

**State of Maryland** 

**State Board of Elections – March 10, 2022 Meeting**

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Attendees (via conference call):

William G. Voelp, Chair  
Malcolm L. Funn, Vice Chair  
Severn Miller, Member  
Justin Williams, Member  
T. Sky Woodward, Member  
Linda Lamone, Administrator  
Nikki Charlson, Deputy Administrator  
Andrea Trento, Assistant Attorney General  
Donna Duncan, Assistant Deputy, Election Policy  
Tracey Hartman, Director of Special Projects  
Mary C. Wagner, Director of Voter Registration  
Fred Brechbiel, Chief Information Officer  
Jared DeMarinis, Director, Candidacy and Campaign Finance  
Melissia Dorsey, Director of Election Reform and Management  
Keith Ross, Assistant Deputy, Project Management

**DECLARATION OF QUORUM PRESENT**

Mr. Voelp called the meeting to order at 2:01 pm and declared that a quorum was present.

**ADDITIONS TO THE AGENDA**

There were no additions to the agenda.

**APPROVAL OF MEETING MINUTES: JANUARY 27, 2022**

Mr. Funn made a motion to approve the minutes from the January 27, 2022 open and closed meetings. Mr. Williams seconded the motion. The motion passed unanimously.

**ADMINISTRATOR'S REPORT**

Mr. Voelp requested that only highlights of the Administrator's Report be presented verbally.

**Announcements & Important Meetings**

FY23 Budget

Ms. Charlson reported that in mid-February, the Department of Legislative Services released its analysis of our FY23 budget. (A copy of the analysis accompanied this report.) On February 16, the House Appropriation Committee's Public Safety Subcommittee held a hearing on our FY23 budget, and the Senate Budget & Taxation Committee held a similar hearing on March 1, 2022. Our written response to the Department of Legislative Services' analysis also accompanied this report.

Legislative Audit

Every three years, the Office of Legislative Audit conducts an audit. This audit includes reviewing our fiscal and contract management procedures, our performance and oversight functions, and information technical posture. The current audit period is from December 3, 2018 through January 31, 2022. The senior auditors expect that the field work (*i.e.*, when they are requesting documents and meeting with us to understand various processes) will be complete by May 2022.

Election Directors' Meeting

Our monthly meeting with local election directors and deputy directors was held February 10. The meetings generally cover implementation of legislative mandates, voter registration

topics and preparation for the 2022 elections. A meeting summary will be distributed via the County Bulletin when finalized.

### National Association of State Election Directors' Annual Winter Meeting

The annual meeting was held virtually on February 24-25 and March 3-4. Topics discussed included updates from the Cybersecurity and Infrastructure Agency, how to protect election officials' information online, how the US Postal Inspector Service and the USPS' Office of Investigator General protect mail, voter outreach campaigns, state technology certification programs, and updating voter registration systems. The conference also included "closed meetings" where election officials can share information and receive additional briefings.

### **Special Election for the Prince George's County Council District 8**

Ms. Charlson reported that the special general election was held on February 1, 2022, with early voting from January 26-31, 2022. The Prince George's County Board of Elections certified the results of the special general election on February 12, 2022. The ballots cast in this election were audited, and the audit results confirmed the accuracy of the election results. The election results and audit reports are posted on our Prince George's County's [Special Election webpage](#).

### **Election Reform and Management**

#### Mail-In Voting Forms and Information: Usability Review

The final report was submitted to the General Assembly on February 1, 2022. A copy of the report was provided with the meeting materials.

#### Mail-In Ballot Request Form Mailer

Initial mailers were delivered early February to voters known to be eligible to vote in the 2022 Primary Election (*e.g.*, registered Republicans and Democrats). This mailer generated an increase in the use of our [online ballot request system](#). During the first several days after the mailer hit mailboxes, more than 3,000 users accessed the system daily, an exponential increase from the days leading up to the mailings. The local boards are busy processing the returned forms. A report showing the number of processed forms is posted [here](#); this report will be updated weekly until May, when it will be updated daily.

A second phase will be mailed after the candidate filing deadline to voters who newly become eligible to vote in the primary election by virtue of 1) a contested board of education election, or 2) newly affiliating with a party holding a primary election. There will be one supplemental mailing before the primary election, and then a final phase of the mailing - to all other registered voters - will be mailed after the Primary Election.

