, *Defendants*.	**Case No. 1:26-cv-92-TDS-JLW**

MEMORANDUM IN OPPOSITION TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Defendants North Carolina State Board of Elections and its members in their official capacities, ("State Board") submit this memorandum opposing Plaintiffs' Motion for Preliminary Injunction. [D.E. 10, 13]. Because Plaintiffs fail to meet their burden, the State Board respectfully requests that this Court deny the motion.

FACTUAL BACKGROUND & PROCEDURAL HISTORY

Under North Carolina law, county boards of elections ("county boards") are required to develop early voting plans conforming to certain statutory requirements. N.C.G.S. §§163-166.35(a), 166.40(b). This process occurs before every election and with every election comes the potential for a new plan. There are many factors that go into an early voting plan, but there is no statutory requirement to maintain the same plan or sites across elections. During this process, more than one early voting plan may be considered, but only plans unanimously adopted by county boards that also meet the requirements set

forth in §163-166.35 will be approved by the State Board. If a county board cannot reach unanimity on a plan "then a member or members of that county board of elections may petition the State Board to adopt a plan for it." *Id.* "If petitioned, the State Board may also receive and consider alternative petitions from another member or members of that county board." *Id.* The State Board may then adopt a plan for that county board that meets the requirements in §163-166.35. *Id.*

For the 2026 primary election, North Carolina will have more early voting sites than it had for the last midterm primary.[1] Voters can vote at any early voting site within their county. N.C.G.S. §163-166.40. In establishing these sites, the State Board encouraged county boards to submit early voting plans by December 5, 2025, with a hard deadline of December 19. On November 18, 2025, the Guilford County Board of Elections ("Guilford Board"), failed to reach unanimity on a plan, with the majority of members approving an early voting plan for the March 2026 primary election with ten early voting sites (the "Guilford Majority Plan"). At this meeting, the Guilford Board looked at turnout data for its seventeen early voting sites for the 2024 primary elections.[2] For that primary, data showed that the NC A&T and UNCG early voting sites had the lowest number of early votes cast, totaling 747 and 755 votes. *Id.* In fact, of Guilford County's 2024 early voting sites, the NC A&T site was the least used in the entire county. *Id.* In contrast, the Old Courthouse site Plaintiffs complain of had approximately 1,584 votes cast during the same

[1] Ex.1 is a February 2, 2026 Carolina Journal article.
[2] Ex.2 is the Guilford County 2024 Early Voting Count [https://perma.cc/T5AE-AR5D?type=standard]

period, in the middle range of early voting sites. *Id.* Historically, in midterm-year primary elections since 2010, the Guilford Board offered eight early voting sites. Those sites were unanimously approved and used in the 2022 midterm primary election. The Guilford Majority Plan adds two sites to the eight approved by the Board in 2022. In their submission to the State Board, supporters of the Guilford Majority Plan explained that the two additional sites "were selected to increase voting capacity because the county has grown and to anticipate possible higher than normal turnout in the 2026 midterm primary election."[3]

On December 9, 2025, the Jackson County Board of Elections ("Jackson Board"), was unable to unanimously approve a plan, with the majority selecting an early voting plan for the March 2026 primary election with four early voting sites, including one at the Cullowhee Recreation Center (the "Jackson Majority Plan"). At that meeting, the Jackson Board considered historical early voting turnout at five potential locations, voting logistics of the sites, voter familiarity, and the fact that two potential sites were both approximately 1.7 miles from the center of WCU's campus. [D.E. 11-14]. Ultimately, the Jackson Majority Plan included the Cullowhee Recreation Center and three other sites also in the minority plans. [*Id.*]. In their submission to the State Board, supporters of the Jackson Majority Plan further explained that the Cullowhee Recreation Center was chosen over a WCU-based site because of the location, parking availability, ease of ingress and egress,

[3] Ex.3 is the Guilford Plan majority submission. [https://perma.cc/63MY-YG2X]

and required locations for campaigning.[4] [D.E.11-23 3:31:50-3:34:31]. The Jackson Majority Plan was also buttressed by concerns of cost savings.[5] *Id.*

Because the votes for the Guilford and Jackson Majority Plans were not unanimous, county board members from each county submitted proposed plans and materials to the State Board to adopt plans for each county. The State Board voted on nonunanimous plans on January 13, 2026 in a properly noticed meeting with many students and community members in attendance.[6] Recognizing the public interest, the State Board intentionally considered the Guilford Plan earlier in the meeting than originally planned to accommodate the attendees (including students) who traveled to Raleigh. [D.E.11-23 2:18:10-2:18:31]. Contrary to Plaintiffs' representations, attendees were not met with "hostility" or threats. Instead, the record reflects that many attendees were disruptive, interrupting and delaying the meeting. [*Id.* 0:01:26-0:03:45, 2:17:19-2:20:25]. At that meeting, the State Board heard presentations by and reviewed materials from the board members of the respective counties, questioned the county board directors, and considered an array of concerns. [*Id.* 1:57:37-1:59:40, 2:16:17-2:17:19, 3:31:50-3:34:31, 4:05:31-4:05:40]. After careful debate and discussion, the Guilford and Jackson Majority Plans were adopted by the State Board (the "Plans").

