

State of Maryland 

State Board of Elections – May 04, 2023 Meeting

Attendees (via conference call):

William G. Voelp, Chair
Severn Miller, Member
Michael Summers, Member
T. Sky Woodward, Member
Linda Lamone, Administrator
Nikki Charlson, Deputy Administrator
Dan Kobrin, Assistant Attorney General
Donna Duncan, Assistant Deputy, Constituent Relations
Keith Ross, Assistant Deputy, Project Management
Melissia Dorsey, Assistant Deputy, Election Policy
Jared DeMarinis, Director, Candidacy and Campaign Finance
Fred Brechbiel, Chief Information Officer
Mary Ann Mogavero, Director, Election Reform and Management
Jennifer McLaughlin, Senior Policy Advisor
Brett Paradise, Director of Voter Registration
Tracey Hartman, Director of Special Projects

Also present: The Honorable Cheryl Kagan, Senator, District 17

DECLARATION OF QUORUM PRESENT

Mr. Voelp called the meeting to order at 2:01 pm and declared that a quorum was present. He noted that Justin Williams resigned from the Board, and therefore the remaining four members must all be present for the Board to vote on any agenda items.

ADDITIONS TO THE AGENDA

Mr. Voelp noted that there was one addition to the agenda, a speaker, who will speak during old business after the closed meeting.

APPROVAL OF UPDATED MEETING MINUTES: OPEN MEETING ON FEBRUARY 23, 2023

Mr. Miller made a motion to approve the open meeting minutes from the February 23, 2023 meeting. Ms. Woodward seconded the motion. The motion passed unanimously by the four members that were present.

APPROVAL OF MEETING MINUTES: OPEN MEETING ON MARCH 29, 2023

Mr. Miller made a motion to approve the open meeting minutes from the March 29, 2023 meeting. Mr. Summers seconded the motion. The motion passed unanimously.

APPROVAL OF MEETING MINUTES: CLOSED MEETING ON APRIL 18, 2023

Ms. Woodward made a motion to approve the closed meeting minutes from the April 18, 2023 meeting. Mr. Miller seconded the motion. The motion passed unanimously.

ADMINISTRATOR'S REPORT

Announcements & Important Meetings

U.S. Election Assistance Commission's (EAC) Advisory Board Meetings

The EAC has three advisory boards - Board of Advisors, Standards Board, and the Local Leadership Council. The Standards Board, of which Ms. Charlson is a member, met on April 18 -

19, and the Board of Advisors, of which Ms. Lamone is a member, met on April 25-26. The Standards Board has two individuals - one State and one local - from each state, while the Board of Advisors has 35 members appointed by various organizations. Linda is one of two representatives from the National Association of State Election Directors.

Ms. Charlson reported that at the Standards Board meeting, the EAC shared the information about the Voluntary Voting System Guidelines and its new program evaluating other election systems, a new platform for advisory boards to share information, research evaluating voter education programs, and election security and mental health of election officials.

At the Board of Advisors meeting, the EAC shared similar information to the information shared at the Standards Board meeting and had panels with congressional staff members, audits, public requests, and a review of the past and future of the National Voter Registration Act (30th anniversary) and Help America Vote Act (20th anniversary).

Election Directors Meeting

We held an election directors meeting on April 20, 2023. We updated the local boards on various projects, including the new electronic pollbook project, and tasks. A summary of this meeting will be provided with an upcoming *County Bulletin*.

U.S. Department of Homeland Security's (DHS) FY23 Grant Programs

Ms. Charlson reported that the DHS FY23 grant program includes - for the first time - mandatory funding for election security projects. Since the Maryland Department of Emergency Management (MDEM) is the lead agency for this grant program and the funding is allocated to local emergency management officials for disbursement to the local boards of elections, we worked with MDEM and the local boards worked with their local emergency management officials to submit proposed projects. We will review proposed local election security projects - mostly, enhancements to improve the security of their facilities - for the statewide application (due on May 18, 2023). MDEM allowed local jurisdictions to "opt out" of their election funding allocation and assigned those "opt out" funds to SBE for use to benefit all local boards. We understand that awards will be announced in July 2023 with the grant performance period starting in September 2023.

Maryland Association of Election Officials (MAEO) Annual Conference

MAEO's annual conference is scheduled for mid-May. SBE staff will attend the conference and participate in several panels during the conference.

Clear Ballot Annual User Conference

On the afternoon of April 12, Ms. Hartman participated in the Clear Ballot Third Annual User Conference, which was held virtually. Following with the theme of "Sky's The Limit," the 200-plus attendees participated in panel discussions, breakout sessions, and heard from speakers that highlighted using Clear Ballot's suite of products, and products in the near future, to navigate successfully through an election cycle.

