

Attendees (via conference call):

Michael Summers, Chair
William G. Voelp, Vice Chair
Carlos Ayala, Member
Janet Millenson, Member
Yaakov “Jake” Weissmann, Member
Dan Kobrin, Assistant Attorney General
Jared DeMarinis, Administrator
Katherine Berry, Deputy Administrator
Melissia Dorsey, Assistant Deputy, Election Policy
Brett Paradise, Director, Voter Registration and Petitions
Jennifer McLaughlin, Senior Policy Advisor
Keith Ross, Assistant Deputy, Project Management

DECLARATION OF QUORUM PRESENT

Mr. Summers called the meeting to order at 1:02 pm and declared that a quorum was present. All Members were present.

ADDITIONS TO THE AGENDA

There were no additions to the agenda.

APPROVAL OF MINUTES – 08/29/2023

Mr. Weissmann made a motion to approve the September 29, 2023 minutes. Mr. Voelp seconded the motion. The motion passed unanimously.

ADMINISTRATOR'S REPORT

Announcements & Important Meetings

National Voter Registration Day

Mr. DeMarinis reported September 19, 2023 was National Voter Registration Day. National Voter Registration Day is a nonpartisan event held annually on the third Tuesday of September. The day's events were heavily promoted on the State Board of Elections website and social media accounts. Online voter registration increased by 475 percent on National Voter Registration Day. Mr. DeMarinis shared that National Voter Registration Day was first mentioned in Maryland in the 1864 Constitution, with the 1865 General Assembly passing a related law. [Archives of Maryland]

Local Board of Elections Visits

Mr. DeMarinis shared his goal to visit every local board of elections office and warehouse by November 2023. To date, he has visited nine local boards including Anne Arundel, Howard, Wicomico, Worcester, Dorchester, Cecil, Harford, Frederick and Charles counties. Mr. DeMarinis reported warehouse space needs to be standardized. Mr. DeMarinis and Ms. Berry want to ensure that State and local boards function as one unit and look forward to visiting the remaining local boards in October and November.

Mis-, Mal and Disinformation

Mr. DeMarinis noted he has prioritized a push back on Mis-, Mal and Disinformation as it threatens the credibility of our electoral process and administration. Recent news stories have

revealed that the spread of Mis-, Mal and Disinformation is more prevalent among citizens where English isn't their first language. To help combat disinformation, translations now include Spanish and Chinese languages. Mr. DeMarinis extends his thanks to Delegate Qi for facilitating the translation of terms in Chinese.

Dorchester County Ways and Means Committee Meeting

Chairman Summers, Ms. Berry, and Mr. DeMarinis traveled to Dorchester County on September 13, for a meet and greet with the Ways and Means Committee. The meeting was at the invitation of Chair Atterbeary. They discussed the current vision and direction at the State Board of Elections.

MAEO Meeting – September 15, 2023

Mr. DeMarinis and Ms. Berry spoke at the September 15, MAEO meeting in Frederick. Additional SBE staff attended the meeting.

Personnel News

Mr. DeMarinis announced Katherine Berry is the new Deputy Administrator effective September 6, 2023. Ms. Berry's bio is included in the written Administrator's Report.

Mr. Weissmann congratulated Mr. DeMarinis and Ms. Berry. Mr. Weissmann shared he has heard great things about Ms. Berry.

Ms. Berry thanked Mr. DeMarinis and Mr. Weissmann, and noted she is looking forward to working with the Board. She has vast experience working in Maryland elections in addition to working with the General Assembly for nearly a decade. Ms. Berry invited the Board to reach out to her at any time.

Mr. DeMarinis announced Cyril (CJ) Komp is the new Director of Special Projects at SBE effective September 6, 2023. CJ recently earned a PhD in a humanities discipline at the University of Georgia. CJ chose to enter public service by working for the Athens-Clarke County Board of Elections in Athens, Georgia.