Plaintiffs College Democrats of North Carolina, Zayveon Davis, Zach Powell, Rose Daphne Yard, and Raquel Nelson (collectively, "Plaintiffs") waited until January 27, 2026

[4] Ex.4 is the Jackson Plan majority submission. [https://perma.cc/RZ36-YQHU]
[5] While Plaintiffs dispute the amount of savings, [D.E. 11, p.11], all Jackson Board members agreed that not using the WCU site would save thousands of dollars. Ex.1.
[6] Ex.5 is the NCSBE Jan. 9, 2026 public notice [https://perma.cc/D2WP-PK7K]

to file suit, two weeks after the State Board's vote, and then waited three additional days to seek expedited injunctive relief.[7] [D.E. 11]. Plaintiffs filed suit after the county boards' January 16 statutory deadline to provide public notice of voting site locations and hours, N.C.G.S. §163-33(8), and as they continue to prepare for early voting to begin on February 12, 2026.

QUESTION PRESENTED

1. Are Plaintiffs entitled to the extraordinary remedy of a preliminary injunction?

ARGUMENT

To obtain preliminary injunctive relief, Plaintiffs must demonstrate: (1) substantial likelihood of success on the merits; (2) likelihood of irreparable harm; (3) that the balance of equities favors the movant; and (4) issuance of the injunction serves the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). "[E]ach of these four factors must be satisfied" for an injunction to issue; therefore, failure of any element precludes injunctive relief. *Henderson ex rel. Nat'l Lab. Rels. Bd. v. Bluefield Hosp. Co.*, 902 F. 3d 432, 439 (4th Cir. 2018).

Indeed, such preliminary relief "is an extraordinary remedy never awarded as of right," *Winter*, 555 U.S. at 24, "involving the exercise of very far-reaching power to be granted only sparingly and in limited circumstances." *MicroStrategy Inc., v. Motorola, Inc.*,

[7] Given the expedited timeframe, State Board Defendants reserve the right to supplement any information or data within this brief. Three business days is insufficient for State Board Defendants to adequately assess and prepare a fulsome response to Mayer's expert report or the other 29 exhibits that Plaintiffs have filed in support of their Motion—especially since the election is currently under way. [D.E. 11-2 through 11-31].

245 F.3d 335, 339 (4th Cir. 2001). This warning is especially salient when, as here, Plaintiffs seek a mandatory injunction, altering the status quo before final judgment. *Pierce v. N. Carolina State Bd. of Elections*, 97 F.4th 194, 209 (4th Cir. 2024). Because "[t]he rationale behind a grant of a preliminary injunction has been explained as preserving the status quo," *Hazardous Waste Treatment Council v. South Carolina*, 945 F.2d 781, 788 (4th Cir. 1991), "[m]andatory preliminary injunctive relief"—i.e., relief that "goes well beyond simply maintaining the status quo *pendente lite*"—"in any circumstance is disfavored." *Taylor v. Freeman*, 34 F.3d 266, 270 n.2 (4th Cir. 1994).

Plaintiffs seek to alter the status quo by requiring the imposition of early voting sites contrary to the Plans. [D.E. 4]. This request is presumptively "disfavored" and can be justified only by "the most extraordinary circumstances." *Taylor*, 24 F.3d at 270 n.2. Those "extraordinary circumstances" are not present. *Pierce*, 97 F.4th at 210. Therefore, Plaintiffs' motion should be denied.

I. Plaintiffs Cannot Establish Irreparable Harm, or That the Equities Favor an Exceptional Mandatory Injunction.

A preliminary injunction is unwarranted for the independent and threshold reason that the equities do not support one, and that Plaintiffs cannot show irreparable harm. *Winter*, 555 U.S. at 25-26. The equities analysis here is governed by the principle of *Purcell v. Gonzalez*, 549 U.S. 1 (2006) (per curiam), which dictates "(i) that federal district courts ordinarily should not enjoin state election laws in the period close to an election, and (ii) that federal appellate courts should stay injunctions when, as here, lower federal courts contravene that principle." *Merrill v. Milligan*, 142 S. Ct. 879 (Kavanaugh, J., concurring).

General principles of equity governing all requests for injunctive relief dictate that a plaintiff's own delay in requesting relief, "belie[s] its claim that there is an urgent need for speedy action to protect its rights." *John Lemmon Films, Inc. v. Atl. Releasing Corp.*, 617 F. Supp. 992, 996 (W.D.N.C. 1985).