Election Reform & Management

Election Judge Recruitment and Training

Ms. Mogavero reported that during the 2023 legislative session, HB1200 was passed. This legislation increases compensation for election judges and offers a bonus for returning election judges. This information will be shared with all election judges who served in 2022 by email later

this month. The online election judge application was updated to include a question about whether the applicant had served as an election judge before.

The Election Judge Workgroup continues to review and revise the election judge manual and all training materials for the 2024 Presidential elections. We have begun to meet with eSkillz to create the content for the 2024 online judges training program.

Social Media

We have secured a software solution for concurrent posting to all our social media platforms called Social Pilot.

Usability Review

We are finalizing a solution for a usability review for the new pollbooks and sample ballot template with the Center of Civic Design.

Election Forms

In advance of the 2024 elections, as required by a law enacted in 2021, we will again be mailing the Mail-in Ballot Request Form to all eligible voters who haven't already chosen to vote by mail. We are currently updating the form and accompanying instructions with new dates and deadlines and other information and preparing to bid out this mailer.

2023 Maryland General Assembly follow up highlights

The 2023 Maryland General Assembly session adjourned at 11:59 pm on April 10. SBE staff are reviewing the final legislation to determine the impact to various computer systems, what new regulations are required or need change and the level of effort by SBE and the local boards to implement the new requirements. While the final list of bills is relatively short, there is significant work and funding required from this legislation. A list of legislation is included in the Board material.

Several items to note: the date of the 2024 Primary Election is now May 14th, the local election offices may begin canvassing mail-in ballots 8 days before the start of early voting and there is now a minimum salary for serving as an election judge along with a bonus for returning judges.

In response to a question from Ms. Woodward, Ms. Duncan stated that computer systems refers to changes that need to be made to MDVOTERS to process additional compensation to election judges. Ms. McLaughlin added that HB535/SB379, a bill regarding ballot processing, may also require changes to MDVOTERS. She further clarified that the changes to computer systems being made are internal, not external.

Voter Registration

MDVOTERS

Mr. Paradise noted that the MDVOTERS release 9.1 took place on March 31. The release included 8 new enhancements, and release notes were distributed to the local boards. Work is underway to implement the enhancements requested by the local boards of elections at the productive development session in March.

During the week of April 10, we moved the MDVOTERS and online voter services from the primary data center to the backup data center and ran the systems from the backup data center for several days. At the end of the week, we transitioned back to the primary data center. This

test verifies the tasks needed to transition to and capabilities of the backup data center in case we need to do the same in an emergency situation.

MDVOTERS Audits

Monthly audits of voter registration data continue to verify compliance with federal and State laws governing voter registration. The monthly audits include review of the local boards of elections' processing of Electronic Registration Information Center (ERIC) reports, Department of Health's death records, Administrative Office of the Courts' (AOC) felony records, and the processing of overall voter registration records. Follow up continues to be conducted with the local boards to ensure all corrections are completed and to address any training issues.

Motor Vehicle Administration (MVA) Transactions

During March, MVA collected the following voter registration transactions:

New Registration - 11,573	Residential Address Changes - 18,734
Last Name Changes - 2,715	Political Party - 4,144

Current Total Registered Voters

As of April 26, 2023, there were 4,147,222 active voters in Maryland. _

Candidacy and Campaign Finance (CCF) Division

Campaign Finance

Mr. DeMarinis noted that the candidacy filings are scheduled by appointment, and as of April 24, 2023, 10 candidates have filed at SBE.

Public Financing

On April 19, the CCF Division met with Baltimore City's Legal and Finance Departments about the public financing program. A summary guide and FAQs have been published. The Baltimore City Fair Election Fund Commission is still waiting for the final appointment of commission members to have a quorum for its first meeting.

Website Activity

In March 2023, the MD Campaign Reporting Information System (MD CRIS) website was visited by 361,674 individuals for an average of 11,666 per day. Additionally, it had 2,328,193 hits. Each viewer looked at an average of approximately 5.81 page views per day. The Business Contribution Disclosure System (BCDS) website had 889,463 hits, with 130,217 visitors with an average of nearly 6.52 page views per day.

Enforcement

Listed below are the recent enforcement actions from March 2023. The information provided is the name of the committee, the amount of civil penalty paid, and the violation. The total amount collected was \$3,150.