Natasha Walker was promoted to SBE's Acting Director of Voting Systems effective September 13, 2023. Natasha will be filling the vacancy left by Shafiq Satterfield.

Verona Williams is the new Director of Budget and Finance effective October 4, 2023. Ms. Williams has been working at the Department of Corrections as the Chief Fiscal Officer since 2014, where she provided supervision for all of the financial operations.

Mr. DeMarinis offered a reminder that SBE has salary authority over some of the local boards and noted some personnel changes at the local board level are included in the written Administrator's Report.

Cassie Mathias is a new Senior Assistant State Prosecutor at the Maryland Office of the State Prosecutor where she is focusing on election integrity. Ms. Mathias has an impressive resume and will be our new point person at the Office of the State Prosecutor.

Election Directors' Meeting

Mr. DeMarinis reported an Election Directors' meeting was held on September 21, 2023, where action items for the 2024 election were reviewed. The Board will be advised of upcoming meetings.

Election Reform and Management

Sample Ballot Template

Ms. Dorsey reported SBE worked closely with the Center for Civic Design to create a new ballot. A sample ballot is now complete and will be available for Board Members to view at the Biennial meeting.

Election Judge Recruitment

Ms. Dorsey reported election judge recruitment is well underway. The written Administrator's Report contains recruitment details. Final review of the Election Judge Training Module is underway and a link to the module will be shared with Board Members next week.

Mr. DeMarinis shared that HB1200 will increase election judge pay and provide a bonus for returning election judges. It is believed the increase and bonus provided for in HB1200 will encourage election judges to return. For example, 80 percent of the judges recruited in Frederick County are returning judges.

VOTER REGISTRATION

MDVOTERS

Mr. Paradise reported MDVOTERS update version 9.3 was successfully implemented. The update included enhancements for both the Candidacy and Campaign Finance and Election Judge Modules.

Surrendered License Mailer

Mr. Paradis reported voter registration cancellation numbers as a result of the June mailing continue to increase. SBE has processed over 1,100 voter registration cancellations.

ERIC VPP

Mr. Paradise provided data related to MVA transactions as requested by Mr. Weissmann. The report provides month-to-month counts and counts for the same month the previous year.

In response to a question, Mr. Paradise explained the ERIC report is distributed every other month. The SSA Death Files are received every other month. Mr. Paradise agreed to inquire and confirm that the report includes all deaths within the previous time period.

In response to a question, Mr. Paradise agreed to investigate ERIC's data retention schedule to determine how far back the data goes. Mr. Paradise will further investigate if the historic ERIC data can be compared to the entire Voter Registration database.

In response to a question, Mr. Paradise confirmed the Motor Vehicle Administration Transaction chart can cover a 13-month period. The data can be provided monthly in chart and graph form.

In response to a question, Mr. Paradise agreed to add an additional column to the Motor Vehicle Administration Transaction chart to include data from two years prior--covering election years.

Candidacy and Campaign Finance (CCF)

Candidacy

Mr. DeMarinis reported there are currently 37 candidates who filed at SBE.

Public Financing

Mr. DeMarinis reported Baltimore City Public Financing Commission is still waiting for 5 more appointments. They have a quorum, so work can continue. At this time, one candidate is participating in the program.

Website Activity

Mr. DeMarinis noted data for website activity is provided in the written Administrator's Report.

Enforcement

Mr. DeMarinis noted a list of enforcement action closed during the month of August is provided in the written Administrator's Report. The largest collection amount was from an out of state entity, 1199 SEIU NYS Political Action Fund and was for failure to timely file disclosure reports.

New Pollbook Solution

Mr. DeMarinis summarized on September 8, after receiving the recommendation from the pollbook project management team, project management, technical management, and the LBE subcommittee, the decision was made to utilize the current existing pollbooks for the 2024 election cycle (primary and general election). The decision was made based on the initial test results of the final EPollTab/Merlin/CenterPoint build delivered on August 25, 2023. There is considerable improvement, but the solution still does not meet the requirements for a minimum viable product suitable for use in a statewide Maryland election.

