

CHAPTER 03 - CHARGES AGAINST COUNTY ELECTION OFFICIALS

SECTION .0100 - MEMBERS OF COUNTY BOARD OF ELECTIONS

08 NCAC 03 .0101 VOTER COMPLAINTS AGAINST A MEMBER OF A COUNTY BOARD OF ELECTIONS

(a) Any voter desiring to prefer charges of a violation of these Rules 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 statement, in writing, signed and sworn under oath or affirmation of the voter, which statement shall contain:

- (1) the name, residence address, and county of the member against whom the charges are preferred;
- (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, so far as may be known to the persons filing the charges, of persons who have knowledge or information of the matters referred to in the charges as filed.

(b) The statement shall be filed on the form available on the Board's website.

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

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.

08 NCAC 03 .0103 HEARING

Before acting on any charges filed in accordance with Rule .0101, the State Board shall hold a hearing. At such hearing the voter preferring such charges shall appear, and present the evidence, including any affidavits, tending to support the charges in accordance with any order of proceedings issued by the Board. All affidavits must be served on the member against whom such charges have been filed in accordance with G.S. 1A-1, Rule 5, by the person filing the charges, at least three days before the time set for the hearing thereof.

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

08 NCAC 03 .0104 RIGHTS

The member against whom charges are preferred shall have the right to respond to the charges preferred against him by submitting an affidavit in denial, rebuttal, explanation, or extenuation of the charges, and additional evidence may be presented in accordance with any order of proceedings issued by the Board.

History Note: Authority G.S. 163-22;
Eff. March 12, 1976;

Readopted Eff. June 1, 2019.

08 NCAC 03 .0105 SCOPE

The Board's investigation into the charges filed in accordance with Rule .0101 of this Section shall be confined to the charges as filed, but the Board may on its own motion investigate any matter listed in Rule .0102(1) through (3) of this Section upon receiving any additional evidence as the result of investigating or hearing said charges.

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

08 NCAC 03 .0106 WITNESSES

(a) Either the voter or the member may request in writing to the chair of the Board for subpoenas for witnesses to be heard orally at the hearing held according to Rule .0103 of this Section. The application shall include the following information:

- (1) the name or names of the witnesses;
- (2) a statement of one page or less of what is expected to be proved by each witness; and
- (3) the reason the testimony cannot be presented to the Board in the form of an affidavit of such witness or witnesses.

(b) If, upon such application for subpoenas, the chair of the Board is of the opinion that the oral evidence of such witnesses will be helpful to the board, a subpoena shall be issued for the personal appearance of the witnesses, and if required by the subpoena, the witnesses shall produce such books, papers, or records as may be called for in said subpoena.

*History Note: Authority G.S. 163-22(c); 163-23;
Eff. March 12, 1976;
Readopted Eff. June 1, 2019.*

SECTION .0200 - PRECINCT ELECTION OFFICIALS

08 NCAC 03 .0201 FILING COMPLAINTS AGAINST A PRECINCT OFFICIAL

(a) Any voter may file with the chair of the county board of elections a complaint against any precinct election official appointed pursuant to G.S. 163-41. The complaint shall be made in writing, signed and sworn under oath or affirmation, and shall include the information required by Rule .0101 of this Chapter. The complaint may be made on the form available on the State Board's website.

(b) Following the receipt of a complaint against a precinct official, the county board of elections shall conduct a hearing in the same manner as set forth in Section .0100 of this Chapter.

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

08 NCAC 03 .0202 HEARING DATE AND DISPOSITION

(a) Upon the filing of a complaint against a precinct official in accordance with Rule .0201 of this Section, the chair of the county board of elections shall set the date for the hearing and provide the following information to the State Board of Elections within one business day:

- (1) a copy of the complaint;
- (2) the date and time of the hearing, if known;
- (3) following the hearing, the county board of elections shall provide the Board the final disposition made by the county board of elections.

(b) The voter or precinct official may appeal the decision of the county board of elections to the State Board of Elections. The appeal must be received by the State Board of Elections within five days of the entry of the county board of elections of its written decision. The appeal shall be in writing and state the reason for the appeal. Copies of the original complaint form and the county board of elections' decision shall be filed with the appeal. The county board shall provide the record on appeal.

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

SECTION .0300 - INVESTIGATION AND REPORTS OF CRIMINAL VIOLATION

08 NCAC 03 .0301 SUMMARY INVESTIGATION

History Note: Authority G.S. 163-22;
Eff. March 12, 1976;
RRC Objection August 16, 2018 and rule returned to the agency on June 1, 2019.

08 NCAC 03 .0302 REPORTS OF EVIDENCE OF CRIMINAL VIOLATION

History Note: Authority G.S. 163-22;
Eff. March 12, 1976;
RRC Objection August 16, 2018 and rule returned to agency on June 1, 2019.