1. Education Not Indoctrination Slate; \$250, Authority line violation.
2. McLaughlin, Patrick For Queen Anne's County Commissioner; \$50, Authority line violation.
3. Ginsburg, Amy Committee to Elect; \$50, Authority line violation.
4. Montgomery, David for Talbot; \$250, Authority line violation.
5. Smith, Noel Friends of; \$250, Authority line violation.
6. Dalton, Sandra K. Candidate; \$100, Cash expenditure greater than \$25.
7. Thomas, Justi Friends of; \$200, Cash expenditure greater than \$25.

8. Bravo-Schwetje, Ysela for BOE; \$200, Cash expenditure greater than \$25.
9. Brooks, Amy for Maryland; \$200, Cash expenditure greater than \$25.
10. McDowell, Clayton (Ewing) Friends of; \$200, Cash expenditure greater than \$25.
11. Wheatley, (Teresa) Terry Dayton Supporters of; \$200, Cash expenditure greater than \$25.
12. Parrott, Neil For Delegate; \$250, Failure to maintain campaign records.
13. Zanotta, Roberto Friends of; \$100, Failure to maintain campaign records.
14. Phillips, Al for Delegate D39; \$100, Failure to maintain campaign records.
15. Nixon, Diane People For; \$500, Failure to maintain campaign records.
16. Davis, Ronnie for Delegate; \$100, Failure to report contributions & expenditures.
17. Wilson, Mike (Michael) for Sheriff; \$250, Failure to report contributions & expenditures.
18. Blakely, Robert Rob Citizens For; \$50, No bank account.
19. Perry, Denise Friends of; \$50, No bank account.
20. Di Pietro II, Anthony J. Free State Citizenry for; \$50, No bank account.
21. Rolle, Mary Committee to Elect; \$50, No bank Account.

Electronic Pollbook

Mr. Brechbiel reported that a team from the pollbook vendor arrived in Maryland and began the setup and configuration of 9,000 tablets on April 24, 2023. Once fully configured and tested, these tablets will be packaged and delivered to local boards for further integration testing this summer. Additional ancillary equipment continues to be ordered and shipped to SBE in preparation for the final packaging and delivery to local boards. SBE has established a Quality Control team at the warehouse to confirm the tablets and ancillary equipment meet all quality metrics as the vendor completes their tasks.

One goal of the pollbook project is to establish an open line of communication and a collaborative dialogue between the local boards and SBE during the final stages of pollbook development, testing and configuration. To that end, we created a local board subcommittee and are holding weekly meetings to review and discuss pollbook project progress and work towards making the transition to the new pollbook as seamless as possible.

Development of the new pollbook solution is scheduled to be ready for statewide integration testing by July 2023.

Project Management Office (PMO)

Central Warehouse

Mr. Ross reported that the warehouse team continued its work with the electronic pollbook team on the planning, testing and other requirements for the new pollbook equipment. The vendor and the pollbook team will configure and test the equipment tested over the next few months.

Continued to work with the Department of General Services (DGS) on pre-lease tasks required before the negotiating of a new lease agreement with the landlord can begin. There were two DGS walkthroughs of the warehouse facility for items to be addressed with the landlord when discussing the possibility of a new lease. The current lease agreement ends January 2025.

Equipment and Supply Inventory

SBE's FY2023 Inventory Audit is in progress with a statewide completion of 94.76%. June 30, 2023, is the last day for completing the inventory audit.

Records Inventory

The PMO continued work on several tasks related to the agency's Records Inventory Management to ensure that we meet the State's requirements for managing records and documents. The focus during this period included sending to the local boards a records retention survey with a deadline to respond by April 28, 2023. We will review the survey responses and reach out to the local boards for any points of clarification.

Information Security Update

Ms. Charlson reported that at the March meeting, we introduced our new Chief Information Security Officer, Patrick Angel. Although Patrick joined SBE with experience supporting local election offices, Patrick is quickly learning about the election systems used in Maryland, the tools we use to protect and monitor them, and assessing our compliance with generally recognized standards for information systems.

We work continuously to secure election systems and data and maintain the strong partnerships we have with various federal and State agencies. Even in non-election years, we meet quarterly with representatives from the FBI, Cybersecurity and Information Security Agency (CISA), Maryland Coordination and Analysis Center, Office of the State Prosecutor, and the Maryland Department of Emergency Management. CISA representatives recently performed physical reviews of several State and local election facilities and identified ways to enhance the security of these facilities.

