



NORTH CAROLINA STATE BOARD OF ELECTIONS

COMPLAINT AGAINST COUNTY BOARD OF ELECTIONS MEMBER

P.O. Box 27255
Raleigh, NC
27611-7255
Mailing Address

legal
@ncsbe.gov
E-mail

(919) 814-0700 or
(866) 522-4723
Phone

(919) 715-0135
Fax

*Submitting fraudulently or falsely
completed declarations is a Class I
felony under Chapter 163 of the
General Statutes.*

Instructions (08 NCAC 03 .0101)

Any voter desiring to bring charges of a violation of the North Carolina Administrative Code or of Chapter 163 of the North Carolina General Statutes with the State Board of Elections against a member of any county board of elections may do so by filing with the Board a written statement, signed and sworn under oath or affirmation of the voter. The statement must contain:

- 1) the name, residence address, and county of the member against whom the charges are brought;
- 2) a statement of the facts constituting the violation alleged, with a reference to the date and place of such misconduct; and
- 3) the names and addresses of persons who have knowledge or information of the matters referred to in the charges as filed.

Visit <https://bit.ly/2Z89VtS> for all requirements.

STATE BOARD OF ELECTIONS

AUG 30 2022

1 Information About Person Filing Complaint

Kelley M. Lane

Orange

Name

County

101 Morningside Dr.

Address

Carrboro

NC

27510

City

State

Zip Code

klane418@gmail.com

919-357-8606

E-Mail Address

Telephone Number

2 Information about County Board Member Against Whom You are Filing a Complaint

Erica Porter, Angela Hawkins, Greg Flynn, Keith Weatherly, Gerry Cohen

Wake

Name

County

see section 3, Description of Violation

Address

NC

City

State

Zip Code

Date the alleged violation occurred:

5/26/2022

Place the alleged violation occurred:

Wake County Board of Elections bldg.
1200 N. New Hope Rd.
Raleigh, NC



3

**Description of
Violation**

Provide a statement of the facts constituting the violation alleged.

Be as specific as you can, providing all relevant facts and circumstances of the potential violations.

You should also include a citation to the applicable rule, law, or duty you believe has been violated. 08 NCAC 03 .0102 states that the State Board shall set a hearing if the charges preferred include prima facie evidence of any of the following: "(1) a violation of these Rules or of any election law under Chapter 163 of the North Carolina General Statutes; (2) a breach of a duty imposed by Chapter 163; or (3) participation in irregularities, incapacity, or incompetency to discharge the duties of the office." **Attach additional pages if needed.**



3

Description of
Violation
(continued)



NORTH CAROLINA

STATE BOARD OF ELECTIONS

PAGE 4 OF 4

4

Names &
Addresses of
Persons who
Have Knowledge
Related to the
Charges Filed

Provide the names and addresses, so far as you know, of persons who have knowledge or information of the matters referred to in the charges as filed.
Attach additional pages if necessary.

Nicholas Bernstein

Name #1

104 Windy Point Ln.

Address

Cary

NC

27518

City

State

Zip Code

Wake BOE staff present at 5/16/22 & 5/26/22 meetings

Name #2

Address

City

State

Zip Code

5

Attestation

I hereby swear or affirm, under penalty of perjury and other penalties established by North Carolina law, that the information provided in this complaint is true, correct, complete, and of my own personal knowledge, or if not, I believe the information to be true based upon the following:

STATE BOARD OF ELECTIONS

AUG 30 2022

X Kelley M. Lane

Signature of Complainant

8/26/22

Date

6

Notarization

State of North Carolina, County of Durham

Sworn to (or affirmed) and subscribed before me,

This 26th day of August, 2022

Signature of Notary Public:

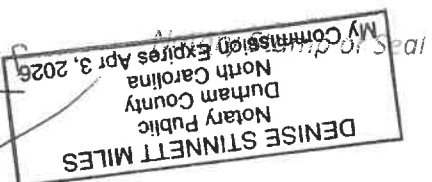
Denise Stinnett Miles

Printed Name of Notary Public:

Denise Stinnett Miles

My Commission Expires

04/03/2026



AUG 30 2022

Kelley Lane Complaint against Wake County Board of Elections Members

A complaint against the entire Board is being submitted, rather than individual complaints since the facts surrounding the complaint apply to all members; Erica Porter (Chair), Angela Hawkins (Secretary), Gerry Cohn, Keith Weatherly, and Greg Flynn.

The May 16, 2022 Wake Board of Elections meeting was quite memorable. There were only about 4 people in attendance (other than the board itself) and it began without incident. Chair, Erica Porter began the meeting with the Pledge of Allegiance, approval of the agenda, and approval of previous meeting minutes. She then took the unusual step of summarizing North Carolina General Statute § 163-34 regarding the power of the County Board of Elections to maintain order, which included the authority to eject people from the meeting. It was unusual, because according to Wake BOE minutes from the past few years, this statement had never been read at any of their meetings nor had they removed anyone from their meetings during this time period¹. Ms. Porter then opened the floor for public comments, stating that each person would be allowed 2 minutes to speak.

Dr. Nicholas Bernstein was the first person to speak. In the video I recorded from May 16, 2022.², you can clearly hear Dr. Bernstein calmly and professionally giving a public comment asking the Board to remove the ban issued by the Director of Elections, Gary Sims on May 14, 2022 against Dr. Bernstein's wife, Lynn Bernstein (founder of Transparent Elections NC), and against John Brakey (co-founder and Director of AUDIT USA). The trespass forms ban Ms. Bernstein and Mr. Brakey from going onto Wake BOE property ever again³. In the video, you can see Dr. Bernstein's legs at the podium as he is speaking and at the 1:52 second mark, the timer starts beeping and there is immediate shouting coming from the front of the room where the entire Board, Mr. Sims, and some BOE staff were seated. Dr. Bernstein attempts to finish his comment, but several seconds **before** the end of his allotted 2-minute time to speak, someone from the Board enlists the Sheriff's Deputy (hired security officer at Wake BOE building), to remove Dr. Bernstein from the meeting. Despite several people yelling over each other at Dr. Bernstein, he remains composed and briefly pauses as the deputy arrives at the podium and lets him know he is about to be escorted out. Dr. Bernstein politely indicates he will comply and then continues the last sentence of his prepared comments before silently

¹ Link. Wake BOE meeting minutes 2020 - 2022

<https://www.wakegov.com/departments-government/board-elections/about-board-elections/current-board-members>

² Link. Video. N Bernstein public comment at Wake BOE, May 16, 2022 <https://bit.ly/3AKzcMY>

³ Link. TENC Press Release: Lawsuit Filed Against Wake County Director of Elections and Board of Elections for Unconstitutional Retaliation Against Elections Observer <https://bit.ly/3v1gPzR>

being escorted out by the deputy, whose legs you can also see in the video. A transcript of this portion of the meeting is attached⁴.

