§ 163-182.11. Appeal of a protest decision by the county board to the State Board of Elections.

(a) Notice and Perfection of Appeal. – The decision by the county board of elections on an election protest may be appealed to the State Board of Elections by any of the following:

(1) The person who filed the protest.

(2) A candidate or elected official adversely affected by the county board's decision.

(3) Any other person who participated in the hearing and has a significant interest adversely affected by the county board's decision.

Written notice of the appeal must be given to the county board within 24 hours after the county board files the written decision at its office. The appeal to the State Board must be in writing. The appeal must be delivered or deposited in the mail, addressed to the State Board, by the appropriate one of the following: (i) the end of the second day after the day the decision was filed by the county board in its office, if the decision concerns a first primary; or (ii) the end of the fifth day after the day the decision was filed in the county board office, if the decision concerns an election other than a first primary.

The State Board shall prescribe forms for filing appeals from the county board.

(b) Consideration of Appeal by State Board. – In its consideration of an appeal from a decision of a county board of elections on a protest, the State Board of Elections may do any of the following:

(1) Decide the appeal on the basis of the record from the county board, as long as the county board has made part of the record a transcript of the evidentiary hearing.

(2) Request the county board or any interested person to supplement the record from the county board, and then decide the appeal on the basis of that supplemented record.

(3) Receive additional evidence and then decide the appeal on the basis of the record and that additional evidence.

(4) Hold its own hearing on the protest and resolve the protest on the basis of that hearing.

(5) Remand the matter to the county board for further proceedings in compliance with an order of the State Board.

The State Board shall follow the procedures set forth in subsections (c) and (d) of G.S. 163-182.10 except where they are clearly inapplicable.

The State Board shall give notice of its decision as required by G.S. 163-182.14, and may notify the county board and other interested persons in its discretion. (2001-398, s. 3; 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)