In 2023, our information security project will continue working on the following initiatives:

- Updating cybersecurity policies to further define requirements specific to our IT operations and development. These policies are compliant with federal NIST 800-53, NIST Cybersecurity Framework, and Department of Information Technology guidelines.
- Defining detailed technical standards based on these policies and industry best practices to help to secure and defend SBE data and systems.
- Implementing training and managed security services to enhance our capabilities to detect and respond to threats to our systems and the election process.
- Using a social media defense and monitoring tool to help us identify and quickly respond to malicious threats via social media such as impersonation of election officials, voting misinformation, registration scams and threats of violence.
- Undergoing cybersecurity audits and assessments to assure compliance with policies and best practices and mitigate any identified issues.
- Conducting regular vulnerability detection to test and improve our cybersecurity posture and evaluating and improving the (technical) risk assessment process.
- Implementing industry-standard tools which help our teams detect and respond to cyber vulnerabilities and attacks quickly and effectively.
- Developing a dashboard to report on key areas of the information security program.

ASSISTANT ATTORNEY GENERAL'S REPORT

Mr. Kobrin provided the following report:

1. *Gibson, et al. v. Frederick County, 1:22-CV-01642-GLR (D. Md.)* 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 on to the Fourth Circuit on April 1, 2023, where the case is presently pending. On May 3, 2023, the Fourth Circuit issued a briefing schedule. The Plaintiff's brief is due June 12, 2023, and Appellee's brief is due July 12, 2023. Currently, the Office of the Attorney General plans to submit the Appellee's brief in behalf of the State Board of Elections.

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 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.

APPROVAL OF REGULATIONS

Approval of Amendments to COMAR 33.13.10.05 and 33.13.13.06

Mr. DeMarinis presented proposed amendments to the following regulations:

1. 33.13.10.05 – Prohibitions – Contribution Conversion

Mr. DeMarinis stated that the proposed regulation codifies existing State Board policy on the reporting on contributions. The proposed regulation prevents any circumventions of the contribution limit and surplus funds requirements for pro-rata return of contributions. Additionally, the Office of the State Prosecutor is in support of the codification.

2. 33.13.13.06- Administrative Accounts- Permissible Uses

Mr. DeMarinis explained that proposed regulation allows for administrative account funds to be used for fundraising activities exclusively for the administrative account. Currently, the regulations do not allow for such a type of disbursement of administrative funds. As such, a central committee or legislative party caucus committee would have to make expenditures from the electoral account for fundraising activities into the administrative account. Expenditures from the electoral account must be made to promote or assist in the promotion of a candidate, political party or question. Therefore, it is prohibited for the use of electoral funds in this manner. The proposed regulation corrects this situation.

In response to a question from Ms. Woodward regarding COMAR 33.13.10.05, Mr. DeMarinis explained that the word “alters” was used instead of “converts” due to the recommendation of Mr. Kobrin. He explained that the original report filing is what cannot be amended, not a contribution.

Ms. Woodward made a motion to adopt the proposed amendments to COMAR 33.13.10.05 and 33.10.13.06, as presented by Mr. DeMarinis. Mr. Miller seconded the motion. The motion passed unanimously.

Approval of Amendments to COMAR 33.02.03.01-.05, 33.11.01.04, 33.12.02.01, 33.16.02.01, 33.17.04.06, 33.17.05.03, 33.17.07.01, 33.19.01.01, 33.19.02.01, and 33.21.03.02-.03

Ms. Charlson and Ms. Dorsey presented proposed amendments to the following regulations:

1. 33.02.03.01- .05 – Judges' Manuals and Training - Definitions; General Provisions

Ms. Dorsey stated that the new text allows local boards of elections to use electronic copies of the Election Judges Manual, as well as online or virtual Election Judge training. The proposed change to the election judge compensation is to conform the regulations to [HB1200](#) (2023), which increased the minimum compensation for election judge training and provided that local boards must pay election judges for all training classes that they attend.

Mr. Miller made a motion to adopt the proposed amendments to COMAR 33.02.03.01, as presented by Ms. Charlson. Mr. Summers seconded the motion. The motion passed unanimously.

2. 33.11.01.04 – Definitions; General Provisions – Ballot Drop Boxes

Ms. Charlson stated that the new text defines a “no electioneering” zone for ballot boxes and permissive and impermissible activities around ballot boxes. The proposed permissive and impermissible activities were distributed for the 2022 elections. Ms. Charlson explained that the proposed amendments alters the no electioneering zone around ballot boxes from 100 to 50 ft., unless the ballot box is located within the boundaries of a no electioneering zone for a polling place. In that scenario, the no electioneering zone boundaries for the ballot drop box would be the same as for the polling place.