The second video, recorded from Dr. Bernstein's car camera shows him being escorted out of the building by the Sheriff's Deputy.⁵

As you can imagine, a board frantically and unexpectedly removing a well-behaved member of the public before the end of his allotted comment time had quite an impact on me and seemed to have the same effect on the rest of the attendees. The room was nearly dead silent as they escorted Dr. Bernstein out of the building. The other people there to observe said nothing. After Dr. Bernstein was removed from the room Ms. Porter asked if anyone else wanted to speak. I went to the podium, but found it difficult to focus on what I had planned to say because I was stunned at the way the board of elections was conducting business, having a security guard remove someone who had not even reached their stated time limit and who was there on behalf of a well-respected election transparency advocate. It was an unnecessarily aggressive and preemptive action so I wasn't quite sure what they might do to me because they were clearly not following their own rules. I had prepared to give a 2-minute comment, but intentionally cut mine short for fear that I would also be ejected for asking the Board to remove the ban on the two dedicated election integrity advocates. The transcript of my public comment is attached.⁶

The following day at the May 17, 2022 meeting, which Dr. Bernstein and I both attended, Ms. Porter reminded everyone for the second time of the Board's authority to remove members of the public. Both of us gave public comments asking the Board to reconsider the lifetime ban of Lynn Bernstein, founder of Transparent Elections NC, and John Brakey, co-founder and Director of AUDIT USA. We both reminded the Board of their consequential action on May 16, 2022 when they removed Dr. Bernstein. When Dr. Bernstein spoke, the two-minute timer again sounded approximately 5 seconds early and Dr. Bernstein had to curtail his remarks at 1 minute and 55 seconds⁷. I began my public comment by letting the Board know that even though I frequently speak in public, I was feeling rattled by the hostile action the Board took the day before. I reminded the Board that the work that Ms. Bernstein and Mr. Brakey do has made a positive difference to our elections as well as increased people's confidence in our elections⁸.

Things happened so unexpectedly and chaotically at the May 16 meeting that even though I was sitting not far from the podium and took a video of what transpired, many details are still unclear. My hope was that the meeting minutes would provide some

⁴ Attachment A3 - transcript. Dr. Bernstein's public comment at the Wake BOE meeting, May 16, 2022

⁵ **Link. Video.** N Bernstein being escorted out of BOE by sheriff's deputy, May 16, 2022 video: <https://bit.ly/3Tddqsj>

⁶ Attachment A4: transcript. K Lane comment Wake BOE meeting, May 16, 2022, **Audio link:** <https://bit.ly/3TcnOk0>

⁷ Attachment A5: transcript. N Bernstein comment Wake BOE meeting, May 17, 2022, **Video link:** <https://bit.ly/3R3K2mv>

⁸ Attachment A6: transcript. K Lane comment Wake BOE meeting, May 17, 2022, **Video link:** <https://bit.ly/3AhrliR>

insight into the matter, such as the reason for Dr. Bernstein's removal, who enlisted the deputy to remove Dr. Bernstein, and if the actions were taken according to proper procedures.⁹

The reason for this complaint is that according to the May 26, 2022 meeting minutes ¹⁰, the entire Board voted to approve the minutes from the May 16 and May 17, 2022 meetings, which conspicuously omitted the events I have just described. The minutes approved for the May 16, 2022 meeting reflect that Ms. Porter reminded the public that the Board has the right to maintain order, but only states that "Chair Erica Porter opened the floor for public comments," with no mention of any action the Board took, much less an explanation or justification of that action. The public is not given access to the draft minutes and can only see the approved minutes once they are put online.

According to the UNC School of Government's Local Law Bulletin issued in 2019¹¹, "In North Carolina, the open meetings law imposes a number of legal requirements on the official meetings of public bodies.¹² One is that all public bodies must maintain "full and accurate minutes" of their official meetings per §143-318.10 (e)."¹³

The bulletin goes on to say that the decision in the case of *Maready v. City of Winston-Salem* "explained that a public body's minutes 'should contain mainly a record of what was *done* at the meeting, not what was said by the members.'"¹⁴ The court supported this conclusion by pointing to the purpose of minutes, which is "to provide a record of the actions taken by a board and evidence that the actions were taken according to proper procedures."¹⁵

The Wake Board of Elections does not broadcast their meetings live nor do they provide audio to the public after the meeting. Members of the public who are not in attendance must rely solely on meeting minutes to understand what actions are taken by the Board.

On May 26, 2022, the entire Board knowingly approved inaccurate meeting minutes even though every member of the Board was present and fully aware of the unforgettable events that transpired on May 16, 2022. The Board's participation in

⁹ Wake Board of Elections meeting minutes for May 16, 2022 - downloaded on Aug 23, 2022.
<https://s3.us-west-1.amazonaws.com/wakegov.com-if-us-west-1/documents/2022-05/05.16.22%20Board%20Meeting%20Minutes.pdf>

¹⁰ Wake Board of Elections meeting minutes for May 26, 2022 - downloaded on Aug 23, 2022.
<https://s3.us-west-1.amazonaws.com/wakegov.com-if-us-west-1/documents/2022-07/05.26.22%20Board%20Meeting%20Minutes.pdf>

¹¹ UNC School of Government, Local Law Bulletin, NO. 140, January 2019, "Full and Accurate" Minutes: A Primer
Trey Allen https://www.sog.unc.edu/sites/www.sog.unc.edu/files/reports/20180867_LGLB-140_Layout_5.pdf

¹² G.S. 143-318.9, - 318.18.

¹³ G.S. 143-318.10(e).

¹⁴ *emphasis added* Id. at 733 (quoting Robert's Rules of Order Newly Revised (hereinafter RONR) § 47, at 458 (9th ed. 1990)).

See also American Institute of Parliamentarians Standard Code of Parliamentary Procedure (hereinafter Standard Code) 229 (2012) ("Minutes are generally a record of all actions and proceedings but not a record of discussion.").

¹⁵ Id. See also Standard Code, *supra* note 7, at 227 ("Minutes are the legal history and record of official actions of an organization.").

willfully omitting their consequential action to the permanent record meets the threshold set for the State Board of Elections to remove every member of the Wake Board of Elections in accordance with GS 163-22 (c) and 08 NCAC 03 .0102.

Although prima facie evidence is required for *any* of the following violations in order to hold a hearing, the entire Board is guilty of all three:

1. A violation of § 163-31 (e) which requires the Board to keep meeting minutes. The Board Secretary is given extra responsibility, but that does not negate each board member's independent duty to ensure that accurate minutes are kept. Additionally, a violation to keep accurate records of Board actions while being constituted as in inferior court per § 163-34 Power of county board of elections to maintain order.
2. A breach of duty to keep the oath that each member of the Board took per GS 163-30 (e) to "*... well and truly execute the duties of the office of member of the [Wake] County Board of Elections to the best of my knowledge and ability, according to law.*" By law, in NC, all public boards have a duty to follow § 143-318.10.(e), also requiring them to keep full and accurate minutes.
3. The Board's intentional participation in irregularities to permanent Board of Election records as well as incompetency to discharge the duties of the office by not recording the Board's decisive and consequential action.

I am also requesting, in addition to the removal of all members of the Wake Board of Elections, that the meeting minutes be revised to reflect the actions taken by the Board on May 16, 2022, including stating which member or employee of the Wake Board of Elections enlisted the Sheriff's Deputy to remove Dr. Bernstein from the meeting before the end of his allotted speaking time, the reason for the preemptive action, and whether or not that action was taken according to proper procedures.

Regarding the amending of meeting minutes, the UNC School of Government's Local Law Bulletin issued in 2019 states that, "Consistent with the notion that the minutes should be full and accurate, longstanding decisions by the North Carolina Supreme Court allow the board to amend the minutes to reflect what actually took place. Indeed, in one case, the court went so far as to say that a board of county commissioners had "not only the privilege, but the duty" to make the amendments necessary to ensure "that [its] proceedings were accurately entered upon the minutes."¹⁶

¹⁶ 187 N.C. 320 (1924). The tax collector was also the sheriff.

Voters do not expect election officials or elections to be perfect, but we do expect that election officials have a minimum level of competency, conduct themselves ethically, and follow the law. If and when election officials do make mistakes or there are irregularities, voters expect that there will be a transparent admission and a correction of any irregularities to the permanent record.