DemTech is expected to continue delivering new releases toward a viable solution that will meet Maryland requirements. SBE is still in the process of making sure that it is going to be ready for use in 2025 and 2026.

In response to a question, Mr. DeMarinis agreed to advise whether each "visitor" on the website traffic report represents a unique visitor.

In response to a question, Mr. DeMarinis confirmed during the month of August, there were 468,069 hits at MD CRIS and 178,815 hits at Business Contribution Disclosure System (BCDS). Title 14 are people with government contracts of \$200,000 or greater or who employ a lobbyist with compensation of \$500 or more.

In response to a question, Mr. DeMarinis agreed to research whether "hit" data is available for the SBE website.

Mr. Weissmann thanked Mr. DeMarinis for transparency on the poll book project.

In response to a question, Mr. DeMarinis replied after visiting local boards, the thing that stood out the most is the need for standardizing warehouse space. Mr. DeMarinis explained voting machines are computers and they require proper storage. As counties grow, the amount of equipment used grows, which will require the warehouse to grow. Counties will need to budget

for proper storage. Mr. DeMarinis is considering writing new regulations to standardize warehouse spaces.

In response to a question, Mr. DeMarinis confirmed in addition to climate control in warehouses, there is also a need to standardize security and chain of custody procedures.

Ms. Millenson suggested there is a need for canvassing sites to be standardized as well.

Ms. Millenson expressed she is impressed with Mr. DeMarinis' handling of the poll book situation.

Ms. Millenson questioned whether poll book requirements need to be reevaluated, i.e., wireless connectivity on election day in polling places, subsidiary contractors working with DemTech, and money that was allocated via the Board of Public Works.

Mr. DeMarinis advised SBE and DemTech are in a contract. DemTech understood the RFP coming in and reported they are able to meet the necessary requirements going forward. SBE needs to make sure that the contract requirements are being met. SBE is still working with DemTech to assure we receive the minimally viable product. SBE recognizes that DemTech has made great strides and looks forward to a workable solution by the end of the year for use in 2025 and 2026. It is disappointing that a workable product was not received in 2024.

PROCUREMENT

In Development:

The contract includes a wide variety of labor categories to offer IT, warehouse support, pollbook, MDVOTERS and other IT support. It is a Small Business Reserve (SBR) designated contract.

Under Review:

The Mail in Ballot Application Printing Request. SBE received 6 bids for review.

Awarded:

Clear Ballot will provide post-election audits. RR Donnelley, a Maryland business, will provide printed provisional ballot applications printing.

Option Renewals:

Voter Education Campaign - KO Public Affairs.

Ms. Millenson noted Clear Ballot was used before and it is not as valid for auditing BMD produced ballots because there is not a voter verified ballot to compare it to.

Ms. Millenson noted big jumps in options renewals.

In response to a question, Ms. Dorsey explained the provisional ballot application will look very different this election cycle. A working group was formed to determine why there were so many provisional ballots. The plan is to make the process much more understandable to voters.

In response to a question, Ms. Dorsey and Ms. McLaughlin advised the mail-in ballot application is online in a pdf format. As required by 2021 election law, paper ballot applications will be mailed. The applications will begin going out in January. Voters are encouraged to file applications

online. Voters who choose to receive applications by mail will also receive a postage paid return envelope.

In response to a question, Mr. DeMarinis advised a project management team will oversee task orders approved by DoIT under the CATS Plus master contract.

In response to a question, Mr. DeMarinis does not have the total value for the TORFP today.

In response to a question, Mr. DeMarinis advised there is no dollar limit associated with a contract coming before the Board. Mr. DeMarinis has brought the larger contracts before the Board. If a contract could potentially go before BPW, Mr. DeMarinis would notify the Board.