In response to a question from Mr. Voelp regarding the new proposed text COMAR 33.11.01.04F(1), Mr. Kobrin explained that an individual who was dropping off a ballot may not be in possession of a firearm within the no electioneering zone, even if that individual has a concealed carry permit. Mr. Voelp expressed his concern with the proposed text, stating that an individual who can legally carry a firearm may park in a no electioneering

zone to drop off their ballot, and would unknowingly be in violation of COMAR if the firearm was in the individual's car. Ms. Woodward echoed Mr. Voelp's concerns and agreed that further discussion was needed. Mr. Kobrin stated that he could brief the members on the legal background regarding the proposed text but noted that any discussion would need to happen in open session.

Mr. Voelp proposed deferring any further discussion on COMAR 33.11.01.04 until after the closed session. The other board member did not object.

3. 33.12.02.01 – Recounts – Initiation of Recounts – Petition

Ms. Charlson explained that there are currently four recount options, and this proposed change limits the number of recount options a candidate may select to one option. Each recount option verifies the different tabulation points, but the most complete - and most expensive - recount option is the manual recount of paper ballots.

This proposed change was identified in the 2022 Primary Election, when at least one candidate initially requested all four recount options. If the candidate proceeded with all four recount options, the local board would have to prepare for and conduct all four recount options before certifying the local results. This would have delayed the State certification of results.

Mr. Miller made a motion to adopt the proposed amendments to COMAR 33.12.02.01, as presented by Ms. Charlson. Mr. Summers seconded the motion. The motion passed unanimously.

4. 33.16.02.01 – Provisional Voting – Provisional Voting Documents and Supplies

Ms. Dorsey explained that at the February 2023 meeting, we presented the repeal of Regulation .03 (Same Day Registration and Address Change Documents) in this chapter but neglected to present the repeal of a reference to this regulation. This proposed change repeals the reference to the repealed regulation.

Ms. Woodward made a motion to adopt the proposed amendments to COMAR 33.16.02.01, as presented by Ms. Dorsey. Mr. Miller seconded the motion. The motion passed unanimously.

5. 33.17.04.06 – Early Voting – Early Voting Center Equipment and Materials

Ms. Dorsey explained that the new text removes the option to provide an early voting supplement. Currently, all necessary information is included in the election judges' manual, making a supplement unnecessary.

6. 33.17.05.03 – Early Voting – Election Judges – Training of Election Judges

Ms. Dorsey explained that the proposed text removes the reference to the early voting supplement and allows local boards to use electronic copies of the election judges' manual to train election judges for early voting, similar to election day provisions. The proposed change to the election judge compensation is to conform the regulations to [HB1200](#) (2023), which increased the minimum compensation for election judge training and provided that local boards must pay election judges for all training classes that they attend.

7. 33.17.07.01 – Early Voting – Non-Voting Hours Procedures – Voting Equipment Supplies

Ms. Dorsey explained that the new text removes the option to provide an early voting supplement polling place, since the supplement will no longer be produced.

Mr. Miller made a motion to adopt the proposed amendments to COMAR 33.17.04.06, 33.17.05.03 and 33.17.07.01, as presented by Ms. Dorsey. Mr. Summers seconded the motion. The motion passed unanimously.

8. 33.19.01.01 – Same Day Registration and Address Changes – Definitions; General Provisions

Ms. Charlson explained that if a special election is conducted by mail, there must be early voting. See Election Law Article, §9-503(c)(4). The proposed changes require that same day registration and same day address changes be offered during early voting for special elections conducted by mail.

At the February 2023 meeting, we proposed changes to this regulation, and the State Board approved them for publication. During the Department of Legislative Services' review of the proposed changes, they noted a conflict between the changes approved at the February meeting and COMAR 33.17.01.02B, which states that early voting is not available for special elections unless the special election is conducted by mail. As a result, we withdrew the proposed changes to this regulation and are re-proposing them to resolve the conflict with COMAR 33.17.01.02B. These proposed changes clarify that if the special election is conducted by mail, same day registration and address changes are available during the early voting period.

9. 33.19.02.01 – Same Day Registration and Address Changes – Public Notice

Ms. Charlson explained that there typically is not enough time before a special primary or general election to procure a vendor, obtain the data for this mailing, and produce and send the mailing. The proposed changes provide flexibility on how notice is provided. For a regularly scheduled primary and general election, the notice would be provided by mail, but we would have flexibility on how to provide notice of a special primary or general election.

Mr. Miller made a motion to adopt the proposed amendments to COMAR 33.19.01.01 and 33.19.02.01, as presented by Ms. Charlson. Mr. Summers seconded the motion. The motion passed unanimously.

10. 33.21.03.02– Special Elections by Mail – Issuance and Return

Ms. Charlson explained that Chapter 20 of Title 42 of the U.S. Code has been transferred to Title 52 of the U.S. Code. The proposed change in the authority line updates the reference.