#### Permanent Mail-In Ballot Confirmation Communications

This voter communication is required by [Chapter 56](#) (Senate Bill 683) and [Chapter 514](#) (House Bill 1048) of the 2021 Legislative Session. The messages for voters who chose text or email as their preferred method of communication have been sent. The messages for voters who chose USPS mail as their preferred method of communication are being prepared by Maryland Correctional Enterprises (MCE).

#### Early Voting Center and Drop Box locations

Ms. Charlson reported that multiple local boards' drop box submittals have been approved so far. We expect to finalize all other locations this week.

### Translation Services

SBE has engaged LanguageLine for telephone translation services. LanguageLine holds the Statewide telephone translation services contract. These services will also be made available to all local boards. There are no charges for these services other than the per-minute usage rates.

### Call Center

Since the 2010 elections, we have used a call center to assist us in responding to the voters of Maryland. These services began with assisting SBE and then several of the larger local boards. In 2020, the call center answered over 182,600 inquiries for SBE and about 18 local boards. For the 2022 elections, we are utilizing this service to help our voters get answers to their questions. Currently, the call center is handling calls for SBE and eight local boards, and another three local boards are scheduled to come onto the system after the March 22 candidate filing deadline. As of March 7, a total of 6,094 calls have been handled.

### **Voter Registration**

#### MDVOTERS Development

Ms. Wagner reported that several enhancements are in development. Several local boards procured high speed envelope sorting solutions to assist with the sorting of returned mail-in ballot packets. Development to have MDVOTERS and the sorting software to exchange data is currently underway. We are enhancing MDVOTERS' security by adding a screenshot message requiring the user to log in again if the system has been idle for an allotted time and for redistricting purposes, creating a "snapshot" of data which will enable the local boards to be able to ascertain old districts and precincts.

#### 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 and Mental Hygiene (DHMH) death records, Administrative Office of the Courts (AOC) felony records, and the processing of overall voter registration records. Follow up is conducted with the local boards to ensure all corrections are completed and to address any training issues. On a monthly basis, a minimum of 144 audits are conducted.

#### Electronic Registration Information Center (ERIC) - Membership

ERIC's membership now has 31 states plus the District of Columbia. Additional states are in the process of joining. For more information on ERIC, please visit <https://ericstates.org/>.

#### ERIC Files

We are now receiving ERIC data on a monthly basis. On even months (February, April, etc), we receive the In-State Updates, Cross-State, and NCOA (National Change of Address) reports for processing. Odd months bring us the In-State Duplicate and Social Security Administration Death files for processing. As we approach an election and are prohibited from list maintenance mailings (90 days prior to an election), we will receive the In-State Duplicate and SSA Death files on a monthly basis.

#### Motor Vehicle Administration (MVA) Transactions

During January, MVA collected the following voter registration transactions:

New Registration - 11,786

Residential Address Changes - 22,802

Last Name Changes - 2,887

Political Party Changes - 4,096

During February, MVA collected the following voter registration transactions:

New Registration - 11,131	Residential Address Changes - 19,274
Last Name Changes - 2,651	Political Party Changes - 3,498

### Non-Citizen Registration and Voting

From January 21, 2022 to February 28, 2022, a total of 135 voters have been canceled due to not being U.S. citizens. Eleven voters of these voters have voting history. We will review these records prior to submitting them to the Office of the State Prosecutor.

## **Candidacy and Campaign Finance (CCF) Division**

### Candidacy

Mr. DeMarinis reported that the candidacy filing deadline was changed by the Court of Appeals from February 22, 2022, to March 22, 2022, at 9 pm. The candidacy filings are scheduled by appointment, and as of March 3, 465 candidates have filed at SBE.

### Campaign Finance

#### *State Public Financing Program*

In order to qualify for a public contribution, the candidate must raise \$120,000 from 1,500 Maryland residents. Mr. DeMarinis reported that one gubernatorial candidate has been certified and qualified for nearly \$600,000 in public funds. This marks the third consecutive gubernatorial election with a certified public financed candidate.

#### *County Public Financing Programs*

Montgomery County: There are 16 certified candidates in the program. One candidate was denied certification due to a failure to cure their deficiencies in a timely manner. Ten more candidates have filed a notice of intent to participate. The program has disbursed a total of \$1,865,900.