Plaintiffs were on notice of potential changes to their counties' expected early voting sites since the Guilford and Jackson Boards were unable to unanimously approve plans on November 18, 2025, and December 9, 2025, respectively. The State Board adopted the Plans on January 13, 2026. Plaintiffs fail to address their two-week delay in filing a complaint, or their subsequent delay in seeking an injunction. Plaintiffs' delay belies any claim of urgency. *John Lemmon Films, Inc.*, 617 F. Supp. at 996. Plaintiffs simply cannot square their delayed litigation choices with the extraordinary and time sensitive relief now sought.

The 2026 election is ongoing.[8] Relevant here, public notice of the locations and schedule for early voting was first given by January 16, 2026, and county boards provided notice of buffer zones for electioneering at early voting sites by February 2. *Id.* Logic and accuracy testing for voting machines is underway. *Id.* Early voting begins on February 12, with the daily requirement to report vote totals, *id.*, and political parties with candidates on the ballot can appoint observers for early voting sites a day before they will serve. *Id.* These deadlines run concurrently with the cascade of other operative events that the State and

[8] Ex.6 is the State Board's calendar of 2026 election deadlines. [https://perma.cc/T6UK-MYS7]

county boards must complete before election day, each of which are contingent upon established and predictable operations.

This should give the Court pause in considering Plaintiffs' Motion, as the Supreme Court has "repeatedly emphasized that lower federal courts should ordinarily not alter the election rules on the eve of an election." *Abbott v. League of United Latin Am. Citizens*, No. 25A608, slip op. at 2 (U.S. Dec. 4, 2025); *Pierce*, 97 F.4th at 226-27 (ongoing elections and the changes an injunction would necessitate would "result in the voter confusion and disruptive consequences the *Purcell* principle is designed to avoid."). With the electoral machine already moving, an injunction cannot, as a matter of equity, issue. *See Milligan*, 142 S.Ct. at 879 (Kavanaugh, J., concurring).

Plaintiffs' broad assertions of a "minimal" burden in "reviv[ing] previous practices" to prior voting sites [D.E. 11 p.23] fail for several reasons. First, the status quo is the Plans' early voting sites, which were selected through a lengthy and thoughtful statutory process. Simply because sites were used before does not mean they are available now. Nor does it guarantee precinct officials to staff these additional locations, particularly on such short notice when they would need to go through training. N.C.G.S. §163-46. Plaintiffs' Motion is devoid of any evidence otherwise. At base, State law mandates that for each election county boards must develop an early voting plan. *Id.* at §163-166.35. Plaintiffs' efforts to compel additional sites simply because of prior use finds no statutory support and presents severe late-stage operational strain.

Counties routinely have varying sites for midterm and presidential elections. For example, in 2018, Guilford County had eight early voting locations for the primary election

and nine for the general election, compared to fifteen and twenty-five respectively for the 2020 elections, with on-campus early voting sites—in addition to fourteen others—only available for the 2020 general election.[9] A similar differential existed between the 2022 and 2024 elections. *Id*. Returning to the prior midterm election plan for Guilford County would not grant NC A&T or UNCG an early voting site; however, it would retain the Old Courthouse site Plaintiffs complain about.

A mandatory injunction now would be anything but "minimal." Instead, it would cause extraordinary disruption for voters, election administration, and the Court. Given the timing of Plaintiffs' request, voter confusion is all but guaranteed. *Republican Nat'l Comm. v. Democratic Nat'l Comm.*, 589 U.S. 423, 424-25 (2020); *Pisano v. Strach*, 743 F.3d 927, 937 (4th Cir. 2014).

Even if *Purcell* did not apply, the equities still favor denying Plaintiffs' Motion. Although Plaintiffs' briefing only passively and conclusively mentions the equities, they are a cornerstone in the analysis. *Winter*, 555 U.S. at 20. Tellingly absent from Plaintiffs' arguments is <u>any</u> answer to the most critical question: why they waited so long to seek injunctive relief. Plaintiffs could have filed suit and asked for emergency relief at any point on or since January 13, 2026, yet they only now, on the eve of an election, ask this Court to interfere.[10] *See Pierce v. N. Carolina State Bd. of Elections*, 4:23-cv-00193-D-RN, 2023 WL 9107320, *1 (E.D.N.C. Dec. 29, 2023) (discussing denial of motion to expedite a

[9] Ex.7 is a historical compilation of Guilford and Jackson County voting site locations.
[10] Plaintiffs' counsel is no stranger to filing suit the day a challenged action takes effect. *See, e.g., Voto Latino v. Hirsch*, 1:23-cv-861, D.E.1 (M.D.N.C. Oct. 10, 2023) (filing the day S.B.747 was enacted).

preliminary injunction based in part on delay of 26 days to file the action a total of 28 days (2 additional days) to move for a preliminary injunction).