At the February 2023 meeting, we proposed changes to this regulation, and the State Board approved them for publication. During the Department of Legislative Services' review of the proposed changes, they noted that current law requires free postage to return ballots delivered to the voter by mail. (The free postage does not extend to voters who receive their ballots electronically.) This proposed change incorporates that distinction for a special election conducted by mail.

Mr. Miller made a motion to adopt the proposed amendments to COMAR 33.21.03.02, as presented by Ms. Charlson. Mr. Summers seconded the motion. The motion passed unanimously.

Approval of 33.11.02.03, 33.13.10.01 & .04, 33.13.20.03, 33.13.22.01- .03 & .05- .06, 33.13.23.01- .11 -Campaign Financing, and 33.18.01.02- Violations – Civil Penalties for Final Adoption

Mr. DeMarinis presented proposed amendments to COMAR 33.11.02.03, 33.13.10.01 & .04, 33.13.20.03, 33.13.22.01- .03 & .05- .06, 33.13.23.01- .11 -Campaign Financing, and 33.18.01.02- Violations – Civil Penalties for final adoption. The proposed changes to the regulations were adopted at the October 26, 2022 meeting. They were published in the March 10, 2023 edition of the *Maryland Register* (Vol. 50, Issue 5), and the public comment period closed on April 10, 2023.

One public comment was received. The public comment was from the Campaign Legal Center (CLC). The public comment was regarding the firewalls in the proposed regulation for 33.13.10.04C. The comment wanted to strengthen the proposed rule with more specific firewall requirements to prevent strategic campaign information from being passed between candidates, parties, and outside spenders. The current proposed regulation was the codification of the issuance of a declaratory ruling by the State Board regarding the use of a shared vendor between an independent expenditure entity and a candidate. The guidance has been in effect since 2017. Therefore, it is recommended to proceed with the adoption of the proposed regulation as drafted.

No other public comments were received about the other proposed regulations.

Ms. Woodward made a motion to adopt the proposed amendments to COMAR 33.11.02.03, 33.13.10.01 & .04, 33.13.20.03, 33.13.22.01- .03 & .05- .06, 33.13.23.01- .11, and 33.18.01.02 for final adoption, as presented by Mr. DeMarinis. Mr. Miller seconded the motion. The motion passed unanimously.

APPROVAL OF DELEGATION OF DUTIES

Ms. Charlson presented proposed changes to the *Duties of the State Board and State Administrator* table. The [summary](#) and [full list](#) of duties of the State Board and State Administrator with the administrative edits proposed at the meeting can be viewed in the meeting materials.

In response to a question from Ms. Woodward, Mr. Voelp explained that state law gives duties to the State Board of Elections and the Board can then delegate duties to the State Administrator, who then performs those duties through the staff. He stated that the Board general votes on delegation of duties either after a legislative session or after a new Board is sworn in. Mr. Voelp further explained that just as duties can be delegated, a duty can also be un-delegated as needed.

In response to a question from Ms. Woodward regarding the recommendation to not delegate the duty of EL §13-249(g)(4) to issue a report on coordinated expenditure finding & impose civil penalty, Mr. DeMarinis stated that the State Administrator and staff already conduct an investigation into whether there is any coordination between an outside spender and a candidate. The State Board then hears the evidence as a sort of administrative hearing, and issues the report based on the findings of the hearing. Mr. DeMarinis explained that the State Administrator could not be both the judge and jury of the hearing.

Mr. Summers made a motion to approve the proposed changes to the *Duties of the State Board and State Administrator*, and Mr. Miller seconded the motion. The motion passed unanimously.

APPROVAL OF CONFIDENTIALITY REQUEST

Mr. DeMarinis presented a request from one voter (a sitting judge) to keep their address and phone numbers confidential and stated that the Candidacy and Campaign Finance Division verified that the requesting individual was eligible to have their residential address and telephone numbers be confidential. Mr. DeMarinis stated that the request for confidentiality met all conditions.

Ms. Woodward made a motion to approve the confidentiality requests as presented. Mr. Miller seconded the motion. The motion passed unanimously.

APPROVAL OF TITLE 13 WAIVER REQUESTS

Mr. DeMarinis presented requests from 21 campaigns to waive or reduce late fees incurred by the committee. Six 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.