Right now, in this country, confidence in elections is waning and every member of every Board of Elections in North Carolina has the duty to oversee and ensure that ALL election laws, rules, and procedures are followed. Every member of this Board should be removed immediately and new members should be appointed prior to the 2022 November election.

Removal from office may strike some as too harsh a penalty for incomplete and incorrect meeting minutes. But the larger issue is that every member of this board was willing to knowingly omit a serious incident that involved removal of an attendee by a security guard. They were willing to alter the facts and present those altered facts to the public as truth. The public must be able to depend on the integrity of board members and on the integrity of the minutes of their meetings. The failure of a Board to report consequential actions in **ANY** instance calls into question the accuracy and completeness of **ALL** records.

We would also like to request that the Wake Board of Elections be ordered to video record all future meetings and post those recordings in an easy-to-find and easily accessible place on its website so that the public can see for themselves what has transpired at each meeting.

Submitted by: Kelley Lane

Date: August 25, 2022

List of Attachments:

- A1. GS 163-34.pdf (1 page)
- A2. TENC 19 JULY 2022 press release.pdf (2 pages)
- A3. Dr. B comments 2022 MAY 16 Wake BOE transcribed.pdf (2 pages)
- A4. Kelley Lane transcript BOE May 16, 2022.pdf (1 page)
- A5. Dr. B comments 2022 MAY 17 Wake BOE transcript.pdf (1 page)
- A6. Kelley Lane transcript BOE May 17, 2022.pdf (1 page)
- A7. 2022 MAY 16 Wake Board Meeting Minutes.pdf (2 pages)
- A8. 2022 MAY 17 Wake Board Meeting Minutes.pdf (1 page)
- A9. 2022 MAY 26 Wake Board Meeting Minutes.pdf (4 pages)

- A10. GS143-318.9.pdf (1 page)
- A11. GS143-318.10.pdf (1 page)
- A12. GS163-22.pdf (1 page)
- A13. 08NCAC 03 .0102.html.pdf (1 page)
- A14. GS163-31.pdf (1 page)
- A15. GS163-30.pdf (2 pages)

Links to Videos:

May 16, 2022 video N Bernstein public comment: <https://bit.ly/3AKzcMY>

May 16, 2022 video N Bernstein being escorted out of BOE by sheriff's deputy:
<https://bit.ly/3Tddqsj>

May 16, 2022 audio K Lane public comments.mp4: <https://bit.ly/3TcnOk0>

May 17, 2022 video N Bernstein public comment.mp4": <https://bit.ly/3R3K2mv>

May 17, 2022 video K Lane public comments.mp4": <https://bit.ly/3AhrliR>

§ 163-34. Power of county board of elections to maintain order.

Each county board of elections shall possess full power to maintain order, and to enforce obedience to its lawful commands during its sessions, and shall be constituted an inferior court for that purpose. If any person shall refuse to obey the lawful commands of any county board of elections, or by disorderly conduct in its hearing or presence shall interrupt or disturb its proceedings, it may, by an order in writing, signed by its chairman, and attested by its secretary, commit the person so offending to the common jail of the county for a period not exceeding 30 days. Such order shall be executed by any sheriff to whom the same shall be delivered, or if a sheriff shall not be present, or shall refuse to act, by any other person who shall be deputed by the county board of elections in writing, and the keeper of the jail shall receive the person so committed and safely keep him for such time as shall be mentioned in the commitment: Provided, that any person committed under the provisions of this section shall have the right to post a two hundred dollar (\$200.00) bond with the clerk of the superior court and appeal to the superior court for a trial on the merits of his commitment. (1901, c. 89, s. 72; Rev., s. 4376; C.S., s. 5977; 1955, c. 871, s. 4; 1967, c. 775, s. 1; 2004-203, s. 57; 2017-6, s. 3; 2018-146, 3.1(a), (b).)



PRESS RELEASE JULY 19, 2022

Lawsuit Filed Against Wake County Director of Elections and Board of Elections for Unconstitutional Retaliation Against Elections Observer

Contact: Lynn Bernstein, Transparent Elections NC, 910-764-8328
Tyler Brooks, attorney, 336-707-8855

Case # 5:22-cv-00277-BO

Link to Complaint: <https://bit.ly/3B2uYRm>

RALEIGH, NC – A well-respected Wake County elections observer filed a lawsuit today against the Director of Elections for Wake County, Gary Sims; and against the Wake County Board of Elections, seeking relief and redress for actions that have deprived her of her constitutional rights. The Complaint lists several egregious actions by Director Sims and the board that were taken against Lynn Bernstein, founder of Transparent Elections NC, but focuses on a May 14th trespass notice issued to her, without cause, by order of Director Sims. This trespass notice has the effect of banning Ms. Bernstein for life from observing elections, attending Board of Elections meetings, serving as a poll worker, or voting in person at any early voting site or at her precinct because she will be arrested if she steps foot on property under the control of the Wake County Board of Elections.

The trespass notice was issued to Ms. Bernstein even though she never entered the open gate to the Board of Elections facility on May 14th, which is confirmed by surveillance video. She was looking for a legal place where she could hold a small, peaceful protest on Election Night to bring attention to the fact that Director Sims and the board do not allow public observation at the elections facility after the polls close at 7:30 pm. Election night is when the results poll tapes for early voting and absentee-by-mail should be available for public viewing. This is also the time when critical election materials are brought back to the board warehouse and the electronic vote count is sent to the state.

Ms. Bernstein brings exceptional qualifications to her role as an election observer and monitor. She is a trained International Elections Observer; a member of the Election Verification Network; a member of the National Voting Rights Task Force; a member of the Carter Center Advisory Council for Fair, Safe and Secure Elections in North Carolina; a Board Member of AUDIT USA Elections; and an active member of the Wake County Democratic Party, serving as a Board Member for the Democratic Women of Wake County and as a Member of the Executive Committee for the NC Democratic Party Disability Issues Caucus.

In addition, Ms. Bernstein's degree in Aerospace Engineering and her work experience in the aerospace industry allow her to use her technical experience to advocate for increased security, accuracy of election equipment and comprehensive uniform processes.

"I have never created a disturbance. I always act professionally and respectfully and have always followed the

law. I'm being singled out and punished for exercising my constitutional right to speak at board of election meetings and observe and improve elections procedures," Ms. Bernstein said. "Being trespassed and banned from election properties is a clear retaliation against me."

Ms. Bernstein's nonpartisan efforts have made a difference in North Carolina. To list just a few examples, she helped Guilford County save \$5.8 million by successfully advocating for its purchase of a hand-marked paper ballot voting system instead of more expensive and less secure ballot-marking devices for all voters. (Guilford County used the millions saved on raises for its school bus drivers and air conditioning in some of its schools.) The North Carolina State Board of Elections adopted her suggestion for improving the transparency of the selection process for randomly determining which precincts will be audited. And due to her advocacy, the State Board of Elections directed Wake County to correct its improper procedures for processing absentee-by-mail ballots, which drew the ire of Director Sims and the Wake County Board of Elections. Bernstein's advocacy also prompted a statewide directive from the State Board of Elections to ensure all counties were following the correct procedures for handling absentee-by-mail ballots.

Ms. Bernstein is a longtime advocate for evidence-based elections that are worthy of the public's trust. Director Sims and some members of the Wake County Board of Elections have expressed annoyance with Ms. Bernstein's attention to proper election procedures and best practices, and Director Sims has physically and verbally intimidated Ms. Bernstein on more than one occasion, including a witnessed incident that is described in the Complaint. The Complaint asks the court to revoke the trespass against Ms. Bernstein so that she may continue to pursue the civic duties that are so important to her and that benefit North Carolina elections and voters. The Complaint also seeks compensatory damages for the violation of Ms. Bernstein's constitutional rights.