Plaintiffs do not identify any change of circumstances beyond their own control, and instead, devote minimal discussion to the three *Winter* factors other than success on the merits. But these factors are important in their own right, and Plaintiffs' disregard is telling. Plaintiffs dispute financial costs of these early sites but ignore the hardship of locating and staffing them. Plaintiffs focus on early voting sites and same-day registration (SDR), while ignoring alternatives to vote in-person early. North Carolina offers a variety of times and methods to vote, including no-excuse absentee-by-mail voting, over two weeks of early voting, and a variety of methods for registering to vote—including online, by mail, and in-person—before the registration deadline of February 6 for this primary.[11]

Plaintiffs Davis, Powell, and Nelson, who admitted in their declarations that they are all registered voters, [D.E.11-7, 10, 13], can still request an absentee ballot and vote by mail if they find the early or election day voting sites inconvenient.[12] Notably, all three have been able to request an absentee ballot for weeks. Their failure to do so is their own choice, not the fault of the State Board. Furthermore, none of the Plans change the fact that

[11] N.C.G.S.§163-82.6(d); Ex.8 [https://perma.cc/Z42E-SPZ6]

[12] Notably Davis used the Market Street voting site for the October 2025 municipal elections, which he admits was a 30-minute walk. [D.E. 11-10 ¶7]. There is simply no constitutional right to an early voting site at the location of your choosing. Enjoining the Plans would amount to an order mandating that the State create voting sites less than a mile from every North Carolinian. That is not feasible, nor is it constitutionally required.

Davis's election-day voting site is on NC A&T's campus[13] and Nelson's remains on UNCG's campus.[14]

Nor does Plaintiff Yard in Jackson County fare any better. Yard has been on notice since December that her "plan" to use SDR on campus to register and vote same day may not have been feasible. She presents no evidence that anything prevented her from using one of North Carolina's many registration options. This is particularly true since student mail is in the Hinds Center (the previous early voting site location) that Ms. Yard admits familiarity with [D.E.11-5 ¶6].[15] She also presents no evidence to support her conjecture regarding mail services. [*Id.* ¶10].

Finally, the College Democrats organization, cannot vote. And to the extent that a Plaintiff can spend their way into standing, a practice called into question by *Food & Drug Admin. v. All. for Hippocratic Med.*, 602 U.S. 367, 394 (2024), the College Democrats too are not required to arrange shuttles because no one is required to register or vote in person in North Carolina.

Plaintiffs' own choices "belie[]" their claimed need for emergent and extraordinary relief. *John Lemmon Films, Inc.*, 617 F. Supp. at 996; *Pierce*, 2023 WL 9107320, at *1. This Court should deny Plaintiffs' invitation to circumvent well-settled precedent, all of which advise against the relief sought.

[13] Ex.9 is a copy of Davis's publicly available Voter Information.
[14] Ex.10 is a copy of Nelson's publicly available Voter Information.
[15] Ex.11 is a description of WCU student mail services [https://perma.cc/TEM4-JCXB]

II. Plaintiffs Will Not Succeed on the Merits.

While other factors present independent and adequate bases to deny Plaintiffs' Motion, Plaintiffs also cannot show a likelihood of success on the merits. In asking this Court to enjoin Defendants from following the Plans, Plaintiffs point to the First, Fourteenth, and Twenty-Sixth Amendments. None withstand scrutiny.

Plaintiffs' Motion relies on little more than conclusory opinions, decontextualized statements, and hand-picked locational and turnout data, all of which ignore reality. At their core, Plaintiffs' arguments center upon personal preferences of certain voters to utilize their favored voting sites based on intensely fact-specific circumstances. But there is no constitutional protection for a voter's preferred voting method. *McDonald v. Bd. of Election Comm'rs of Chicago*, 394 U.S. 802, 807-08 (1969). Nor is there protection for voter inaction. *Rosario v. Rockefeller*, 410 U.S. 752, 757-58 (1973). North Carolina provides a multitude of different registration and voting options, which are equally available to all eligible voters. The Plans implement evenhanded, universally applicable standards through a wholistic countywide review. Plaintiffs' arguments fail under any applicable standard,[16] and Plaintiffs' Motion should be denied.

[16] Plaintiffs' concede that the "*Anderson-Burdick*" framework, *Anderson v. Celebrezze*, 460 U.S. 780 (1983) and *Burdick v. Takushi*, 504 U.S. 428 (1992), governs their Undue Burden Claim (Count II). [D.E. 11, p.20]. Although Plaintiffs argue that *Arlington Heights v. Metropolitan Housing Development Corporation*, 429 U.S. 252 (1977) ("*Arlington Heights*"), should guide their Twenty-Sixth Amendment Claim (Count I) [D.E.11, p.17], this conclusion is far from settled. *See infra* Section II(iv)(b).

i. Legal Standard.

The Constitution endows states with the authority to regulate their own elections. *Anderson*, 460 U.S. at 788; *Burdick*, 504 U.S. at 433. Pursuant to this delegation, the Supreme Court routinely affirms a State's chosen electoral scheme, even accepting that it may "inevitably affect[]—at least to some degree—the individual's right to vote and his right to associate with others for political ends." *Anderson*, 460 U.S. at 788. "Nevertheless, the state's important regulatory interests are generally sufficient to justify reasonable, nondiscriminatory restrictions." *Id*.