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

1. Brewer, Thomas Friends of
2. Carroll County Republican Central Committee
3. Committee to Restore the Fire Commission
4. Dean, Karen M. Committee to Elect
5. DeCesaris, Annete Friends of
6. Diggs, Dylan for County Council
7. Elliot, Rich for Maryland
8. Elliot, James F. Committee to Elect State's Attorney
9. Hirsh, Joshua Friends of
10. Howard, James Friends of
11. Johnson Sr., Darrin Citizens to Elect
12. Jones, Rachel R. Friends of
13. Krimm, Carol Friends of
14. McIntosh, Maggie Citizens For
15. O'Donnell, Kyle for Citizens
16. Shay, Michael Committee To Elect
17. Sennet, Sean A. The Friends of
18. Terrell, China Friends of
19. Tilghman, Anthony Friends of
20. Vergagni, Vicki for District 6 Council Seat, Friends of
21. Wilson, David Friends of

Mr. Miller made a motion to approve the 21 Title 13 late fee waiver requests as presented, and Mr. Summers seconded the motion. The motion passed unanimously.

TITLE 14 WAIVER REQUESTS

Mr. DeMarinis presented four requests from businesses to waive late fees incurred by the business. No business were denied waivers 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 waiver.

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

1. Arundel Amusements, Inc.
2. 3P Protect Perryman Peninsula
3. Maryland Marine Contractors Association
4. UM Charles Regional Medical Center

Mr. Summers made a motion to approve the four Title 14 late fee waiver requests as presented, and Mr. Miller seconded the motion. The motion passed unanimously.

CLOSED SESSION -LEGAL ADVICE

Mr. Voelp 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. Ms. Woodward made a motion to convene in closed session under General Provisions Article, §3-305(b)(1), and Mr. Miller seconded the motion. The motion passed unanimously.

The motion having passed, the Board met in closed session in accordance with exemption defined in (b)(1) of Section 3-305 of the Open Meetings Act to discuss legal advice on a regulation proposed as a result language in SB 1 of the 2023 Legislative Session and the State Board's duties and responsibilities in the process to appoint a new State Elections Administrator. The closed session began at 3:09 pm. Mr. Voelp, Mr. Miller, Mr. Summers, and Ms. Woodward attended the closed meeting. In addition to the board members, Ms. Lamone, Mr. Kobrin, and Ms. Duncan attended the meeting.

No action was taken in closed session.

Ms. Woodward made a motion to adjourn the closed meeting, and Mr. Miller seconded the motion. The motion passed unanimously. The closed meeting adjourned at 3:37 pm.

The open meeting resumed at 3:44 pm.

APPROVAL OF REGULATIONS (CONT'D)

Approval of Amendments to COMAR 33.11.01.04 (Cont'd)

Mr. Voelp proposed, after consultation with counsel, the following: (a) To remove Subsection (1) under Section F of the proposed COMAR 33.11.01.04, while keeping Subsections (2) and (3), or (b) remove the words "possess, carry" from the proposed text, but leave "brandish" in the text.

Mr. Summers stated that while he understood that brandishing a weapon carries a direct threat, that possessing or carrying a weapon still comes with a potential threat that can impede one's right to vote, which should be devoid of any threats, whether direct or potential.

Ms. Woodward expressed her desire to table the discussion of F(1). She stated that she supports voting on the remainder of COMAR 33.11.01.04 but wants more time to discuss F(1), especially in light of recently passed legislation. She stated that she is concerned about the unintended consequences of F(1) (for the scenario previously mentioned by Mr. Voelp), but acknowledged Mr. Summers' concern regarding direct and perceived threats.

In light of the concerns of Mr. Summers and Ms. Woodward, Mr. Voelp withdrew his suggestion of removing the words "possess, carry" from the proposed text, but leaving "brandish" in the text. He stated that the options before the Board are to table the discussion on F(1) or to vote on it as is.

Mr. Miller echoed the concern over unintended consequences of the proposed language and stated his support for the proposed text minus F(1).

In response to a suggestion from Mr. Summers, Ms. Charlson stated that it would be more efficient to table the proposed amendments to all of COMAR 33.11.01.04 and vote on them at the next meeting, instead of piecemealing the amendments.

After confirming with the other members, Mr. Voelp tabled the discussion on the proposed amendments to COMAR 33.11.01.04 until the next meeting.