Howard County: There are 2 certified candidates in the program. Two more candidates have filed a notice of intent to participate in the program. The program has disbursed a total of \$484,809.49.

### Website Activity

In January 2022, the MD Campaign Reporting Information System (MD CRIS) website was visited by 377,681 individuals for an average of 12,183 per day. Additionally, it had 3,858,569 hits. Each viewer looked at an average of approximately 8 page views per day. The Business Contribution Disclosure System (BCDS) website had 847,325 hits, with 54,311 visitors with an average of nearly 15 page views per day.

In February 2022, the MD Campaign Reporting Information System (MD CRIS) website was visited by 286,836 individuals for an average of 8,063 per day. Additionally, it had 1,875,200 hits. Each viewer looked at an average of approximately 5.2 page views per day. The Business Contribution Disclosure System (BCDS) website had 766,892 hits, with 54,514 visitors with an average of nearly 15.5 page views per day.

### Enforcement

1. Friends of Kristin Mink paid \$250.00 on January 26, 2022, for failure to include an authority line.
2. Citizens for Tim (Timothy) Fazenbaker paid \$1,650.00 on February 2, 2022, for failure to record all contributions and expenditures, failure to maintain bank records.

3. American College Of Cardiology, Maryland Chapter PAC paid \$600.00 on February 9, 2022, for failure to record all contributions and expenditures.
4. Friends Of Richard Impallaria paid \$1,100.00 on February 11, 2022, for failure to record all contributions and expenditures and failure to maintain bank records.
5. Committee to Elect Gregory Alton paid \$50.00 on February 11, 2022, for cash disbursement greater than \$25.00.
6. Friends of Lorna Phillips Forde paid \$300.00 on February 16, 2022, for failure to record all contributions and expenditures.
7. Friends of Jeff Cline paid \$250.00 on February 16, 2022, for disbursement by an unauthorized individual.
8. Friends of Julie Ensor paid \$350.00 on March 1, 2022, for failure to record all contributions and expenditures and failure to maintain bank records.
9. The Committee to Elect Kathleen Kositzky Crank paid \$500.00 on March 1, 2022, for cash disbursement greater than \$25.00.

#### Request for Confidentiality – February Meeting Follow Up

Mr. DeMarinis reported that the judge's request for confidentiality that was conditionally approved at the last meeting has been cured. The voter is now a confidential voter.

### **Voting Systems**

#### Electronic Pollbook

Mr. Brechbiel reported that at the February 16, 2022, meeting of the Board of Public Works, SBE presented for approval a contract for the procurement of a new electronic pollbook. The contract was approved, and the initial kick-off meeting between SBE and the new electronic pollbook vendor (DemTech) took place. The new electronic pollbook solution will be first used in the 2024 elections.

### **Project Management**

#### Inventory Management

Mr. Ross noted that the FY22 inventory auditing of equipment and supplies statewide started on February 1. Currently, between SBE and the local boards, 28.83% of the inventory has been audited. The scheduled end date for completing the inventory auditing is June 31, 2022.

Most of the additional equipment and supplies have been received and recorded or will soon be recorded into the SBE inventory system. The same inventory protocol will be followed when the remaining equipment is received.

#### Document Management

Planning efforts continued with SBE's Document Management System Modernization Project.

#### Baltimore City Office and Warehouse Relocation

SBE is working with the Baltimore City Board of Elections to relocate their office and warehouse to a central location and visited two potential locations.

### **Legislation**

Ms. Duncan reported that we are currently tracking about 145 pieces of legislation. A copy of our current list is included. We track many types of bills including changes to Election Law Article, including campaign finance, and constitutional amendments that lead to a statewide ballot question in a general election, local ballot questions for counties, changes to the offices that appear on the ballot, including Board of Education. Requirements or changes to the operation of

State government are sometimes included (*e.g.*, PIA mandates). The “crossover” deadline, the day when bills need to leave the chamber in which they were introduced and move to other chamber, is March 21. After this date, we should have a better understanding of which bills are likely to be passed this legislative session.