When asked to examine the alleged motivations behind a challenged election law, courts must afford a presumption of good faith. *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 55 (1973); *Denis J. O'Connell High Sch. v. Virginia High Sch. League*, 581 F.2d 81, 85 (4th Cir. 1978). And it is well-settled that the personal views of a few members do not necessarily constitute the beliefs of the entire body. *N. Carolina State Conf. of the NAACP v. Raymond*, 981 F.3d 295, 307 (4th Cir. 2020); *Cuyahoga Falls v. Buckeye Cmty. Hope Found.*, 538 U.S. 188, 195-96 (2003).

ii. Plaintiffs Fail to Identify a Cognizable, Protectable Class.

To state a claim under the Twenty-Sixth Amendment, a plaintiff must first identify a cognizable age-based class. U.S. Const. amend. XVI, §1. The same is true for Plaintiffs' attempts to trigger heightened scrutiny in their undue burden claim. *N. Carolina State Conference of NAACP v. McCrory*, 831 F.3d 204, 220-21 (4th Cir. 2016); *Greidinger v. Davis*, 988 F.2d 1344, 1349-50 (4th Cir. 1993). Plaintiffs bypass that initial burden entirely, diving into their arguments without defining who comprises the class for which they

purportedly seek relief. Instead, Plaintiffs vacillate between describing the purported class as "college" voters and "young" voters. [D.E. 4, ¶11; D.E. 11, 11, p.2]. But neither of these groups have an established definition, and Plaintiffs do not offer one.[17] Even if Plaintiffs identified a cognizable class of "young" or "college" voters, age is not a suspect classification. *Kimel v. Florida Bd. of Regents*, 528 U.S. 62, 63 (2000).[18] Plaintiffs must identify a clear, discrete class for either of their claims to have a chance of success on the merits. Because they do not, their claims fail.

iii. Plaintiffs Are Unlikely to Succeed on Their Undue Burden Claim (Count II).

Under the *Anderson-Burdick* framework, heightened scrutiny applies only when a law imposes a severe burden on the right to vote, in which case it must be "narrowly drawn to advance a state interest of compelling importance." *Burdick*, 504 U.S. at 434. In contrast, a non-discriminatory, globally applicable law will be upheld if justified by important state interests. *Libertarian Party of Va. v. Alcorn*, 826 F.3d 708, 716-17 (4th Cir. 2016). *Anderson* clarifies that challenges to a state's election laws are not subject to a "litmus-paper test." Instead, courts must balance the burden of the law and its accompanying justifications. *Anderson*, 460 U.S. at 789*; Crawford v. Marion Cnty. Bd. of Elections*, 553 U.S. 181, 190 (2008). Moreover, "[t]he requirement that states articulate their asserted

[17] Plaintiffs' expert does not offer a formal definition of "young" voters and, although he focuses on rates for ages 18-21, Mayer admits that there is large age variation even amongst the three challenged campus sites. [D.E.11-2 at p.8]. In contrast, Plaintiffs' briefing offers a scattershot of age ranges, further emphasizing the intensely local and situational variations amongst the groups they purport to represent.

[18] To the extent Plaintiffs' Complaint and Motion allude to racial animus, they did not bring any such claims.

regulatory interests is not a high bar." *Buscemi v. Bell*, 964 F.3d 252, 265 (4th Cir. 2020). And in reviewing a challenged action, the trial court must look at the system as a whole, not simply the act in isolation. *Pisano*, 743 F.3d at 933. Applying this review to Plaintiffs' claims, they cannot meet this burden.

a. The Voting Plans Are Not A "Severe" Burden On The Right To Vote.

Plaintiffs first argue that the Plans impose a severe burden on the right to vote for some undefined group of voters. Precedent defeats this conclusion outright. Reviewing "the character and magnitude of the asserted injury to the [protected] rights . . . the plaintiffs seek to vindicate," *Anderson*, 460 U.S. at 789, any burden imposed is far from severe. Instead, these voting plans are equally applicable to all eligible voters of the county. Supported by rationales of efficient election administration and availability of other voting options, the choice to adopt a plan selecting some voting sites over others is, at most, a modest burden justified by legitimate state interests. *S.C. Green Party v. S.C. State Election Comm'n*, 612 F.3d 752, 759 (4th Cir. 2010). Plaintiffs do not offer adequate evidence to conclude that the plans impose an unconstitutional burden. *Crawford*, 553 U.S. at 197. As a result, they cannot trigger strict scrutiny, which courts hesitate to apply. *See Burdick*, 504 U.S. at 432-33; *McDonald*, 394 U.S. at 807-08.