"I do this work because I believe that for our democracy to survive, voters must have confidence in election results, which can only be achieved with elections that are transparent, trackable, robustly audited, and publicly verified," Bernstein said. "Everything I do is aimed at greater transparency, improved security, and increased voter confidence."

####

Link to Complaint: <https://bit.ly/3B2uYRm>

or open Complaint using this QR Code:



Erica Porter: We love hearing comments from the public, so if you have anything, this is your time. You have two minutes, as I said, and we are here to listen.

Nicholas Bernstein: Hi, my name is Nick Bernstein. I've made comments here before, but you will certainly know my wife, Lynn Bernstein. She's been coming to these meetings for several years. Her goal has always been to ensure that Wake County conducts fair and transparent elections. She has volunteered her time and engineering expertise to help discreetly identify potential problems in the election process and to educate people about how elections work. Our democracy depends on supporters of the losing candidate, believing in the integrity of the election. That starts with a process that is open to the... as open to the public as possible. For two years she has asked the board and the election director where observers should stand on election night to observe county-wide election processes as guaranteed by law, so as not to interfere with election workers. For two years she has been told that Wake County doesn't follow that law ---unlike the 99 other counties in North Carolina. So she came to this location on Saturday afternoon with John Brakey, the nationally known nonpartisan observer who oversaw the Arizona [audit, looking for an] election night observing location that was outside the BOE building. Instead, your election director Gary Sims called 911 and had formal trespassing charges levied against both of them. The officer involved has explained that if either of them step foot onto this property ever again, Mr. Sims will have them arrested. This is the second time Mr. Sims has made such a threat against my wife, which leads me to wonder why he's so fearful of public oversight. Mr. Sims is supposed to be acting on the board's behalf and their direction. No one on this board can seriously believe that either of those two dedicated

[beeping begins]

NB: public servants intended to interfere with the election. The easiest and

unknown: Thank you, your two minutes are up.

NB: least embarrassing resolution for this board is that

EP: Your two minutes are up.

unknown: Your time is up!

NB: this bogus trespassing charge reversed by a vote of the board.
I'm asking you

unknown: [inaudible]

unknown: This is exactly what we were talking about.

NB: any of you to call for the vote today. A Failure to do so
indicates that you endorse the

unknown: [inaudible]

NB: heavy-handed infringement of civil rights...

Officer Carter: Sir?

NB: Yes.

OC: [inaudible]

NB: You may.

Officer Carter: Okay.

NB: (addressing the board): You are

OC: Right now.

NB: infringing on the rights of individuals to observe this election.

Hi, my name is Kelley Lane and I am here to also speak on behalf of Audit Elections USA and I volunteer with both John Brakey and Lynn Bernstein. I just want to say that in these very hyper-partisan times I think we can all agree that transparency with our elections is really the solution to restore public trust in the elections. And actions like this, even if there's nothing wrong happening, it sure does like make everyone more suspicious so I hope that there can be a good resolution to this. I know both Lynn and John are very dedicated, so that's all I want to say, can't really say more than what Lynn's husband said but thank you.

Nicholas Bernstein: I am concerned that yesterday, in the chaos of interrupting me 1 minute and 52 seconds into my two minute prepared public comment, you may have missed the point of my statement. Allow me to reiterate.

Your Election Director has banned my wife, Lynn Bernstein, from entering this building. He has twice threatened to arrest her, because she wants to witness the countywide vote count - a right that is guaranteed by NC GS 163-182.2(a)(3).

Why would he do that?

I don't think it's personal. After all, the first time he made that threat, he hardly knew her and he has threatened other observers as well for doing their jobs. The most logical answer is because he doesn't want oversight from anyone and I get it. Because oversight is not fun. It's embarrassing when other people identify the problems that you have missed, or even the problems that you have caused inadvertently - for whatever reason.

But when the outcome is so important, you swallow your pride and you acknowledge that the election processes are not always executed perfectly. More oversight means more safety and greater public confidence.

Also, Lynn has been very discreet when pointing out significant problems. She gave Wake County time to stop processing absentee ballots illegally before bringing it to the attention of the State Board.

I am less patient and I am less discrete. Perhaps the Board would like to vote on allowing her to come back and make public comments herself or - at least discuss it.

On a different note, I'm glad to hear that

timer begins beeping at 1 min 53 seconds

Hi, my name is Kelley Lane. I was also here yesterday. I have to say that I did not expect to feel rattled by the situation. I've spoken at the National Press Club, I've interviewed candidates all across the country, but I was a little bit rattled because the situation seems a little hostile and that seems very counterproductive to me. I'm also here on behalf of Lynn Bernstein; I encourage everyone to go to <https://TransparentElectionsNC.org> and read about her work and her goals and also I'm here for John Brakey, who was also issued a trespass citation and that is <https://AUDITElectionsUSA.org> and I encourage everyone to go and look there. He has been key in making things better in our elections for years. He's been a big part of a bill that they're trying to pass in Arizona - that is a bi-partisan bill, which is a huge accomplishment in this climate. So, also on the way over here, I listened to an interview with Gary Sims, who I don't know. I've never met him, but an interview with the EAC and it was a lot of talk about - he was concerned about outreach and getting people invested in elections and recruiting poll workers. Transparency is so important here - it's not an option, so. I can assure you that John Brakey and Lynn Bernstein, the last thing they want to do is interfere with elections or make your job harder, so keep that in mind and please check out their work. They're very dedicated and they want the best outcome. Thank you very much.

MINUTES
May 16, 2022
2:00 P.M.
Wake County Board of Elections

Chair Erica Porter called the regularly scheduled meeting of the Wake County Board of Elections to order at 2:00 p.m. Present for the meeting were Erica Porter, Keith Weatherly, Greg Flynn, Angela Hawkins, Gerry Cohen, Director Gary Sims, Deputy Director Olivia McCall, and staff members Spencer Berg, Evan Wingate, Bailey Gardner, Andrew Haden, Jacqueline Cameron, Matt Guess, and Chris Brown.

The Board led the Pledge of Allegiance.

On motion by Angela Hawkins, second by Greg Flynn, the Board approved the agenda as presented.

On motion by Gerry Cohen, second by Keith Weatherly, the Board approved the minutes from the May 10, 2022, Board Meeting.

Chair Erica Porter read GS § 163-34 regarding the power of the County Board of Elections to maintain order.

Chair Erica Porter opened the floor for public comments.

Director Gary Sims presented 2,051 Civilian Absentee Ballot Container Envelopes, 53 Overseas Ballots, and 2 Military Ballots for the Board to review.

Before review, on motion by Angela Hawkins, second by Greg Flynn, the Board unanimously agreed to direct staff to open, flatten, and straighten the approved ballots as they undergo review.

After review, on motion by Angela Hawkins, second by Greg Flynn, the Board unanimously approved the 2,051 Civilian Absentee ballots, 53 Overseas Absentee Ballots, and 2 Military Absentee Ballots and directed staff to continue to open, flatten, and straighten the approved absentee ballots and run them through the DS850 High Speed Tabulator.

Director Gary Sims and Deputy Director Olivia McCall presented 5 Civilian Absentee Ballots with issues needing Board review.

After review, on motion by Angela Hawkins, second by Greg Flynn, the Board unanimously agreed to deny Absentee Ballots CIV-269, CIV-1858, CIV-5725, and CIV-4481.

On motion by Gerry Cohen, second by Greg Flynn, the Board unanimously agreed to approve Absentee Ballot CIV-5491.

Director Gary Sims and Deputy Director Olivia McCall presented 10 Civilian Absentee Ballots with Incomplete Witness Information.

