

December 28, 2018

The Hon. Robin Hayes, Chairman
North Carolina Republican Party
1506 Hillsborough St.
Raleigh, NC 27603
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Dear Chairman Hayes,

Governor Cooper has reviewed your statement to the media this morning stating your refusal to submit any Republican nominations for Elections Board members who would serve until January 31, 2019, when the Elections Board created by House Bill 1029 (N.C.S.L. 2018-146) becomes effective. He has directed me to respond to your statement.

It is unfortunate that your refusal to follow the law could obstruct an ongoing investigation when a duly appointed and constitutional elections board can hear evidence about disturbing allegations of election fraud, oversee an ongoing investigation, and make an informed decision.

The Governor's position on the legal oversight authority existing over elections administration has been clear since the courts deemed the previous board structure unconstitutional in October 2018. Now that the court's stay of its order has dissolved and HB 1029 has become law, the Board of Elections structure that existed in 2015 is the law of the state until the new board takes effect. The Governor fulfilled his obligation under N.C. Gen. Stat. § 163-19 (2015) to request names of Republican nominees from you to appoint to the board. In light of your unwillingness to submit names, the Governor is entitled to appoint individuals to fill the vacant terms on the Board of Elections. See N.C. Gen. Stat. § 147-12(a)(3).

Accordingly, the Governor is proceeding to make appointments to the Board, which will remain in place until the board created in HB 1029 becomes effective. To be clear, the Governor is taking this action because the General Assembly insisted on enacting a new law, portions of

which they wrote so as not to take effect for over a month after the law's enactment. Should you continue to refuse to submit names, the Governor will not be impeded from exercising his duties under the Constitution to take care that the laws are faithfully executed. Should you instruct individuals you have previously deemed qualified to serve on the state board charged with administering elections law to decline their appointment, the Governor will also not permit your obstructionist tactics to stall an ongoing investigation.

To be clear, the structure of the boards which the Governor will appoint now and on 31 January 2018 are exactly the same. As a result, one is compelled to conclude that you are withholding your nominations and encouraging people not to serve solely for the purpose of impeding and obstructing the Ninth Congressional District investigation. I hope that you will reconsider your position as it relates to this matter and help to ensure a stable and fair process to resolve the issues surrounding the Ninth Congressional District election.

Sincerely,

William C. McKinney

WCM/sh