The Plans are facially neutral, maintaining numerous sites for residents countywide. While there is no set rule for measuring severity, case law confirms that these plans are far removed from those limited exceptions applying strict scrutiny. *Greidinger*, 988 F.2d 1354-55 (observing that the Supreme Court "has distinguished between provisions that result in 'an absolute denial of the franchise' and provisions that made 'casting a ballot

easier for some'"); *Democracy N. Carolina v. N. Carolina State Bd. of Elections*, 476 F. Supp. 3d 158, 213 (M.D.N.C. 2020) (surveying cases). Critically, in *Greidinger*, the Fourth Circuit observed that "[i]n each of these cases, [where strict scrutiny applied] the state law under attack prohibited an identified class of persons from voting." 988 F.2d at 1349-50 (emphasis added). As discussed, Plaintiffs fail to establish any recognized class of voters. Thus, Plaintiffs fall far short of establishing a severe burden on the right to vote. *Brnovich v. DNC*, 594 U.S. 647, 671 (2021).

b. Well-Established Interests Support And Outweigh Any Burden Imposed By The Plans.

Because Plaintiffs cannot establish a severe burden, the inquiry shifts to examining the character and magnitude of Plaintiffs' asserted harm compared to its justifications. *See Anderson*, 460 U.S. at 789. On the whole, the Plans show that registration and voting remain equally open and accessible to all voters, without regard for age or location.

The Fourth Circuit has long recognized a State's interest in efficient election administration and integrity. *Lee v. Virginia State Bd. of Elections*, 843 F.3d 592, 595-98 (4th Cir. 2016); *Pisano*, 743 F.3d at 934-37. Likewise, it is well established that administrative concerns such as cost and logistical burdens are interests supporting a State's chosen scheme. *Democratic Party of Virginia v. Brink*, 599 F. Supp. 3d 346, 364 (E.D. Va. 2022) (citing *Arizona Democratic Party v. Hobbs*, 18 F.4th 1179, 1190-92 (9th Cir. 2021)). Record evidence reveals that these considerations led to the adoption of the Plans. *See supra* p.2-4. While Plaintiffs cast these legitimate concerns aside, their dismissive labels do not undercut the veracity of the Plans' rationale.

Moreover, Plaintiffs offer no evidence explaining how the purported burdens faced by certain "young" voters are any different from those of other voters who may also experience challenges in getting to a voting site. Plaintiffs' attempts to elevate their personal preferences to an unconstitutional burden through anecdotal discussions and conclusory speculation do not establish widespread harm, let alone demand injunctive relief. *See Crawford*, 553 U.S. at 197 ("Burdens of that sort arising from life's vagaries, however, are neither so serious nor so frequent as to raise any question about the constitutionality [of a challenged practice]."). As discussed *supra*, North Carolina provides all eligible voters—including Individual Plaintiffs—numerous options to register and vote. In fact, North Carolina provides seventeen days of early voting, including extended hours and weekends (when classes typically do not meet). N.C.G.S. §§163-166.35(d), 163-166.40(b). Given the variety of registration options that may be utilized up until 25 days before an election, Plaintiffs' alleged logistical concerns are alleviated by operation of law. N.C.G.S. §§163-82.1, 163-82.3, 163-82.19-.20, 163-82.6(d), 163-226. Plaintiffs' submissions show they chose not to avail themselves of these options, not that they are unavailable. These choices do not constitute an unlawful burden. *Rosario*, 410 U.S. at 757-58.

The Plans are buttressed by legitimate and long-established state interests, which outweigh any burden—especially considering their uniform applicability and North Carolina's alternative registration and voting options. *See, e.g. Lee*, *843* F.3d at 595-98; *Nelson*, 12 F.4th at 389-90.

iv. Plaintiffs Are Unlikely to Succeed on Their Twenty-Sixth Amendment Claim (Count I).

There is no consensus as to what analytical framework applies to Twenty-Sixth Amendment claims. Plaintiffs contend that their Twenty-Sixth Amendment claim (Count I) should be governed by *Arlington Heights*. [D.E. 11, p.17]. State Board Defendants maintain that *Anderson-Burdick* supplies the proper test. *Alcorn*, 826 F.3d at 716. Regardless of which applies, Plaintiffs are unlikely to succeed on the merits.

a. The Choice to Use Certain Early Voting Sites Instead of Others Neither Abridges Nor Denies The Right to Vote.

Under the Twenty-Sixth Amendment: "The right of citizens of the United States who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age." U.S. Const. amend. XVI, §1. The right to vote is denied when the law "absolutely prohibits" someone from voting. *Texas Democratic Party v. Abbott*, 978 F.3d 168, 188 (5th Cir. 2020) (quoting *Goosby v. Osser*, 409 U.S. 512, 521 (1973)) ("*TDP II*"). The Plans do not prohibit college students from voting, early or otherwise. The right to vote is abridged under the Twenty-Sixth Amendment only where the restriction on voting is put in place because of a voter's age. *TDP II*, 978 F.3D at 189. So, a plaintiff bringing a Twenty-Sixth Amendment claim must "demonstrate an intent to discriminate on the basis of age." *Lee*, 843 F.3d at 607. In contrast, when all individuals are subject to the same requirements, the law is facially neutral and non-discriminatory. *Alcorn*, 826 F.3d at 717.