Mr. Summers expressed the dollar limit question was a good question and is excited to have access to the information as it has not been available before. Mr. Summers noted the Board is available to assist SBE with procuring resources going forward. Mr. Summers appreciates insight rather than just oversight.

Mr. Voelp noted access to procurement contracts is something the Board pushed for in the past and expressed his appreciation to the current Administrator for bringing several procurement items to the Board.

Project Management Office

Mr. Ross advised he highlighted items in the written report and would entertain questions at this time.

Local Board News

Baltimore City is preparing for local redistricting. The mayor recently proposed a redistricting plan. Once it is finalized, Baltimore City will be ready to implement it.

Multiple counties are working to relocate their office and/or warehouse. SBE is working with the local offices to assure they can function during the moves.

All counties are actively working on outreach efforts to recruit new election judges.

In response to a question, Mr. DeMarinis reported the State has experienced turnover with Election Directors at the local level. Mr. DeMarinis is working with MAEO to mitigate turnovers. SBE and MAEO would like to implement a mentoring program where experienced Election Directors will work with new Election Directors. Size and location will be factored in when matching an experience Election Director with a new Election Director. A redistricting committee has been established. There are plans to reimplement the Election Director continuing education program at SBE.

With regard to addressing threats, Mr. DeMarinis advised he works closely with the General Assembly and understands Senator Kagan is a proponent of pushing for protections for Election Directors. Protection of Election Directors is also a MAEO initiative.

EXERCISE OF DELEGATED DUTIES

Mr. DeMarinis reported there have been no delegated duties.

ASSISTANT ATTORNEY GENERAL'S REPORT

Mr. Kobrin provided the following report:

1. *Gibson, et al. v. Frederick County*, No. 23-1369 (4th Cir.) On July 5, 2022, Lois Ann Gibson and plaintiff-organizations filed suit against Maryland entities seeking injunctive relief. The complaint alleges that 22 jurisdictions in Maryland engaged in a RICO conspiracy with a Chicago non-profit organization to fund election fraud. The suit seeks a preliminary injunction enjoining the destruction of records of the 2020 Presidential Election. Under federal law, the records of the 2020 election were to be retained until September 3, 2022.

On December 16, 2022, the district court granted motions to dismiss as to all defendants and closed the case.

On January 13, 2023, plaintiffs filed a motion to amend or alter the judgment of dismissal under Federal Rule 59(e). The district court denied the motion to amend on March 29, 2023. The plaintiffs thereafter noted an appeal to the Fourth Circuit on April 1, 2023.

After multiple motions to postpone, the Gibson plaintiffs filed their appellants' brief on July 31, 2023. OAG filed Appellees' Brief on behalf of all Appellees on August 30, 2023. Appellant's Reply Brief is currently due to the Court on October 31, 2023.

2. *Johnson v. Hogan*, 8:22-CV-02250-TDC (D. Md.) On September 7, 2022, Thomas P. Johnson filed a complaint challenging the constitutionality of Election Law § 5-706. Mr. Johnson ran during the 2022 Gubernatorial Primary for a seat on the circuit court bench in Montgomery County. He lost that race. Mr. Johnson then sought to file a certificate of candidacy as a write-in candidate for that same office for the general election but was informed by SBE staff that he was ineligible to run pursuant to Election Law § 5-607(b)(2). The law prohibits anyone who has lost a primary election from running in the following general election as a write-in candidate.

The complaint alleges that § 5-706 unconstitutionally prevents Mr. Johnson from campaigning as a write-in candidate. It seeks injunctive relief allowing Mr. Johnson to file a certificate of candidacy as a write-in candidate.

The Office of the Attorney General filed a motion opposing injunctive relief on behalf of Governor Hogan, the sole named defendant, on September 21, 2022. Mr. Johnson filed a response to the OAG opposition on September 23, 2022. The court conducted a September 28, 2023 Assistant Attorney General's Report hearing on the matter on October 4, 2022. Thereafter, on October 13, 2022, the federal district court issued an order denying Mr. Johnson injunctive relief.