### **ASSISTANT ATTORNEY GENERAL’S REPORT**

Mr. Trento gave the following updates:

1. *WinRed, Inc. v. Ellison, et al.*, No. 21-cv-1575 (D. Minn.). On July 7, 2021, WinRed, Inc. – a federal PAC created to assist Republican Party candidates – filed a lawsuit against the Attorneys General of Connecticut, New York, Maryland, and Minnesota (the “State AGs”), seeking a declaration that State consumer protection statutes and regulations are preempted by federal law, to the extent that these State laws are being enforced to regulate the use of pre-checked recurring contribution boxes for solicitations for federal offices. WinRed had received letters from the defendants requesting information and documents regarding its use of pre-checked boxes in that context. (It is now public that ActBlue – the PAC formed to assist Democratic Party candidates – has received a similar request from the same State AGs but has not joined this lawsuit.) On July 27, 2021, WinRed filed a motion for preliminary injunction against enforcement of subpoenas served by the State AGs. On July 29, 2021, the State AGs moved to dismiss the complaint. Oral argument on both motions took place on November 2, 2021. On January 26, 2022, the Court issued an order denying Plaintiff’s motion for preliminary injunction and granting the defendants’ motion to dismiss and dismissed the Complaint. WinRed has appealed the dismissal to the U.S. Court of Appeals for the Eighth Circuit. WinRed’s opening brief is due March 23, 2022. The Appellees’ response will be due approximately 30 days later.
2. *Conners v. State of Maryland, et al.*, No. C-02-CV-21-001282 (Cir. Ct. A.A. Cnty.). On September 23, 2021, the Plaintiff filed a lawsuit challenging the SBE’s disclosure of personalized voter information on lists of registered voters without obtaining voters’ consent. She alleges that SBE’s practices of (i) disclosing information beyond just the names of voters on the voter list, (ii) disclosing the voter list to non-Maryland registered voters, (iii) transmitting the voter list to individuals or organizations who do not swear the oath that the list will only be used for electoral purposes, (iv) failing to ensure that the purpose for which the list is intended to be used by the applicant comports with that requirement, and (v) allowing only some voters to participate in the voter confidentiality program, violates various State and federal laws and constitutional provisions. The plaintiff is seeking, among other things, damages in the amount of \$400,000 for each instance her voter information was disclosed on a voter list transmitted to an applicant, and seeks injunctive relief in the form of an order forbidding SBE from disclosing voter information without the affirmative consent of the voter and requiring SBE to issue new voter ID numbers to every Maryland registered voter. The State of Maryland, the State Administrator, and the Governor are named as defendants in the case.

On November 8, 2021, the Defendants filed a motion to dismiss the Complaint. On November 23, 2021, Plaintiff filed an opposition to the motion to dismiss. The motion to dismiss was heard on February 14, 2022.

3. *Baltimore Cnty. Branch of the NAACP, et al. v. Baltimore Cnty., Md., et al.*, No. 1:21-cv-03232 (D. Md.). On December 21, 2021, the Baltimore County Branch of the NAACP, the League of Women Voters, Common Cause of Maryland, and several individual plaintiffs filed a lawsuit challenging the Baltimore County redistricting map for county council districts, on the ground

that it violated section 2 of the Voting Rights Act. Baltimore County, the individual members of the Baltimore County Council, and the Baltimore County Board of Elections were named as defendants. (The individual County Council members have since been dismissed from the case.) On January 19, 2022, the plaintiffs filed a motion for preliminary injunction, and the court entered an order setting a hearing for February 15, 2022 on the plaintiffs' motion. On February 22, 2022, the court ruled in favor of the plaintiffs, and ordered Baltimore County to produce a compliant map by March 9, 2022. On March 9, 2022, Baltimore County filed its proposed remedial map. The Court has asked the plaintiffs to respond to the filing by 5 pm today, and will hold a conference with the parties on March 11, 2022 to discuss further proceedings.

4. *Parrott, et al. v. Lamone, et al.*, No. C-02-CV-21-001773 (Cir. Ct. A.A. Cnty.); *Szeliga, et al. v. Lamone, et al.*, No. C-02-CV-21-001816 (Cir. Ct. A.A. Cnty.). On December 21 and 23, 2021, respectively, two groups of individual plaintiffs filed lawsuits challenging the State's Congressional redistricting map under various provisions of the Maryland Constitution. Collectively, plaintiffs allege that the map is an unlawful partisan gerrymander under Articles 7, 24 and 40 of the Declaration of Rights, and Articles I, § 7 and III, § 4 of the Maryland Constitution. The defendants named in the lawsuits are Ms. Lamone, Mr. Voelp, and the State of Maryland. On January 21, 2022, the Democratic Congressional Campaign Committee filed motions to intervene in both cases. These motions were rejected by the Court.