Plaintiffs argue that the choice to not include their preferred early voting sites abridges their right to vote by virtue of their age. [D.E. 11 at p.15]. But the Twenty-Sixth

Amendment is concerned with ensuring the ability to vote, not the method by which one exercises the right. *See Tully v. Okeson*, 977 F.3d 608, 614 (7th Cir. 2020). By Plaintiffs' logic the choice to not use any particular voting site could be an abridgement of the right to vote, so long as a voter belongs to a selected age cohort that happens to prefer that location. The Twenty-Sixth Amendment does not serve as a tool for such demographic gamesmanship. *See Tully* 78 F.4th at 386-88; *March for Our Lives Idaho v. McGrane*, 749 F. Supp. 3d 1128, 1140-42 (D. Idaho 2024) (holding that removing student IDs from Idaho's voter ID law did not violate the Twenty-Sixth Amendment because it applied to all voters regardless of age, notwithstanding students' preferences). Neither Plaintiffs' cited cases nor their evidence support the conclusion that one's right is abridged when the franchise remains fully open but-for their personal choices.

Plaintiffs' definition of "abridgement" offers no tangible metric of what point making something "harder" for a particular voter reaches an unlawful level. Nor do Plaintiffs' submissions provide the Court any assistance in drawing that line. *See infra* p.21-22. Once more, Plaintiffs' arguments fail to establish likelihood of success.

b. The *Anderson-Burdick* Framework Is The Proper Analysis For Plaintiffs' Twenty-Sixth Amendment Claim.

The history and tradition underlying *Anderson-Burdick* make it uniquely appropriate for the claims at bar. As this Court previously concluded, "[c]ircuit courts have applied *Anderson-Burdick* to cases across the election litigation spectrum." *Voto Latino v. Hirsch*, 712 F. Supp. 3d 637, 665 (M.D.N.C. 2024). And the Fourth Circuit is rightly

skeptical in applying *Arlington Heights* to the Twenty-Sixth Amendment. *Lee*, 843 F.3d at 607.

The reasons for this skepticism are well-grounded. The *Arlington Heights* standard is typically reserved for claims of discriminatory intent targeting a suspect class. *McCrory*, 831 F.3d at 220-21, while *Anderson-Burdick* is applied to a broader spectrum of election litigation. *Compare Voto Latino*, 712 F. Supp. 3d at 665 *with McCrory*, 831 F.3d at 235 (distinguishing how the *Crawford* Court used *Anderson-Burdick* to examine alleged burdens on a voter's rights in the absence of any "alleg[ation] [of] intentional racial discrimination."); *Raymond*, 981 F.3d at 303 (applying *Anderson-Burdick* because the challenge was based on racial discrimination). Having failed to define a protected class, the underlying purpose of *Arlington Heights* in rooting out intentionally discriminatory acts targeting protected classes, is inapposite. *See, e.g.*, *McCrory*, 831 F.3d at 235.

However, the Court need not decide which framework applies at this juncture, as Plaintiffs' claim fails regardless.

c. Plaintiffs' Twenty-Sixth Amendment Claim Fails Under *Anderson-Burdick*.

For the same reasons their Undue Burden claim fails under *Anderson-Burdick*, so too does Plaintiffs' Twenty-Sixth Amendment claim. Not only is the lack of on-campus early voting sites not a "severe" burden on the right to vote, but Plaintiffs demonstrate no likelihood of identifying any evidence sufficient to outweigh the legitimate state interests supporting the Plans.

d. Plaintiffs' Twenty-Sixth Amendment Claim Fails Under *Arlington Heights*.

To succeed under *Arlington Heights*, Plaintiffs must establish that discriminatory motivations were a factor in the challenged action's passage. *Arlington Heights*, 429 U.S. at 265-66. Heightened scrutiny applies only if an "invidious discriminatory purpose" was a motivating factor. *Arlington Heights*, 429 U.S. at 265-66. Mere "rancorous [] history" in enacting the challenged policy is insufficient where the central facts show no discriminatory purpose. *South Carolina v. United States*, 898 F. Supp. 2d 30, 45 (D.D.C. 2012). Nor is disproportionate impact alone enough. *One Wis. Inst., Inc. v. Thomsen*, 198 F. Supp. 3d 896, 926 (W.D. Wis. 2016), *aff'd in part, vacated in part on other grounds, Luft*, 963 F.3d at 665. Instead, Plaintiffs must show that the Plan imposes burdens that voters cannot overcome with reasonable effort. *Thomsen*, 198 F. Supp. 3d at 926. Thus, while discriminatory purpose does not need to be the sole or primary factor, the leading question is whether the state acted "because of" and not "in spite of" the discriminatory effect alleged. *McCrory*, 831 F.3d at 220-21.

