



NORTH CAROLINA

State Board of Elections

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NOTICE OF EMERGENCY STATE BOARD MEETING

The State Board of Elections will hold a public meeting by teleconference on **Sunday, November 20, 2016 at 4:00 p.m.** Interested members of the public may listen to proceedings by dialing (213) 929-4212 (code: 327-427-829) or online at <https://goo.gl/96LSfy>. Materials will post as they become available here: <https://goo.gl/aZUaug>.

AGENDA

Call to order

Statement regarding ethics and conflicts of interest
[G.S. § 138A-15\(e\)](#)

Authorization to request and secure outside counsel, as necessary
[G.S. §§ 114-2.3](#) and [147-17](#)

Executive Director Report
Provisional research with Division of Motor Vehicles
Use of maintenance databases under [G.S. § 163-82.14](#)

Request to assume jurisdiction over certain protests of elections filed with county boards of elections
[G.S. § 163-182.12](#)
[Protests posted here](#)

UPDATE

The State Board will reconvene at **10 a.m. on Tuesday, November 22** in accord with the enclosed Order. The meeting will be held at the below location:

**Wake County Commons Building
4011 Carya Drive
Raleigh, NC 27610**

Members of the public will not be recognized to address the board, though individuals are encouraged to submit public comment here: <https://goo.gl/KcY0kb>.

Meeting materials will post here: <https://goo.gl/yvUcH3>.

Posted November 19, 2016
Updated November 21, 2016

STATE OF NORTH CAROLINA
WAKE COUNTY

BEFORE THE STATE BOARD OF ELECTIONS

IN THE MATTER OF: CONSIDERATION OF)
CERTAIN LEGAL QUESTIONS AFFECTING)
THE AUTHENTICATION OF THE 2016)
GENERAL ELECTION)

ORDER

THIS MATTER CAME BEFORE THE STATE BOARD OF ELECTIONS ("State Board") during a telephonic meeting held November 20, 2016, to consider a written request from the Pat McCrory Committee ("McCrory Committee") to assume jurisdiction over certain protests arising out of the 2016 general election. After reviewing written submissions from the McCrory Committee and from Cooper for North Carolina Committee ("Cooper Committee"), and having considered filed protests, relevant statutes, and the reports of agency staff and counsel, the State Board hereby orders the following pursuant to its authority under G.S. 163-182.12:

1. The request to assume jurisdiction is DENIED, except as to *In re Protest of McCrae Dowless* before the Bladen County Board of Elections, and provided that the State Board retains the right to review and take appropriate action as to any action taken by any county board of elections.
2. The State Board will receive briefing and hear argument on the following questions of law at a meeting in a location to be decided at 10:00 a.m. on November 22, 2016:

Whether, as a matter of law, county boards of election may retrieve the ballot and discount the votes of an individual found to be ineligible, though no challenge was timely brought under Article 8 of the N.C. General Statutes.

If so, whether the basis for a determination of ineligibility may be brought as a protest of election under Article 15A of the N.C. General Statutes or through administrative processes pursuant to G.S. §§ 163-82.14 or 163-182.5.

If so, what procedures should be followed to afford necessary due process while ensuring the timely and accurate authentication of election results.

3. The following will be provided an opportunity to present and make oral argument before the State Board on November 22: McCrory Committee, Cooper Committee, North Carolina Republican Party, and the North Carolina Democratic Party.
4. Briefs must be filed with Legal.Team@ncsbe.gov by 6:00 p.m. on November 21. All filed briefs must use the attached template. The general public may submit written comments at by 6:00 p.m. on November 21 at <https://goo.gl/forms/2aiksoPIPR0iKSb92>.
5. The parties set forth in Paragraph 3, above, interested organizational parties, and affected candidates may file briefs in accord with Paragraph 4, requesting an opportunity to appear and present oral argument. Such request will be considered by agency counsel and a decision communicated as soon as practicable.

This the twentieth day of November, 2016.



A. Grant Whitney, Jr., Chair
State Board of Elections

STATE OF NORTH CAROLINA
WAKE COUNTY

BEFORE THE STATE BOARD OF ELECTIONS

IN THE MATTER OF: CONSIDERATION)
OF CERTAIN LEGAL QUESTIONS)
AFFECTING THE AUTHENTICATION)
OF THE 2016 GENERAL ELECTION.)

BRIEF OF

[INSERT PARTY/ORG/COMT NAME]

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TABLE OF AUTHORITIES*

INTRODUCTION*

MOTION FOR ORAL ARGUMENT *

ARGUMENT*

[BELOW ISSUES PRESENTED SHOULD APPEAR AS SECTION HEADERS]

1. Whether, as a matter of law, county boards of election may retrieve the ballot and discount the votes of an individual found to be ineligible, though no challenge was timely brought under Article 8 of the N.C. General Statutes. *
2. If so, whether the basis for a determination of ineligibility may be brought as a protest of election under Article 15A of the N.C. General Statutes or through administrative processes pursuant to G.S. §§ 163-82.14 or 163-182.5. *
3. If so, what procedures should be followed to afford necessary due process while ensuring the timely and accurate authentication of election results. *

CONCLUSION*

This the 22nd day of November, 2016.

Respectfully submitted,