On February 7, 2022, the defendants moved to dismiss the Complaint in the *Szeliga* matter. The Court ordered an expedited response to that motion, and scheduled argument for February 16, 2022. On February 11, 2022, the *Parrott* plaintiffs moved to intervene in the *Szeliga* matter for the purpose of participating in the briefing and argument on the motion to dismiss. Argument took place on February 16, 2022. The parties made further submissions to the Court on February 18, 2022, and the Court ordered further argument on February 23, 2022. Following argument, on February 23, 2022, the Court denied the defendants' motion to dismiss as to all but one of the plaintiffs' claims, and set a schedule for further proceedings in the case. The parties have completed discovery and proposed findings of fact are due March 11, 2022. Trial is scheduled to run for four days beginning March 15, 2022.

5. *In the Matter of Seth Wilson*, No. C-02-CV-22-000078 (Cir. Ct. A.A. Cnty.). On January 14, 2022, Seth Wilson, the Chairman of the Washington County Republican Party Central Committee, filed a petition for judicial review of the determination and approval, respectively, by the Washington County Board of Elections and SBE, of the locations for early voting centers in Washington County for the 2022 elections. On January 19, 2022, the agencies were provided notice of the petition for judicial review by the Clerk of the court. The agencies must compile and submit the administrative record to the Court by March 21, 2022.
6. *Thurston, et al. v. Prince George's County*, No. CAL22-01728 (Cir. Ct. P.G. Cnty.). On January 23, 2022, four individual plaintiffs filed a lawsuit challenging the Prince George's County redistricting map for county council districts, on the ground that the map was promulgated by resolution, and not law, and therefore is invalid. Neither SBE nor the PG County local board of elections is party to the case. The Circuit Court ruled in favor of the plaintiffs, and the Court of Appeals granted certiorari and scheduled expedited briefing and argument. On March 7, 2022, the Court of Appeals affirmed the ruling of the Circuit Court. As a result, the councilmanic map prepared by the independent commission established to draw such maps, and which the County Council had sought to override, will be implemented.



7. *In the Matter of 2022 State Legislative Redistricting*, Misc. Nos. 21, 24, 25, 26, 27 (Md.). On January 28, 2022, the Court of Appeals promulgated procedures for challenging the State legislative district map promulgated by the General Assembly. The Court established a deadline of February 10, 2022, for the filing of challenges, and ordered the Attorney General's Office to respond to any such challenges by February 15, 2022. The Court appointed Retired Judge Alan Wilner to serve as Special Magistrate to preside over these proceedings.

On February 10, 2022, four separate petitions were filed challenging various aspects of the State legislative district map. On February 15, 2022, the State filed motions to dismiss each petition. On February 18, 2022, Judge Wilner entered a scheduling order requiring that the parties exchange discovery by March 11, 2022, and submit proposed findings of fact by March 22, 2022. The Court has since extended the March 11, 2022 discovery deadline to March 14, 2022 for the limited purpose of allowing the State to serve expert reports that respond to the petitioners' expert reports, if any. A hearing is scheduled to begin on March 23, 2022. Judge Wilner expects to have his post-hearing report completed and delivered to the Court of Appeals by April 5, 2022.

8. *In re Petition for Declaratory Ruling by Del. Mary Ann Lisanti* (State Bd. of Elec.). On March 7, 2022, Delegate Mary Ann Lisanti filed a petition for Declaratory Ruling asking the State Board of Elections to rule on the propriety of the Harford County Board of Elections' implementation of the new councilmanic district map. The petition notes that the textual provisions of the bill that was passed by the County Council implementing the map are inconsistent with the map that was included with the bill. The local Board of Elections opted to effectuate the map version of the bill, as opposed to the textual version of the bill. The State Board must rule within 60 days or notify the petitioner within that period of time of any reasons for which it will not issue such a ruling.

In response to a question from Mr. Voelp, Mr. Trento stated that this would likely be his last meeting with the Board, depending on when the next meeting is scheduled for. Mr. Voelp thanked Mr. Trento for his service to the State Board as the Assistant Attorney General, stating that it has been an honor and great experience to work with him. Mr. Trento thanked Mr. Voelp and echoed his sentiment, stating that he has been honored to work with the board members and staff over the last four years.