Plaintiffs' conclusion that the failure to include their preferred sites will "bear[] more heavily" on "young voters," [D.E. 11 at p.17] fails for several reasons. First, as discussed, Plaintiffs have not defined what "young" voters means, let alone how it warrants the heightened scrutiny or preferred treatment sought. Additionally, Plaintiffs' hand-picked data is just the "sort of statistical manipulation" that Courts routinely reject. *Brnovich*, 594 U.S. at 680-81 (2021). In support for their motion for extraordinary relief, Plaintiffs submit the Expert Report of Dr. Kenneth Mayer [D.E. 11-2]. Mayer's analysis conflates midterm

and presidential elections, and is otherwise riddled with inaccurate assumptions rendering his analysis unhelpful and misleading. For example, Mayer points to the fact that Guilford County had early voting sites on the NC A&T and UNCG campuses for the 2020 and 2024 primary and general elections. [*Id.* p.7]. But 2026 is a midterm election year with drastically different turnout numbers, requiring a different assessment of early voting sites than larger turnout presidential election years. In fact, even within the same election year the difference between party primaries and a general election typically leads to different numbers of sites. Mayer's own analysis confirms that neither NC A&T nor UNCG had on-campus early voting sites for the 2018 or 2022 midterm elections. [*Id.*]. The Old Courthouse, which is 1.6 miles away from the largest residential hall on NC A&T's campus, has served as the closest early voting site for midterm elections since 2018 and has markedly higher turnout rates than the on-campus site.

Mayer also conspicuously fails to report distances from certain historical early voting sites in the counties for comparison purposes. For example, Mayer complains that the Cullowhee Recreation Center is roughly two miles away from the largest residence hall at WCU, [*Id.* p.11-12], but fails to note that even the WCU HHS building—which is not a historical early voting site in Jackson County—is also a .6 mile walk from that specific residence hall.[19] Picking different sites on campus to calculate distance makes a difference.

Mayer's analysis of the Guilford County early voting sites suffers from similar flaws. The early voting site that Mayer complains of in Guilford County is less than a mile

[19] This fact may be judicially noticed. *United States v. Johnson,* 726 F.2d 1018, 1021 (4th Cir. 1984).

from both the Bennett College and Greensboro College. The 2024 NC A&T early voting site is approximately .8 miles from the dorm address where Davis resides. Mayer also uses the farthest residence hall to measure the distance to the nearest early voting site, the Old Courthouse, which is 1.5 miles from another large dorm. [*Id.* p.10]. These conclusions do not establish disparate impact, and they fail to carry Plaintiffs' burden in seeking an injunction.

Plaintiffs' recitation of the record in concluding a "departure" from ordinary practices is likewise mired with inadequacies. As an initial matter, the statutory process of N.C.G.S. §163-166.35 for approving these Plans was followed, and Plaintiffs have not and cannot show anything to the contrary. Instead, Plaintiffs attempt to cast doubt on peripheral actions relating to that process. But even these lack critical context. The statute itself contemplates submissions and feedback from county board members, a practice long predating Plaintiffs' challenges here. *See Anderson v. N. Carolina State Bd. of Elections*, 248 N.C. App. 1, 3 (2016); N.C.G.S. §163-166.35. And Plaintiffs fail to acknowledge that the State Board received volumes of emails from interested parties, including those submitted directly by the county board member petitioning for the Guilford County minority plan.

Finally, Plaintiffs' attempts to liken this situation to *McCrory* similarly falter. First, the claim that the Election Boards "ignored warnings" about speculative beliefs concerning the Plans' potential impact is far removed from the fact-specific record in *McCrory* regarding requests for and review of racial data. 831 F.3d at 230. There is simply nothing in the record reflecting that the county boards or State Board relied on age-based data in

enacting these voting plans. Coupled with the myriad available registration and voting options, the record reflects decisions backed by cognizable interests. And while Plaintiffs may attempt to downplay these justifications and interests as "implausible," conclusory labels are not a substitute for the actual evidence supporting these well-reasoned decisions.

CONCLUSION

For the foregoing reasons, Court should deny Plaintiffs' Motion for Preliminary Injunction.

Respectfully submitted, this the 4th day of February, 2026.

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CERTIFICATE OF COMPLIANCE

I hereby certify that this memorandum complies with the length and typeface requirements set forth in this Court's Local Rules, as it contains 6,231/6,250 words, excluding those portions exempted by the Rules, as indicated by the word processing software used in making this document, and the document is written in size 13, Times New Roman font.

Respectfully submitted this, the 4th day of February, 2026.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing has been served on all parties to this action by filing the same with the Court's CM/ECF system, which will send a notice of electronic filing to all counsel of record for the parties.

Respectfully submitted this, the 4th day of February, 2026.

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