OAG will be filing a motion to dismiss the case outright in the coming weeks. Per local rules, counsel has filed a letter of intent to file a motion to dismiss with the federal court. OAG is awaiting a response from the Court for leave to file its motion.

APPROVAL OF REGULATIONS

Approval of Final Regulations – CCF - 33.13.21 and 33.18.01.02

Mr. DeMarinis presented the following for final adoption proposed changes to the COMAR provision.

- 1. 33.13.21 – Online Platforms**
- 2. 33.18.01.02 – Civil Penalties**

The proposed changes to the regulations were adopted at the June 20, 2023 meeting. They were published in the *Maryland Register*. One public comment was received from the Campaign Legal Center in support of the proposed changes. The Campaign Legal Center recommended a definition be included in the regulations. Mr. DeMarinis recommends proceeding with adoption of the proposed regulations as drafted. Mr. DeMarinis will add a definition to the regulations to cite to the statute as suggested by The Campaign Legal Center at a subsequent meeting. As the statute changes, the definition will change accordingly. The proposed regulations clarify the requirements of the law and address the concerns in *Washington Post v. MacManus*.

Mr. Summers apologized for any confusion at the last meeting and summarized the process to vote on a motion.

Mr. Weissman made a motion to adopt the proposed amendments to COMAR 33.13.21 and 33.18.01.02 with the caveat that Mr. DeMarinis sync the regulations with legislation. Ms. Millenson seconded the motion.

Mr. Voelp expressed concern that changes to the regulations require them to be republished.

In response to a question, Mr. Kobrin advised it depends on what the change is, but agrees this type of change will require republishing the regulations.

Mr. Summers clarified the vote is on the regulation as it stands.

In response to a question, Mr. DeMarinis confirmed his recommendation is to adopt the regulations as written.

Mr. Weissmann amended his motion to approve the final regulations as written without the amended language.

Mr. Summers thanked Mr. Voelp for highlighting the amendment would require reprinting. Mr. Summers clarified that procedurally, the regulations cannot be amended without public comment on the amendment. Mr. Summers noted public comment has been received on the approved final regulation as it stands.

Mr. Weissman made a motion to adopt the final regulations listed in the agenda, Campaign Finance regulations 33.13.21, 33.18.01.02, 33.01.01.01, 33.07.11.01 - .02, 33.15.02.01, and 33.15.03.01 - .02. Mr. Voelp seconded the motion.

Ms. Millenson requested the Campaign Finance regulations be voted on separately from the Election Regulations.

Mr. Summers clarified at this point the discussion only includes Campaign Finance regulations 33.13.21 and 33.18.01.02.

Mr. Weissman withdrew the motion. Mr. Voelp seconded the withdrawal of the motion. Withdrawal of the motion passed unanimously.

Mr. Weissman made a motion to adopt Campaign Finance regulations 33.13.21 and 33.18.01.02. Mr. Voelp seconded the motion. The motion passed unanimously.

Approval of Final Regulations – Elections – 33.01.01.01, 33.07.11.01 - .02, 33.15.02.01, and 33.15.03.01 - .02

Ms. Dorsey presented the following for final adoption proposed changes to the COMAR provision.

1. 33.01.01.01 – Definitions
2. 33.07.11.01 - .02 – Election Judges
3. 33.15.02.01 - New or Changed Precincts
4. 33.15.03.01 - .02 - Polling Places

The proposed changes to the regulations were adopted at the June 20, 2023 meeting. They were published in the July 28, 2023 edition of the *Maryland Register*. The public comment period closed on August 25, 2023.

Mr. Weissman made a motion to approve final regulations for 33.01.01.01, 33.07.11.01 - .02, 33.15.02.01, and 33.15.03.01 - .02. Mr. Ayala seconded the motion.