#### **APPROVAL OF PROPOSED REGULATIONS TO COMAR 33.01.07.01- COMAR 33.01.07.06- (VOTING IN CORRECTIONAL FACILITIES)**

Ms. Hartman presented proposed new regulations to COMAR 33.01.07, as required by [SB 525](#) and [HB 222](#) of the 2021 Legislative Session. The proposed new regulations are:

1. [33.01.07.01](#) (Voting in Correctional Facilities – Definitions): The first regulation of the Chapter defines nine terms related to the regulations including election official, election-related materials, and eligible voter, which are key to the regulations.
2. [33.0107.02](#) (Voting in Correctional Facilities – Duties of the State Board): This regulation defines the duties of the State Board, including:
  - a. Providing a ballot drop box for the Baltimore City Central Booking facility, as required by SB 525, and written notification of how to use the drop box; and
  - b. Creating a program to notify eligible voters of how to vote in upcoming elections. Based on the number of eligible voters in each correctional facility, SBE will send each



correctional facility voting information packets that contain voter registration applications, mail in ballot applications, instructions for each, and return envelopes.

3. 33.01.07.03 (Voting in Correctional Facilities – Duties of the Department of Public Safety and Correctional Services (DPSCS)): This regulation defines the responsibilities of the DPSCS, which include:
  - a. Installing and 24/7 video monitoring of the ballot drop box(es) at the Baltimore City Centralized Booking Facility and other ballot drop boxes that the Department elects to install;
  - b. Allowing eligible voters to deposit election-related materials in the drop box(es);
  - c. Providing SBE with the number of eligible voters in each State correctional facility by a specific date;
  - d. Distributing the voting information packet to eligible voters and processing all outgoing postal mail both in a timely manner so as to not delay any election processes;
  - e. Storing any excess voting information packets and notifying SBE if there is a shortage of packets; and
  - f. Allowing election officials to empty the drop box(es) at pre-determined times.
4. 33.01.07.04 (Voting in Correctional Facilities – Duties of the Local Board of Election for Baltimore City): This regulation defines the duties of the Baltimore City Board of Elections, which include emptying the drop box(es) on a regular basis and distributing an election-related materials and ballots received from the drop box(es) that should go to a different local board.
5. 33.01.07.05 (Voting in Correctional Facilities – Duties of the Local Correctional Facilities): This regulation defines the duties of local correctional facilities, which include:
  - a. Distributing the voting information packet to eligible voters and processing all outgoing postal mail both in a timely manner so as to not delay any election processes; and
  - b. Storing any excess voting information packets and notify the SBE if there is a shortage of packets.
6. 33.01.07.06 (Voting in Correctional Facilities – Duties of Eligible Voters): This regulation defines the duties of eligible voters in correctional facilities which include completing and returning all election related materials by the appropriate deadlines either by ballot drop box or through the normal outgoing postal mail process.

In response to a question from Mr. Voelp, Ms. Hartman clarified that SB 525 only required that a ballot drop box be installed at the Baltimore City Booking and Intake Center.

Mr. Miller made a motion to adopt the proposed amendments to COMAR 33.01.01.01, 33.11.01.04, 33.11.02.03, 33.11.02.05, 33.11.03.06, and 33.17.02.02 for final adoption and publication, as presented by Ms. Hartman. Ms. Woodward seconded the motion. The motion passed unanimously.

**APPROVAL OF FINAL REGULATIONS- COMAR 33.01.01.01- GENERAL PROVISIONS – DEFINITIONS; 33.11.01.04 (ABSENTEE BALLOTS – BALLOT DROP BOXES); 33.11.02.03 (ABSENTEE BALLOT – INFORMAL, WRITTEN REQUEST); 33.11.02.05 (ABSENTEE BALLOT – INFORMAL, WRITTEN REQUEST); 33.11.03.06 (ABSENTEE BALLOTS – RETURN OF BALLOT); 33.17.02.02 (EARLY VOTING – EARLY VOTING CENTERS)**

Ms. Charlson presented proposed amendments to COMAR 33.01.01.01, 33.11.01.04, 33.11.02.03, 33.11.02.05, 33.11.03.06, and 33.17.02.02 for final adoption. These proposed regulations were approved by the Board at several meetings in 2021. The proposed changes were published in the January 14, 2022, edition of the *Maryland Register* (Vol. 49, Issue 2). The public comment period closed on February 14, 2021. We received comments on two of the proposed changes.