After review, on motion by Angela Hawkins, second by Greg Flynn, the Board unanimously denied the 10 Civilian Absentee Ballots with Incomplete Witness Information.

On motion by Angela Hawkins, second by Gerry Cohen, the Board unanimously agreed to add 1 approved Civilian Absentee Ballot, CIV-5491, making a grand total of 2,107 to be opened, flattened, straightened, and run through the DS850 High Speed Tabulator.

On motion by Keith Weatherly, second by Angela Hawkins, the Board approved and signed the Logic and Accuracy testing of the DS200, AutoMark, and DS850 tabulators.

On motion by Greg Flynn, second by Angela Hawkins, the board unanimously approved the presented list of Election Day Precinct Officials and substitute Officials.

The Board replicated one emergency bin ballot.

Director Gary Sims presented the zero report, count report, and the voted ballot boxes for the Board's signature.

Director Gary Sims and Deputy Director Olivia McCall presented 41 Civilian Absentee Ballots and 4 Overseas Absentee Ballots that were received before the 5PM cutoff.

On motion by Greg Flynn, second by Angela Hawkins, the Board unanimously approved the 41 Civilian Absentee ballots, and 4 Overseas Absentee Ballots and directed staff to continue to open, flatten, and straighten the approved absentee ballots and run them through the DS850 High Speed Tabulator.

The Board signed the reports and ballot boxes.

On motion by Greg Flynn, second by Keith Weatherly, the Board unanimously approved 2,152 Absentee Ballots presented at today's meeting.

On motion by Greg Flynn, second by Angela Hawkins, the Board unanimously approved the combined Absentee and Early Voting totals.

The Chair signed the Civilian and Military Absentee Oaths.

Being no further business, the Board adjourned the meeting at 5:26 p.m.

Respectfully submitted,

Angela Hawkins, Secretary

Wake County Board of Elections

MINUTES
May 17, 2022
2:00 P.M.
Wake County Board of Elections

Chair Erica Porter called the regularly scheduled meeting of the Wake County Board of Elections to order at 2:00 p.m. Present for the meeting were Erica Porter, Keith Weatherly, Greg Flynn, Angela Hawkins, Gerry Cohen, Director Gary Sims, Deputy Director Olivia McCall, and staff members Spencer Berg, Evan Wingate, Bailey Gardner, Lauren Nelson, Laura Russell, Jacqueline Cameron, Matt Guess, and Chris Brown.

The Board led the Pledge of Allegiance.

Board member Angela Hawkins motioned to make an addition to the Agenda for Numbered Memo 2022-05 regarding Board challenges. Keith Weatherly second, the Board unanimously approved.

Director Gary Sims informed the Board that there were no ballots meeting the Board Challenge threshold laid out in Numbered Memo 2022-05.

Chair Erica Porter opened the floor for public comments.

On motion by Angela Hawkins, second by Greg Flynn, the Board unanimously agreed to directed staff to close Early Voting polls and print the tabulator tapes.

After review, the Board signed the Early Voting tabulator tapes.

On motion by Greg Flynn, second by Angela Hawkins, the Board unanimously approved the Early Voting tabulator tapes, final count, and Absentee Abstract.

Being no further business, the Board adjourned the meeting at 3:27 p.m.

Respectfully submitted,

Angela Hawkins, Secretary

Wake County Board of Elections

MINUTES
May 26, 2022
11:00 A.M.
Wake County Board of Elections

Chair Erica Porter called the meeting of the Wake County Board of Elections to order at 11:00 a.m. Present for the meeting were Erica Porter, Keith Weatherly, Greg Flynn, Angela Hawkins, Gerry Cohen, Director Gary Sims, Deputy Director Olivia McCall, and staff members Spencer Berg, Evan Wingate, Bailey Gardner, Lauren Nelson, Laura Russell, Jacqueline Cameron, Matt Guess, Andrew Haden, Chris Brown, Mary Cole, Morgan Chance, Audrey Wallace, and Wil Broadwell.

The Board led the Pledge of Allegiance.

On motion by Angela Hawkins, second by Keith Weatherly, the Board approved the agenda as presented.

On motion by Greg Flynn, second by Keith Weatherly, the Board approved the minutes from the May 16, 2022 and May 17, 2022 Board Meetings.

Chair Erica Porter opened the floor for public comments.

On motion by Angela Hawkins, second by Greg Flynn, the board directed two bipartisan teams of Precinct Officials to begin the sample hand-eye audit of precincts 01-36 and 16-07. Director Gary Sims will send the results to the North Carolina State Board of Elections.

Director Gary Sims presented 873 Civilian, 12 Military and 20 Overseas Absentee Ballots for the board to review.

Before review, on motion by Gerry Cohen, second by Angela Hawkins, the Board unanimously directed staff to open, flatten, straighten the approved Absentee Ballots as they undergo review.

After review, on motion by Angela Hawkins, second by Greg Flynn, the Board unanimously approved the 873 Civilian Absentee ballots, 20 Overseas Absentee Ballots, and 12 Military Absentee Ballots and directed staff to continue to open, flatten, and straighten the approved absentee ballots and run them through the DS850 High Speed Tabulator.

Director Gary Sims and Deputy Director Olivia McCall presented 5 Civilian Absentee Ballots with issues needing Board review.

After review, on motion by Greg Flynn, second by Angela Hawkins, the Board unanimously agreed to deny Absentee Ballots CIV-5067, CIV-6173, and CIV-3658 and approve Absentee Ballots CIV-2447 and CIV-4532.

On motion by Greg Flynn, second by Angela Hawkins, the Board unanimously agreed to add the 2 approved Civilian Absentee Ballots making a grand total of 907 to be opened, flattened, straightened, and run through the DS850 High Speed Tabulator.

Deputy Director Olivia McCall presented 12 Absentee Ballots with missing witness information.

After review, on motion by Greg Flynn, second by Gerry Cohen, the board unanimously agreed to deny the 12 Absentee Ballots missing witness information.

Deputy Director Olivia McCall presented 112 Civilian Absentee Ballots received on May 18, 2022, with no postmark for the board to review.

On motion by Greg Flynn, second by Gerry Cohen, the Board unanimously approved CIV-5267 after finding a valid postmark dated May 17, 2022.

On motion by Greg Flynn, second by Gerry Cohen, the Board unanimously agreed to deny the other 111 received after Election Day with no postmark.

Deputy Director Olivia McCall presented 17 Civilian Absentee Ballots received after deadline for the Board to review.

After review, on motion by Greg Flynn, second by Angela Hawkins, the Board unanimously agreed to deny the 17 Absentee Ballots.

Deputy Director Olivia McCall presented 20 Civilian Absentee Ballots with postmarks after election day for the Board to review.

After review, on motion by Angela Hawkins, second by Gerry Cohen, the Board unanimously agreed to deny the 20 Absentee Ballots.

Deputy Director Olivia McCall presented 19 Civilian Absentee Ballots received after the May 20th deadline for the Board to review.

After review, on motion by Angela Hawkins, second by Greg Flynn, the Board unanimously agreed to deny the 19 Absentee Ballots.

On motion by Greg Flynn, second by Angela Hawkins, the Board unanimously agreed to direct staff to open, flatten, and straighten the 908 Absentee Ballots and run through the DS850 High Speed Tabulator.

Staff Members Laura Russell and Lauren Nelson presented 993 Provisional Ballots for the Board to review, including 460 recommended for approval.

On motion by Greg Flynn, second by Angela Hawkins, the Board unanimously agreed to approve the 460 Provisional ballots and to open, flatten, and straighten.

