



# NORTH CAROLINA

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## STATE BOARD OF ELECTIONS

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### Explanation of Elections Investigation Summaries November 22, 2019

#### **Case Summary Overview**

The attached summaries of cases investigated and referred to prosecutors by the North Carolina State Board of Elections (State Board) are being released in response to public records requests received by our office. This document explains the agency's authority and process to investigate allegations of election violations. It also cautions against interpreting the summaries to make overly broad generalizations.

The State Board Office produced these summaries to provide the public with an accurate picture of election-related investigations in this state. The agency aims to promote public confidence in elections by thoroughly investigating complaints of alleged violations and irregularities, identifying corrective measures to prevent fraud and reduce inadvertent mistakes, and supporting prosecution of offenders when warranted. These summaries are accurate as of the date of the report. For up-to-date information on prosecutorial status, contact the district attorney with jurisdiction in the listed county.

These summaries are being produced in a sortable format and contain information that identifies the North Carolina county, date of complaint, relevant statutes, category of possible violation, and the case status and disposition to date.

#### **State Board's Investigative Authority**

Pursuant to G.S. § 163-22(d), the State Board shall investigate when necessary or advisable potential election law violations and irregularities and refer cases to the appropriate prosecutorial authority when warranted based on the findings. The Investigations Division is staffed by experienced investigators who specialize in election matters. The State Board of Elections does not have the authority to prosecute cases.

#### **About the Cases**

In North Carolina, elections violations are neither widespread nor non-existent. They involve a very small fraction of those who participate in elections. Elections violations are most often isolated events that are typically not coordinated and are not confined to any single political party.

Public and media inquiries commonly focus on incidents of suspected "voter fraud." The agency strongly cautions readers not to refer to each of these cases as voter fraud, as it is important to distinguish types of violations. Some violations do involve fraud, meaning an intentional effort to violate the law. Election fraud is intentional interference with the process of an election, such as vote buying, tampering with ballots, and ballot harvesting. Voter fraud occurs when an individual

votes knowing they are ineligible to do so. Administrative processes and procedures are in place to help reduce these incidents, as are processes to identify offenses when they occur.

## **How a Case Progresses**

### **1. Complaint**

The State Board receives and assesses information concerning possible elections or voting irregularities and violations from many sources, including county boards of elections, election watchdog and advocacy organizations, internal audits of elections data, private citizens, political parties and candidates.

Staff conduct an initial review of the matter to determine whether it meets a priority area. Current priority areas include malfeasance by elections officials, significant harm or threat of significant harm to the conduct or administration of elections, culpable conduct, concerted efforts by multiple individuals or entities, and other priority areas as identified by the general counsel in consultation with the executive director. If a priority area is identified, an investigation will be opened and a case number will be assigned. If a priority area is not identified, the incident will be closed. In some instances, informational letters are sent when a case is closed to educate the subject of the complaint about the law. In other instances, the matter is forwarded to the county board of elections for consideration as part of the processes provided for in statute, such as voter challenges, candidate challenges, and election protests.

For additional information, see the [Election-Related Investigations Priorities Policy](#) adopted by the State Board.

### **2. Investigation**

After determining that a complaint meets a priority area, the Investigations Division opens an investigation into the complaint. Examples of the subject matter of investigations include matters associated with unlawful voting activity, interference with voters or election officials, voter registration fraud, vote-buying, organized election fraud, and election security. Some investigations are simple, such as intentional misinformation posted on social media sites. Others are complex, involving extensive analysis of data and interviews of witnesses and subjects.

The State Board chair, or in the chair's absence any two State Board members, have the authority to issue subpoenas when necessary. G.S. § 163-24.

### **3. Referral to appropriate authority**

State Board staff work closely with county elections directors and prosecutors, and present findings at State Board meetings, to grand juries, and in court settings as necessary. Individual case files are maintained and provided to prosecutors upon referral.

Not every investigation leads to a referral for prosecution. Cases may not be referred if the investigation shows cognitive impairment of the subject, or indicates that no violation occurred, that evidence is insufficient to prove a violation, or that the alleged irregularity resulted from poll worker error. For investigations that do not rise to the level of a referral, they may be resolved by corrective actions, including written warnings that include educational information relevant to the election laws in question. Absent compelling mitigating factors, intentional violations involving voting are referred. Referred cases may be declined or prosecuted at the prosecutor's discretion.