The proposed changes presented for final adoption were:

1. 33.01.01.01 (General Provisions – Definitions): Defines “mail-in ballot” and “mail-in voting”; amends the “proof of residency” definition to include certain documents for students at independent Maryland institutions of higher education who reside on that institution’s campus; and corrects an incorrect reference. We received a letter from MaryPIRG in support of the change to the “proof of residency” definition. These proposed changes were approved at the September 9, 2021, and October 28, 2021, meetings.
2. 33.11.01.04 (Absentee Ballots – Ballot Drop Boxes): Incorporates the factors for the local boards to consider and require when determining where to locate ballot drop boxes and security requirements and defines the process for approving proposed locations for ballot drop boxes. This new regulation was approved at the October 28, 2021, meeting.
3. 33.11.02.03 (Absentee Ballot – Informal, Written Request): Incorporates an existing requirement for military and overseas voters who submit a hand-written request for a mail-in ballot and want to receive their ballot electronically. These proposed changes were approved at the September 9, 2021, meeting. No comments were submitted on these changes.
4. 33.11.02.05 (Absentee Ballots – Processing Applications) and 33.11.03.06 (Absentee Ballots – Return of Ballot): Changes the requirement to date stamp all requests for mail-in ballots and mail-in ballots. Applications and returned ballots do not need to be date stamped until several days before the deadline to request or return a ballot, respectively. These proposed changes were approved at the July 22, 2021, meeting. No comments were submitted on these changes.

We received from Lynn Garland comments on the proposed language for 33.11.03.06G(3), which was published as: *The local board shall retrieve ballots and any other election materials according to chain of custody procedures issued by the State Administrator.*

Two of Ms. Garland’s suggestions are in the chain of custody procedures issued to the local boards in December 2021. (The procedures are attached for your information.) These procedures and two forms used during this process require the local boards to pick up ballots at least once of day and record the pick-up time and receipt time on the appropriate forms.

While Ms. Garland’s comments would require a bipartisan team to collect ballots, the procedures recommend – but do not require – using a team of two election officials to retrieve ballots. This recommendation reflects the staffing resources of the local boards and that the individuals assigned this task have taken an oath and most have a criminal background check on file<sup>1</sup>.

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<sup>1</sup> Members of the local board of elections and elections judges who pick up ballots are sworn in but are not required to have criminal background checks.

Ms. Garland recommends adding to the regulations “prompt” entering the return of the ballots into the system. This is already the practice, as our long-standing and on-going instruction to the local boards is to promptly process all returned ballots into the system – regardless of how the ballots are received.

Ms. Garland provides regulations from other states that include detailed procedures for the collection of ballots from ballot boxes, but this level of detail is not consistent with the SBE’s approach to regulations. The goal of the rewrite of the Election Law Article in the late 1990s was to define policies in the Election Law Article, outline processes in the regulations, and define the specific steps for election officials in procedures. Ms. Garland is proposing to introduce procedures into the regulations, which is not consistent with SBE’s long-standing approach to regulations.

For the reasons stated above, Ms. Charlson recommend that the members approve the proposed subsection G, as published.

5. 33.17.02.02 (Early Voting – Early Voting Centers): Incorporates the factors for the local boards to consider when determining where to locate early voting centers, defines the population density required for all jurisdictions, reorganizing the regulation to reflect requirements for early voting centers and the contents for the form, and renumbering the regulation due to the new subsections. The proposed changes were approved at the October 28 meeting. No comments were submitted on these changes.

Mr. Funn requested that the concerns addressed by Ms. Garland be addressed in the future.

Mr. Funn made a motion to adopt the proposed amendments to COMAR 33.01.01.01, 33.11.01.04, 33.11.02.03, 33.11.02.05, 33.11.03.06, and 33.17.02.02 for final adoption and publication, as presented by Ms. Charlson. Ms. Woodward seconded the motion. The motion passed unanimously.

#### **APPROVAL OF SBE POLICY 2022-01: CONTINGENCY PLANS FOR THE 2022 ELECTIONS**

Ms. Charlson presented SBE Policy 2022-01: Contingency Plans for the 2022 Elections for approval. She explained that before every election, we present a contingency plan that outlines what to do if none of the election equipment at a voting location is available for use. The plan includes general contingency plans, early voting contingency plans, and election day contingency plans. The plan is high-level policy, while details, such as what an election judge needs to pack, are included in procedures developed by SBE. The procedures are developed from the policy.