In response to a question, Ms. Dorsey confirmed 33.15.03.01 refers to all locations. A polling place plan must be submitted for all existing locations. It is a comprehensive plan submitted by each county that includes every election day polling location.

The motion passed unanimously.

APPROVAL OF TITLE 13 WAIVER REQUESTS

Mr. DeMarinis presented requests from 18 campaigns to waive or reduce late fees incurred by the committee. Mr. DeMarinis also provided a list of the last batch of entities the State Prosecutor's Office will not seek to capture late fee penalties from because they are outside the limitations. The entities will now be moved from inactive to closed. Three campaigns were denied waivers of late fees and were presented to the Board for informational purposes. No action is required from the Board for denied requests for waivers. Mr. DeMarinis recommended approval of the waivers as presented.

The campaigns requesting a waiver or reduction of late filing fees are:

1. Architects PAC, Maryland
2. Baltimore City Republican Central Committee
3. Benn, Sarahia Friends to Elect
4. Bowser, Alan Friends of
5. Campbell, Brian Friends of
6. DeLoach, Jason A. for Orphans' Court

7. Grant, Kathy M. Citizens for
8. Hart, Mike Friends To Elect
9. Hawley, Diana for Board of Education
10. Henson (Johnson), Shaneka Friends of
11. Jones, Rachel R. Friends of
12. Levi, Gerron Committee for
13. Marchio (Joseph) Parents for
14. McCoy, Jacky Friends of
15. McKay, Januari Friends of
16. Sactic, Jorge L. Friends of
17. Schuh, Steve Citizens to Elect
18. Wilson, David Friends of

Mr. Weissmann made a motion to approve the 18 Title 13 late fee waiver requests as presented. Mr. Voelp seconded the motion. The motion passed unanimously.

TITLE 14 WAIVER REQUESTS

Mr. DeMarinis presented one request from a business to waive late fees incurred by the business. One business was denied a waiver of late fees incurred by the entity, which was presented to the Board for informational purposes only. No action is required from the Board for denied waivers. Mr. DeMarinis recommended approval of the waivers as presented.

The campaign requesting a waiver or reduction of late filing fees is:

1. AnnDyl Policy Group

Mr. Voelp made a motion to approve one Title 13 late fee waiver request as presented. Mr. Weissmann seconded the motion. The motion passed unanimously.

APPROVAL OF CONFIDENTIALITY REQUEST

Mr. DeMarinis presented requests from individuals to keep their address and phone numbers confidential and stated that the Candidacy and Campaign Finance Division verified that the requesting individuals were eligible to have their residential address and telephone numbers be confidential. Mr. DeMarinis stated that the requests for confidentiality met all conditions.

Mr. Weissmann made a motion to approve the confidentiality requests as presented. Mr. Voelp seconded the motion. The motion passed unanimously.

Discussion of COMAR 33.03.02.01B(1)

COMAR 33.03.02.01B(1) passed in February 2023 and set rules for the purchase and use of voter registration lists in the “electoral process.” Mr. DeMarinis shared correspondence received from the Republican State Central Committee in opposition of the new regulation with Board Members and is prepared to have further discussions with the Board.

Mr. Ayala shared he cannot speak to whether the regulation complies with UNVR, but has heard compelling arguments that, as written, it does not. Mr. Ayala expressed the larger concern is trust in the system. Any action that reduces transparency will have a negative impact on trust. The Brookings Institute reports 56 percent of Americans have little to no confidence in our electoral system. Only 20 percent feel very confident in the integrity of the U.S. system.

Mr. Weissmann, expressed there is a fair amount of concern regarding faith in elections, some of the concern is compelled by media and political figures for their own gain. Mr. Weissmann appreciates Mr. Ayala's concern and acknowledges there is work to be done. Mr. Weissman thanked the Board and SBE staff for working every day to ensure our elections are as secure as possible and voters can have faith in the integrity of Maryland's elections. Mr. Weissmann expressed he looks forward to working with Mr. Ayala.