OLD BUSINESS

Amendments to the process to appoint new Administrator of Elections

Mr. Voelp proposed the following friendly amendments to the *Position Description and Minimum Qualifications* for the State Administrator of Elections:

1. On page 3, under the Knowledge, Skills, and Abilities heading, the word "Complete" in items 2 and 3 should be changed to "Comprehensive." He stated that his reasoning was that no person possesses complete knowledge of any topic.
2. On page 4, under the Preferred Qualifications heading, on item 2, the word "complete" should be changed to "comprehensive."
3. On the same item, adding "Maryland Election Law" as the first bullet point.
4. On page 5, still under the Preferred Qualifications heading, changing the last item from "Experience acquiring and overseeing the distribution of State or Federal grant funds" to "Ability to acquire and oversee the distribution of State or Federal grant funds."
5. Still under the Preferred Qualifications heading, adding the following two items:
 - a. "Familiarity with relevant technology."
 - b. "Experience in collaborating with legislators, local governments, local boards of elections, and major political parties."
6. On page 5, under the Special Requirements heading, removing the words "in accordance with the Election Law Article, Section 2-207 (d), Annotated Code of Maryland" so that special requirement #1 simply reads, "The State Administrator of Elections is required to be a registered voter in the State of Maryland." Mr. Voelp stated that the referenced election law does not refer to the State Administrator.

Speaker- The Honorable Cheryl Kagan

Senator Kagan thanked the board members and local boards of elections for their service. She also thanked Mr. Williams for his previous time on the State Board.

Senator Kagan noted the following concerns and comments with the *Position Description and Minimum Qualifications* for the State Administrator of Elections:

- Under the Knowledge, Skills, and Abilities section, under the requirement of "Ability to establish and maintain effective working relationships with..."
 - That the list is too long and that some relationships are more important than others.
 - That the State Treasurer, the Lt. Governor, the press, the Administrative, Executive, and Legislative Review Committee (AELR), were omitted.
 - That the State Administrator should have closer relations with members of the Maryland General Assembly
- Under the Preferred Qualifications heading, Senator Kagan stated that she was surprised by the emphasis on knowledge of federal laws, and that the State Administrator should have knowledge of Maryland election laws.
- Senator Kagan acknowledged Ms. Lamone's involvement with national and international organizations and suggested that involvement with these organizations be added to the job description.
- She noted that the following were missing from the job description:
 - The ability of the State Administrator to grant a waiver to a local board for starting the canvassing of mail-in ballots eight days prior to the start of early voting.
 - Oversight of contractors or vendors.
- Senator Kagan stated that the State Administrator does not need to be a tech guru, but should know the right questions to ask.

- Senator Kagan noted that voter education regarding the use of internet-delivery ballots should be a priority to cut down on the number of provisional ballots.
- She noted that there needs to be better collaboration, communication, and cooperation with the local boards of elections.

Regarding the Delegation of Duties of the State Board that was discussed previously in the meeting, Senator Kagan noted that the selection of polling places should not be the sole domain of the State Administrator. She also disagreed with the delegation of the chain of custody of the ballots to the State Administrator.

Discussion of the process to appoint new Administrator of Elections

In light of the testimony of Senator Kagan, Mr. Voelp offered the following additional friendly amendments:

1. On page 3, under the Knowledge, Skills, and Abilities heading, in the last item, add the words, “but not limited to...” so that the last item reads, “ Ability to establish and maintain effective working relationships with but not limited to...”
2. Under the same item, adding the State Treasurer, the Lieutenant Governor, the AELR Committee, and the press to the list of people and organizations that the State Administrator shall establish and maintain effective working relationships with. In response to a suggestion from Ms. Woodward, Mr. Voelp added the Board of Public Works to the list.

In response to a suggestion from Ms. Woodward, Mr. Voelp agreed that the section heading of Knowledge, Skills, and Abilities should come after the introduction and before the Examples of Work section.

Mr. Summers made a motion to approve the Position Description and Minimum Qualifications for the State Administrator of Elections, as with the proposed friendly amendments. Mr. Miller seconded the motion. The motion passed unanimously.

After much discussion, the following schedule for choosing a new State Administrator was set:

- Job description will be posted on Friday, May 5, 2023;
- The last day to accept resumes will be Friday, May 19, 2023 at 2 p.m.;
- The Board will review resumes by Friday, May 26, 2023;
- Interviews will take place on Wednesday, May 31, 2023;
- The Board will meet on Monday, June 5, 2023 to announce the new State Administrator.

The Board also agreed to accept resumes from out-of-state candidates.

NEW BUSINESS

There was no new business.

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

There were no campaign contributions.

SCHEDULE NEXT MEETING

A special meeting to announce the next Administrator of Elections is scheduled for June 5, 2023 at 12 p.m. The next regular meeting of the Board is scheduled for Tuesday, June 20, 2023 at 2 p.m.

ADJOURNMENT

Ms. Woodward made a motion to adjourn the open meeting. Mr. Summers seconded the motion. The motion passed unanimously. The open meeting adjourned at 4:54 pm.