On motion by Angela Hawkins, second by Greg Flynn, the Board unanimously directed staff to open, flatten, straighten, and replicate 115 partially approved Provisional ballots.

On motion by Angela Hawkins, second by Gerry Cohen, the Board unanimously agreed to deny 215 Provisional Ballots with the wrong party.

On motion by Greg Flynn, second by Angela Hawkins, the Board unanimously agreed to deny 66 Provisional Ballots due to the voter not being registered in Wake County.

The Board replicated 2 emergency bin ballots that could not be run through the DS850 High Speed Tabulator.

On motion by Angela Hawkins, second by Gerry Cohen, the Board unanimously agrees to deny 58 Provisional Ballots due to the voter's registration being removed because they registered in another county or state.

On motion by Greg Flynn, second by Angela Hawkins, the Board unanimously agreed to deny 48 Provisional Ballots due to the voter registering after the April 22, 2022, Voter Registration Deadline.

On motion by Greg Flynn, second by Keith Weatherly, the Board unanimously agreed to deny 7 Provisional Ballots due to the voter having lived outside of Wake County for more than 30 days.

On motion by Angela Hawkins, second by Keith Weatherly, the Board unanimously agreed to deny 6 Provisional Ballots due to the voter being denied registration due to mailings coming back undeliverable.

On motion by Greg Flynn, second by Angela Hawkins, the Board unanimously agreed to deny 1 Provisional Ballot due to the voter living in Wake County for less than 30 days.

The Board was presented with 17 Provisional Ballots for review.

On motion by Keith Weatherly, second by Angela Hawkins, the Board unanimously agreed to conditionally deny 5 Provisional Ballots due to the voter being unable to provide required identification.

On motion by Greg Flynn, second by Angela Hawkins, the Board unanimously agreed to deny 2 Provisional Ballots due to unverifiable address.

On motion by Greg Flynn, second by Angela Hawkins, the Board unanimously agreed to approve 2 Provisional Ballots where a parent and child who have the same name voted on the incorrect ATV.

On motion by Angela Hawkins, second by Greg Flynn, the Board unanimously approved 2 Provisional Ballot and directed staff to correct the Early Voting site tally sheet due to a curbside official mistakenly inserting a blank ballot into the tabulator.

On motion by Greg Flynn, second by Gerry Cohen, the Board unanimously agreed to approve 2 Provisional Ballots where the voter received an ATV, did not receive a ballot, left the voting enclosure, and returned later to vote provisionally.

On motion by Gerry Cohen, second by Keith Weatherly, the Board unanimously agreed to deny 1 Provisional Ballot due to the voter casting a blank ballot at an Early Voting site and returning days later to vote provisionally.

On motion by Greg Flynn, second by Angela Hawkins, the Board unanimously agreed to deny 1 Provisional Ballot because the voter had already voted.

On motion by Greg Flynn, second by Angela Hawkins, the Board unanimously agreed to deny 1 Provisional Ballot due to a voter being ineligible because of a felony conviction.

On motion by Greg Flynn, second by Angela Hawkins, the Board unanimously agreed to deny 1 Provisional Ballot due to a voter voting provisionally at an Early Voting site without acceptable documentation for same day registration but came back days later with acceptable documentation and voted a non-provisional ballot.

The Board signs the Civilian, Military, and Overseas zero report, count report, results, and ballot boxes.

On motion by Greg Flynn, second by Angela Hawkins, the Board unanimously agreed to direct staff to open, flatten, straighten, and tabulate all approved Provisional Ballots.

Director Gary Sims informed the Board of three reconciliation issues. Precinct 01-20 accidentally fed a ballot twice, 1 emergency bin ballot from Chavis Community Center Early Voting site, and lastly to manually tally and add one ballot to Optimist Early Voting numbers where there was a ballot jam and the ballot was not counted.

On motion by Greg Flynn, second by Angela Hawkins, the Board unanimously agreed to direct staff to rerun precinct 01-20 through the DS850 High Speed Tabulator, run 1 ballot from Chavis Community Center and add it to the totals, and to manually tally one ballot and add to the Optimist Early Voting numbers.

Director Gary Sims presented the Board with 1 additional Civilian Absentee Cure received before the deadline.

On motion by Greg Flynn, second by Gerry Cohen, the Board unanimously agreed to approve CIV-2127 and to open, flatten, straighten, and run through the DS850 High Speed Tabulator.

Director Gary Sims informed the Board that the Hand-Eye count was 100% accurate.

The Board signed the zero report, count report, results report, and ballot boxes.

Being no further business, the Board adjourned the meeting at 3:13 p.m.

Respectfully submitted,

Angela Hawkins, Secretary
Wake County Board of Elections

Article 33C.

Meetings of Public Bodies.

§ 143-318.9. Public policy.

Whereas the public bodies that administer the legislative, policy-making, quasi-judicial, administrative, and advisory functions of North Carolina and its political subdivisions exist solely to conduct the people's business, it is the public policy of North Carolina that the hearings, deliberations, and actions of these bodies be conducted openly. (1979, c. 655, s. 1.)

§ 143-318.10. All official meetings of public bodies open to the public.

(a) Except as provided in G.S. 143-318.11, 143-318.14A, and 143-318.18, each official meeting of a public body shall be open to the public, and any person is entitled to attend such a meeting. Remote meetings conducted in accordance with G.S. 166A-19.24 shall comply with this subsection even if all members of the public body are participating remotely.

(b) As used in this Article, "public body" means any elected or appointed authority, board, commission, committee, council, or other body of the State, or of one or more counties, cities, school administrative units, constituent institutions of The University of North Carolina, or other political subdivisions or public corporations in the State that (i) is composed of two or more members and (ii) exercises or is authorized to exercise a legislative, policy-making, quasi-judicial, administrative, or advisory function. In addition, "public body" means the governing board of a "public hospital" as defined in G.S. 159-39 and the governing board of any nonprofit corporation to which a hospital facility has been sold or conveyed pursuant to G.S. 131E-8, any subsidiary of such nonprofit corporation, and any nonprofit corporation owning the corporation to which the hospital facility has been sold or conveyed.

(c) "Public body" does not include (i) a meeting solely among the professional staff of a public body, or (ii) the medical staff of a public hospital or the medical staff of a hospital that has been sold or conveyed pursuant to G.S. 131E-8.

(d) "Official meeting" means a meeting, assembly, or gathering together at any time or place or the simultaneous communication by conference telephone or other electronic means of a majority of the members of a public body for the purpose of conducting hearings, participating in deliberations, or voting upon or otherwise transacting the public business within the jurisdiction, real or apparent, of the public body. However, a social meeting or other informal assembly or gathering together of the members of a public body does not constitute an official meeting unless called or held to evade the spirit and purposes of this Article.

(e) Every public body shall keep full and accurate minutes of all official meetings, including any closed sessions held pursuant to G.S. 143-318.11. Such minutes may be in written form or, at the option of the public body, may be in the form of sound or video and sound recordings. When a public body meets in closed session, it shall keep a general account of the closed session so that a person not in attendance would have a reasonable understanding of what transpired. Such accounts may be a written narrative, or video or audio recordings. Such minutes and accounts shall be public records within the meaning of the Public Records Law, G.S. 132-1 et seq.; provided, however, that minutes or an account of a closed session conducted in compliance with G.S. 143-318.11 may be withheld from public inspection so long as public inspection would frustrate the purpose of a closed session. (1979, c. 655, s. 1; 1985 (Reg. Sess., 1986), c. 932, s. 4; 1991, c. 694, ss. 1, 2; 1993 (Reg. Sess., 1994), c. 570, s. 1; 1995, c. 509, s. 135.2(p); 1997-290, s. 1; 1997-456, s. 27; 2011-326, s. 8; 2020-3, s. 4.31(b).)