Mr. Ayala thanked Mr. Weissmann and agreed he sees no evidence of impropriety but is addressing the perception.

Mr. Voelp advised he was on the Board at the time the regulations were drafted. If concerns with what the Administration put forward were voiced during the public comment period, it would have been welcomed and could have made a difference. Mr. Voelp noted the new regulation was made broader than he understood it would be. There is fear it will apply to a citizen wanting to verify that voter rolls are correct. Mr. Voelp noted if he thought that was the case, he never would have voted for it. Mr. Voelp would welcome the Board better defining "electoral process."

Mr. Summers noted there was some question as to whether the Board has the authority to define electoral process.

Mr. Voelp expressed his understanding is that the Board can define electoral process.

In response to a question, Mr. Kobrin confirmed the Board has the authority to define electoral process. Authority is provided at 33.01.02, petition for declaratory ruling by the Board. An interested person can file a petition with the State Board of Elections asking for declaratory ruling on the matter in which the Board would apply the following to a person or a property on facts set forth in the petition. The first thing listed is a Board regulation.

Mr. Weissmann requested Mr. Kobrin distribute the regulation to the Board.

Mr. Summers thanked Mr. DeMarinis for the opportunity to have the discussion.

OLD BUSINESS

Regulation - 33.11.01.04 – Firearms and Ballot Boxes

Mr. Summers requested clarification and definitions.

In response to a question, Mr. Kobrin advised on October 1, 2023, the new gun law will take effect. On October 1, there is no open carry in Maryland. The firearm or handgun must be concealed on the person. The person must be permitted. Part of the permitting requires the person to carry the firearm concealed.

In response to a question, Mr. Kobrin advised as the regulation is currently proposed to the Board, a person who has a permit to carry a weapon would not be able to conceal carry within 50 feet of a drop box (a no electioneering zone).

In response to a question, Mr. Kobrin confirmed the law that goes into effect on October 1, 2023, would make it illegal to carry a weapon into a polling place.

Mr. Summers noted there were issues defining language around possession. The Board understands in order to brandish, you have to possess. Mr. Summers asked that the board make the language more finite and look at “brandishing and/or carrying” a firearm at a drop box or polling place location.

Mr. Weissmann sought clarification on proposed language, “an individual shall not visibly possess, carry or brandish.” Does visibly apply to all three—visibly possess, visibly carry, or visibly brandish?

In response to a question, Ms. Millenson advised she wrote the language to only apply to possess—visibly possess. The language was rearranged and now it appears that it applies to possess, carry, and brandish.

Mr. Ayala made a motion to amend the language to “an individual shall not visibly possess, visibly carry, or brandish...” Mr. Weissmann seconded the motion. The motion passed unanimously.

Mr. Weissmann made a motion to pass the regulation with the amended language. Mr. Ayala seconded the motion.

Mr. Kobrin sought confirmation that F(1) has been amended to read, “Except as provided in F(2) of this regulation, an individual shall not visibly possess, visibly carry, or brandish a firearm within the electioneering boundary set forth in Section D of this regulation.

Mr. DeMarinis noted the language is proposed and will now go out for additional comments.

Regulation 33.11.05.04 – Canvass of Ballots - Ballot Rejection

Ms. Dorsey advised at the last meeting the rest of the regulation was proposed. Follow-up was requested to ensure this regulation specified if an absentee ballot was received after a provisional ballot or another absentee ballot, the ballot will be rejected. That clarification is the italicized language in .04d.

In response to a question, Ms. Dorsey advised that cast date would be the date the ballot is received. The absentee ballot cast date would be the day that it was mailed or signed.

Mr. DeMarinis clarified that the definition of cast in the Election Law Article is when a ballot is counted.

Mr. Kobrin noted there was extensive discussion at the last meeting related to cast.

Ms. Millenson confirmed the intent of the language with Senator Kagan who was a sponsor. Ms. Millenson advised the intent is to count the first ballot of the individual that the local board determines is legally sufficient and reject any other ballot.