Mr. Miller made a motion to adopt the SBE Policy 2022-01: Contingency Plans for the 2022 Elections. Mr. Williams seconded the motion. The motion passed unanimously.

#### **APPROVAL OF TITLE 13 LATE FEE WAIVER REQUESTS**

Mr. DeMarinis presented requests from 14 campaigns to waive or reduce late fees incurred by the committee. Five campaigns were denied waivers of late fees and was presented to the board for informational purposes.

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

1. Badillo, Darren Friends of
2. Brooks, Kevin Andre Friends of
3. Chappell, Justin Citizens Empowered for

4. De'Narde English for Maryland
5. Fenati, Pat Friends of
6. Harrison, Charles Citizens for
7. Jeang, David Citizens for
8. Johnson, Slyvia Friends of
9. Long, Robert (Bob) Friends of
10. Mattingly, Bill Friends of
11. Porompyae, Jordan 2022 District Friends of
12. Varney, Donta Committee to Elect
13. Veterinary PAC of Maryland
14. Walberg, Jerry for Washington County Board of Education

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

#### **APPROVAL OF TITLE 14 LATE FEE WAIVER REQUESTS**

Mr. DeMarinis presented requests from one business, the CSAA Insurance Group, to reduce late fees incurred by the committee. No businesses were denied waivers of late fees.

Ms. Woodward made a motion to approve the Title 14 late fee reduction request as presented, and Mr. Williams seconded the motion. The motion passed unanimously.

#### **APPROVAL OF CONFIDENTIALITY REQUESTS**

Mr. DeMarinis presented requests from seven voters (all sitting judges) 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 all requests for confidentiality have met all conditions.

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

#### **APPROVAL OF ADMINISTRATIVE CLOSURE OF CAMPAIGN ACCOUNTS**

Mr. DeMarinis presented a request to administratively close the campaign committee account of Michael Daras. Pursuant to §13-313 of the Election Law Article, the State Board has the authority to administratively close a political committee upon determination that good cause exists and when other criteria are met.

Mr. DeMarinis stated that the request meets the requirements for extenuating circumstances, and that State Prosecutor has stated has declined to take enforcement action.

Mr. Williams made a motion to approve the administrative closure requests, and Mr. Miller seconded the motion. The motion passed unanimously.

#### **OLD BUSINESS**

There was no old business.

#### **NEW BUSINESS**

There was no new business.

## **DISCLOSURE OF CAMPAIGN CONTRIBUTIONS**

There were no contributions to report.

## **SCHEDULE NEXT MEETING**

The next meeting is scheduled for Wednesday, April 27, 2022 at 2 p.m.

## **CLOSED SESSION – PERSONNEL & LEGAL ADVICE**

Mr. Voelp requested a motion to close the board meeting under General Provisions Article, §3-305(b) (1), (7) and (8), which permits closing a meeting to discuss compensation of officials over whom the State Board has jurisdiction, receive advice from counsel, and consult with staff about pending or potential litigation. Mr. Williams made a motion to convene in closed session under General Provisions Article, §3-305(b)(1), (7), and (8), and Mr. Funn seconded the motion. The motion passed unanimously.

The motion having passed, the Board met in closed session in accordance with exemptions defined in (b)(1), (7), and (8) of Section 3-305 of the Open Meetings Act to discuss compensation of officials over whom the State Board has jurisdiction, receive advice from counsel, and consult with staff about pending or potential litigation. The closed session began at 3:15 pm. Mr. Voelp, Mr. Funn, Mr. Miller, Ms. Woodward, and Mr. Williams attended the closed meeting. In addition to the board members, Ms. Lamone, Ms. Charlson, and Ms. Duncan attended the meeting. Ms. Malcolm attended part of the closed meeting.

Ms. Malcolm provided an update on a personnel matter, and Mr. Trento provided legal advice on pending or potential litigation. No actions were taken.

Ms. Woodward made a motion to adjourn the closed meeting, and Mr. Funn seconded the motion. The motion passed unanimously.

The closed meeting adjourned at 4:12 pm.

## **ADJOURNMENT**

The open meeting adjourned at 2:59 pm.