§ 163-22. Powers and duties of State Board of Elections.

(a) The State Board of Elections shall have general supervision over the primaries and elections in the State, and it shall have authority to make such reasonable rules and regulations with respect to the conduct of primaries and elections as it may deem advisable so long as they do not conflict with any provisions of this Chapter.

(b) From time to time, the State Board shall publish and furnish to the county boards of elections and other election officials a sufficient number of indexed copies of all election laws and State Board rules and regulations then in force. It shall also publish, issue, and distribute to the electorate such materials explanatory of primary and election laws and procedures as the State Board shall deem necessary.

(c) The State Board of Elections shall appoint, in the manner provided by law, all members of the county boards of elections and advise them as to the proper methods of conducting primaries and elections. The State Board shall require such reports from the county boards and election officers as are provided by law, or as are deemed necessary by the State Board, and shall compel observance of the requirements of the election laws by county boards of elections and other election officers. In performing these duties, the State Board shall have the right to hear and act on complaints arising by petition or otherwise, on the failure or neglect of a county board of elections to comply with any part of the election laws imposing duties upon such a board. The State Board of Elections shall have power to remove from office any member of a county board of elections for incompetency, neglect or failure to perform duties, fraud, or for any other satisfactory cause. Before exercising this power, the State Board shall notify the county board member affected and give that member an opportunity to be heard. When any county board member shall be removed by the State Board of Elections, the vacancy occurring shall be filled by the State Board of Elections.

(d) The State Board of Elections shall investigate when necessary or advisable, the administration of election laws, frauds and irregularities in elections in any county and municipality and special district, and shall report violations of the election laws to the Attorney General or district attorney or prosecutor of the district for further investigation and prosecution.

(e) The State Board of Elections shall determine, in the manner provided by law, the form and content of ballots, instruction sheets, pollbooks, tally sheets, abstract and return forms, certificates of election, and other forms to be used in primaries and elections. The State Board shall furnish to the county boards of elections the registration application forms required pursuant to G.S. 163-82.3. The State Board of Elections shall direct the county boards of elections to purchase a sufficient quantity of all forms attendant to the registration and elections process. In addition, the State Board shall provide a source of supply from which the county boards of elections may purchase the quantity of pollbooks needed for the execution of its responsibilities. In the preparation of ballots, pollbooks, abstract and return forms, and all other forms, the State Board of Elections may call to its aid the Attorney General of the State, and it shall be the duty of the Attorney General to advise and aid in the preparation of these books, ballots and forms.

(f) The State Board of Elections shall prepare, print, distribute to the county boards of elections all ballots for use in any primary or election held in the State which the law provides shall be printed and furnished by the State to the counties. The State Board shall instruct the county boards of elections as to the printing of county and local ballots.

(g) The State Board of Elections shall certify to the appropriate county boards of elections the names of candidates for district offices who have filed notice of candidacy with the State Board and whose names are required to be printed on county ballots.

(h) It shall be the duty of the State Board of Elections to tabulate the primary and election returns, to declare the results, and to prepare abstracts of the votes cast in each county in the State for offices which, according to law, shall be tabulated by the State Board.

(i) The State Board of Elections shall make recommendations to the Governor and legislature relative to the conduct and administration of the primaries and elections in the State as it may deem advisable.

(j) Notwithstanding the provisions of any other section of this Chapter, the State Board of Elections is empowered to have access to any ballot boxes and their contents, any voting machines and their contents, any registration records, pollbooks, voter authorization cards or voter lists, any lists of absentee voters, any lists of presidential registrants under the Voting Rights Act of 1965 as amended, and any other voting equipment or similar records, books or lists in any precinct, county, municipality or electoral district over whose elections it has jurisdiction or for whose elections it has responsibility.

(j1) Notwithstanding G.S. 153A-98 or any other provision of law, all officers, employees, and agents of a county board of elections are required to give to the State Board of Elections, upon request, all information, documents, and data within their possession, or ascertainable from their records, including any internal investigation or personnel documentation and are required to make available, upon request pursuant to an investigation under subsection (d) of this section, any county board employee for interview and to produce any equipment, hardware, or software for inspection. These requirements are mandatory and shall be timely complied with as specified in a request made by any four members of the State Board.

(k) Notwithstanding the provisions contained in Article 20 or Article 21A of Chapter 163 the State Board of Elections shall be authorized, by resolution adopted prior to the printing of the primary ballots, to reduce the time by which absentee ballots are required to be printed and distributed for the primary election from 50 days to 45 days. This authority shall not be authorized for absentee ballots to be voted in the general election, except if the law requires ballots to be available for mailing 60 days before the general election, and they are not ready by that date, the State Board of Elections shall allow the counties to mail them out as soon as they are available.

(l) Notwithstanding any other provision of law, in order to obtain judicial review of any decision of the State Board of Elections rendered in the performance of its duties or in the exercise of its powers under this Chapter, the person seeking review must file his petition in the Superior Court of Wake County.

(m) The State Board of Elections shall provide specific training to county boards of elections regarding rules for registering students.

(n) The State Board of Elections shall promulgate minimum requirements for the number of pollbooks, voting machines and curbside ballots to be available at each precinct, such that more of such will be available at general elections and a sufficient number will be available to allow voting without excessive delay. The State Board of Elections shall provide for a training and screening program for chief judges and judges. The State Board shall provide additional testing of voting machines to ensure that they operate properly even with complicated ballots.

(o) The State Board of Elections shall require counties with voting systems to have sufficient personnel available on election day with technical expertise to make repairs in such equipment, to investigate election day problems, and assist in curbside voting.

(o1) The State Board of Elections shall include in all forms prepared by the Board a prominent statement that submitting fraudulently or falsely completed declarations is a Class I felony under Chapter 163 of the General Statutes.

(p) The State Board of Elections may assign responsibility for enumerated administrative matters to the Executive Director by resolution, if that resolution provides a process for the State Board to review any administrative decision made by the Executive Director.

(q) Nothing in this Chapter shall grant authority to the State Board of Elections to alter, amend, correct, impose, or substitute any plan apportioning or redistricting State legislative or congressional districts other than a plan imposed by a court under G.S. 120-2.4 or a plan enacted by the General Assembly.

(r) Nothing in this Chapter shall grant authority to the State Board of Elections to alter, amend, correct, impose, or substitute any plan apportioning or redistricting districts for a unit of local government other than a plan imposed by a court, a plan enacted by the General Assembly, or a plan adopted by the appropriate unit of local government under statutory or local act authority. (1901, c. 89, ss. 7, 11; Rev., ss. 4302, 4305; 1913, c. 138; C.S., ss. 5923, 5926; 1921, c. 181, s. 1; 1923, c. 196; 1933, c. 165, ss. 1, 2; 1945, c. 982; 1953, c. 410, s. 2; 1967, c. 775, s. 1; 1973, c. 47, s. 2; c. 793, s. 2; 1975, c. 19, s. 65; 1977, c. 661, s. 6; 1979, c. 411, s. 1; 1981, c. 556; 1985 (Reg. Sess., 1986), c. 986, ss. 2, 3; 1987, c. 485, ss. 2, 5; c. 509, s. 9; c. 642, s. 3; 1989, c. 635, s. 5; 1991, c. 727, ss. 5.2, 7; 1993 (Reg. Sess., 1994), c. 762, s. 12; 1995, c. 509, s. 114; 1999-424, s. 7(a); 2001-398, s. 4; 2009-537, s. 10; 2009-541, s. 1; 2011-31, s. 15; 2011-182, s. 3; 2016-125, 4th Ex. Sess., s. 20(b); 2017-6, s. 3; 2018-13, s. 3.2(a), (b); 2018-144, s. 1.4A; 2018-146, s. 3.1(a), (b).)