Ms. Millenson noted the language in the regulation is complicated and ambiguous. Ms. Millenson suggested the wording in the regulation should match the wording in the law: “The first legally

sufficient ballot received.” It is not when the individual signs it, it is when it gets to the local board and is date and timestamped.

Ms. Dorsey explained the intent is to make it easy for the local boards who will be in the midst of a very tedious job with ballots everywhere. Including the language as written will simplify their tasks, account for every situation, and will be consistent across all local boards.

Mr. Voelp shared he spoke with Senator Kagan last night to seek clarification. Senator Kagan does not want to give an individual an opportunity to change their vote. The first vote should count. Mr. Voelp suggested “cast” should refer to the date of the first signed oath, not the date the ballot was received.

Mr. DeMarinis reminded that clear guidance is required because canvassing will start eight days early.

Mr. Weissmann agrees that Mr. Voelp’s suggestion makes sense and sought clarification on when and how local boards canvass.

Mr. DeMarinis explained legally sufficient ballots are counted as they arrive. The vote goes into MDVOTERs which has checks built in.

Mr. Voelp explained when a ballot comes in, it is loaded into MDVOTERs, but it is not separated from the envelope until it is canvassed. There is an opportunity to pull and get the right one until the ballot is separated from the envelope. Once the ballot is canvassed, the other rule kicks in and any other vote will be rejected.

Ms. Dorsey explained the first part of the regulation applies to when the ballots are sitting in a “bucket” and can be pulled out/put in, sorted, et cetera. “D” will cover a situation where another ballot has been canvassed.

In response to a question, Melissia confirmed there is a two-prong solution to correct errors.

In response to a question, Melissia confirmed web delivery ballots are canvassed the same as a MIBs. The date is inside of the envelope.

In response to a question, Mr. Kobrin advised when passing the regulation, the Board can make the finding that they are interpreting “cast” as the first ballot that an individual signs. However, the C provision in the regulation would have to be read consistently with the B provision. The signature in provision B is the timing point for when a vote is cast, so in provision C, the signature will be the timing point for when a vote is cast.

Mr. Ayala noted there may be a good reason for why a person may vote twice, for example, they may be cognitively challenged and forget. However, there could be some nefarious reasons.

In response to a question, Mr. DeMarinis advised multiple voting audits are conducted after certification. Voters with multiple votes are referred to the State Prosecutor’s Office.

In response to a question, Ms. Dorsey confirmed it is easier for election staff to use the signature date than it is to use the date received. The date received is not as solid as a date as the date signed.

In response to a question, Ms. Dorsey advised using an oath date is easier than tracking dates received in the U.S. Mail.

In response to a question, Mr. Kobrin clarified the cast date is the date the oath is signed. When you sign your voter registration card in person, that is the cast date.

Mr. Weissman made a motion to adopt Regulation 33.11.05.04(B) as presented. Mr. Voelp seconded the motion. The motion passed 4 to 1.

Discuss approval of State Board of Elections By-Laws

Mr. Summers requested Board Members put their by-law recommendations in writing and forward them to Mr. DeMarinis.

NEW BUSINESS

There was no new business.

Mr. Summers requested Board Members send any future new business to Mr. DeMarinis for inclusion in the agenda.

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

There were no campaign contributions.

SCHEDULE NEXT MEETING

The next meeting is scheduled for Thursday, October 26, 2023, at 1 p.m.

CLOSED SESSION

Mr. Summers requested a motion to close the Board meeting under §3-305(b)(1) of the General Provisions Article, which permits closing a meeting to discuss obtaining legal advice. Mr. Weissmann made a motion to convene in closed session under General Provisions Article, §3-305(b)(1), and Ms. Millenson seconded the motion. The motion passed unanimously.

ADJOURNMENT

The open meeting adjourned at 3:11 pm.