08 NCAC 03 .0102 CHARGES

(a) Upon receipt of a charge filed against a county board member in accordance with Rule .0101 of this Section, the State Board of Elections shall set a hearing if the charges preferred includes prima facie evidence of any of the following:

- (1) a violation of these Rules or of any election law under Chapter 163 of the North Carolina General Statutes;
- (2) a breach of a duty imposed by Chapter 163; or
- (3) participation in irregularities, incapacity or incompetency to discharge the duties of the office.

(b) The State Board of Elections shall give notice by mail to the county board member against whom the charges are preferred, by mail of such charges and name a day and place for the hearing thereof.

*History Note: Authority G.S. 163-22(c);
Eff. March 12, 1976;
Readopted Eff. June 1, 2019.*

§ 163-31. Meetings of county boards of elections; quorum; minutes.

(a) In each county of the State the members of the county board of elections shall meet at the courthouse or board office at noon on the Tuesday following the third Monday in July in the year of their appointment and, after taking the oath of office provided in G.S. 163-30, they shall organize by electing one member secretary of the county board of elections.

(b) On the Tuesday following the third Monday in August of the year in which they are appointed the county board of elections shall meet and appoint precinct chief judges and judges of elections.

(c) The board may hold other meetings at such times as the chair of the board, or any three members thereof, may direct, for the performance of duties prescribed by law.

(d) A majority of the members shall constitute a quorum for the transaction of board business. The chair shall notify, or cause to be notified, all members regarding every meeting to be held by the board.

(e) The county board of elections shall keep minutes recording all proceedings and findings at each of its meetings. The minutes shall be recorded in a book which shall be kept in the board office and it shall be the responsibility of the secretary, elected by the board, to keep the required minute book current and accurate. The secretary of the board may designate the director of elections to record and maintain the minutes under the secretary's supervision. (1901, c. 89, s. 11; Rev., ss. 4304, 4306; C.S., ss. 5925, 5927; 1921, c. 181, s. 2; 1923, c. 111, s. 1; 1927, c. 260, s. 1; 1933, c. 165, s. 2; 1941, c. 305, s. 1; 1945, c. 758, s. 2; 1953, c. 410, s. 1; c. 1191, s. 2; 1957, c. 182, s. 1; 1959, c. 1203, s. 1; 1966, Ex. Sess., c. 5, s. 2; 1967, c. 775, s. 1; 1969, c. 208, s. 2; 1975, c. 159, s. 2; 1977, c. 626; 1983, c. 617, s. 3; 1993 (Reg. Sess., 1994), c. 762, s. 13; 1995, c. 243, s. 1; 2016-125, 4th Ex. Sess., s. 5(i); 2017-6, ss. 2, 3, 7(i); 2018-146, ss. 3.1(a), (b), 4.3(b).)

Article 4.

County Boards of Elections.

§ 163-30. County boards of elections; appointments; terms of office; qualifications; vacancies; oath of office; instructional meetings.

(a) In every county of the State there shall be a county board of elections, to consist of five persons of good moral character who are registered voters in the county in which they are to act. Members of county boards of elections shall be appointed by the State Board of Elections on the last Tuesday in June, and every two years thereafter, and their terms of office shall continue for two years from the specified date of appointment and until their successors are appointed and qualified. Four members of county boards of elections shall be appointed by the State Board on the last Tuesday in June and every two years thereafter, and their terms of office shall continue for two years from the specified date of appointment and until their successors are appointed and qualified. One member of the county boards of elections shall be appointed by the Governor to be the chair of the county board on the last Tuesday in June and every two years thereafter, and that member's term of office shall continue for two years from the specified date of appointment and until a successor is appointed and qualified. Of the appointments to each county board of elections by the State Board, two members each shall belong to the two political parties having the highest number of registered affiliates as reflected by the latest registration statistics published by the State Board.

(b) No person shall be eligible to serve as a member of a county board of elections who meets any of the following criteria:

- (1) Holds any elective office under the government of the United States, or of the State of North Carolina or any political subdivision thereof.
- (2) Holds any office in a state, congressional district, county or precinct political party or organization. Provided, however, that the position of delegate to a political party convention shall not be considered an office for the purpose of this subdivision.
- (3) Is a campaign manager or treasurer of any candidate or political party in a primary or election.
- (4) Is a candidate for nomination or election.
- (5) Is the wife, husband, son, son in law, daughter, daughter in law, mother, mother in law, father, father in law, sister, sister in law, brother, brother in law, aunt, uncle, niece, or nephew of any candidate for nomination or election. Upon any member of the board of elections becoming ineligible, that member's seat shall be declared vacant. This subdivision only applies if the county board of elections is conducting the election for which the relative is a candidate.

(c) The State chair of the two political parties having the highest number of registered affiliates as reflected by the latest registration statistics published by the State Board shall have the right to recommend to the State Board three registered voters in each county for appointment to the board of elections for that county. If such recommendations are received by the State Board 15 or more days before the last Tuesday in June 2019, and each two years thereafter, it shall be the duty of the State Board to appoint the county boards from the names thus recommended.

(d) Whenever a vacancy occurs in the membership of a county board of elections for any cause the State chair of the political party of the vacating member shall have the right to recommend two registered voters of the affected county for such office, and it shall be the duty of the State Board to fill the vacancy from the names thus recommended.

(e) At the meeting of the county board of elections required by G.S. 163-31 to be held on Tuesday following the third Monday in July in the year of their appointment the members shall take the following oath of office:

"I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina and to the constitutional powers and authorities which are or may be established for the government thereof; that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States; and that I will well and truly execute the duties of the office of member of the _____ County Board of Elections to the best of my knowledge and ability, according to law; so help me God."

(f) Each member of the county board of elections shall attend each instructional meeting held pursuant to G.S. 163-46, unless excused for good cause by the chair of the board, and shall be paid the sum of twenty five dollars (\$25.00) per day for attending each of those meetings. (1901, c. 89, ss. 6, 11; Rev., ss. 4303, 4304, 4305; 1913, c. 138; C.S., ss. 5924, 5925, 5926; 1921, c. 181, s. 1; 1923, c. 111, s. 1; c. 196; 1933, c. 165, s. 2; 1941, c. 305, s. 1; 1945, c. 758, ss. 1, 2; 1949, c. 672, s. 1; 1953, c. 410, ss. 1, 2; c. 1191, s. 2; 1955, c. 871, s. 1; 1957, c. 182, s. 1; 1959, c. 1203, s. 1; 1967, c. 775, s. 1; 1969, c. 208, s. 1; 1973, c. 793, s. 7; c. 1094; c. 1344, s. 4; 1975, c. 19, s. 66; c. 159, s. 1; 1981, c. 954, s. 1; 1983, c. 617, ss. 1, 2; 1985, c. 472, s. 4; 1997-211, s. 1; 2016-125, 4th Ex. Sess., s. 5(h); 2017-6, ss. 2, 3, 7(h); 2018-145, s. 25(a); 2018-146, ss. 3.1(a), (b), 4.3(a).)

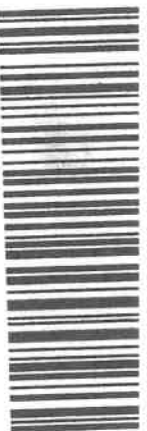
FROM:

LANE

101 Morningside Drive

Carboro, NC 27510

7022 0410 0000 4221 8788



TO:

NC State Board of Elections

430 N. Salisbury St.

Raleigh, NC 27603

6400



1000

