



State of Maryland
State Board of Elections – October 26, 2022 Meeting

Attendees (via conference call):

William G. Voelp, Chair
Severn Miller, Member
Justin Williams, Member
Michael Summers, Member
Linda Lamone, Administrator
Nikki Charlson, Deputy Administrator
Dan Kobrin, Assistant Attorney General
Donna Duncan, Assistant Deputy, Constituent Relations
Jared DeMarinis, Director, Candidacy and Campaign Finance
Melissia Dorsey, Assistant Deputy, Election Policy
Keith Ross, Assistant Deputy, Project Management
Mary Ann Mogavero, Director, Election Reform and Management
Jennifer McLaughlin, Senior Policy Advisor
Tracey Hartman, Director of Special Projects

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 one board member was absent, but that Mr. Summers, the newest member of the Board was present. Mr. Voelp welcomed Mr. Summers to the Board.

ADDITIONS TO THE AGENDA

There were no additions to the agenda.

APPROVAL OF MEETING MINUTES: EMERGENCY OPEN MEETING ON SEPTEMBER 6, 2022 AND OPEN AND CLOSED MEETING ON SEPTEMBER 28, 2022

Mr. Williams made a motion to approve the emergency open meeting minutes from the September 6, 2022 meeting and the open and closed meeting minutes from the September 28, 2022 meeting. Mr. Summers seconded the motion. The motion passed unanimously.

ELECTION OF OFFICERS

Mr. Voelp stated that it was time for the annual election of the Chair and Vice-Chair positions.

Mr. Williams nominated Mr. Voelp for Chair. Mr. Miller seconded the nomination. Mr. Voelp was re-elected Chair unanimously.

Mr. Voelp nominated Mr. Williams as Vice-Chair. Mr. Miller seconded the nomination. Mr. Williams was elected Vice-Chair unanimously.

ADMINISTRATOR'S REPORT

Announcements & Important Meetings

Welcome

Mr. DeMarinis welcomed Diane Zagorski to the Candidacy and Campaign Finance Division as the Audit Manager. She previously worked at Howard County as the Bureau Chief of Tax Revenue and was the point person for the public financing program.

Election Directors' Meetings

We hosted election directors' meetings on October 6 and 20. The October 20 meeting included a briefing coordinated by the Maryland Department of Emergency Management. We received a threat briefing from the Maryland Coordination and Analysis Center, National Weather Service, and Maryland Department of Health. Summaries of these meetings will be distributed with a County Bulletin.

Legislative Briefings

Ms. Charlson reported that on September 29, we briefed the House Ways and Means Committee on the permanent mail-in list, the timing of return of mail-in ballots, consolidation of polling places, and the usage of ballot marking devices. On October 11, we briefed the General Assembly's Administrative, Executive and Legislative Review Committee on regulations effective in 2022. Both committees requested follow up information, and we are compiling that information.

2022 Primary Election

Earlier this month, we posted a written [report of the 2022 Primary Election](#). It includes highlights and data from the primary election and considerations for future elections.

Mail-in Voting Data - Web Delivery

Ms. Charlson stated that at last month's meeting, we were asked to provide data on voters who received their ballots via web delivery. The table below shows the requested data

	UOCAVA Voters	Other Voters	Total
Requests for web delivery of ballots	2,314	57,362	59,676
Web delivered ballots returned for counting	745	25,064	25,809
Percentage returned for counting	32.2%	43.7%	43.2%
Web delivered ballots accepted	671	24,694	25,365
Percentage of web delivered ballots accepted	98.5%	90.1%	98.3%
Web delivered ballots rejected	74	370	444
Percentage of web delivered ballots rejected	1.5%	9.9%	1.7%

The return rate for web delivered ballots is lower than the return rate for all ballots (64.6%), and the acceptance rate is lower than the acceptance rate for all ballots (99%). The most common rejection reasons for web delivered ballots was the same as all ballots - the voted ballot was not timely mailed or received. 70 ballots (94.6%) delivered to UOCAVA voters via web delivery and 283 ballots (46.5%) delivered to other voters via web delivery were not timely. Overall, 81.5% of rejected ballots were rejected because they were not timely. 68 ballots (18.4%) delivered to other voters via web delivery were rejected because the voter did not sign and return the required oath.

2022 General Election Preparation

Pre-Election Meetings with Local Board Counsel and Political Parties & Gubernatorial Campaigns

Before each election, we host meetings with counsel to the local boards of elections and the political parties and their gubernatorial campaigns. We hosted two meetings with counsel to the local boards to discuss the status of election-related litigation, changes from the primary election, election activities, and potential issues. The final meeting is scheduled for next week. The meeting with the political parties occurred on October 6. The topics of discussion were litigation venues, electioneering, mail-in ballots, canvassing and unofficial results.

Election Judge Recruitment

Ms. Mogavero reported that we continue to work with non-profit organizations to provide lists of potential election judges to the local boards. The efforts have been successful enough that some boards have reported that they do not need any more lists because they have enough judges to conduct the election. We have provided over 8,000 applicants to the local boards.

Election Judge Training

Ms. Mogavero reported that the new statewide online “refresher” training was developed to assist counties train returning judges. The original module for new judges and a video reference library about equipment is also available.

Voter Education

Seven press releases have been issued since the last State Board meeting. The team members assisting with the voter education campaign do a good job covering a specific topic in each release and always include a wide range of information and data links for the upcoming election. The digital campaign began the week of September 23, and the traditional media campaign starts this week. Our limited funding also allows for an abbreviated TV and radio presence that will begin on November 3 and appear through November 8. Both campaigns will continue through election day.

To date, Google Search continues to drive the highest engagement and has seen a significant increase in click-through rate to the site over the past week. The campaign has driven 27,483 users and 47,041 pageviews to the [Voter Resources \(or MD Votes 2022\) landing page](#). Campaign ads have garnered more than 4.5 million impressions. In particular, social ads have reached more than 1.1 million users. Messages in traditional media (print, TV and radio) started the week of October 17.

Call Center

The call center is supporting SBE and eleven local election offices. They are handling approximately 1,500 calls per day during the week of October 17 and expect 2,000 per day starting the week of October 24. From August 1 to October 18, they have managed 22,771 calls. SBE staff and the call center’s management team meet weekly to review upcoming deadlines and any expected or unexpected spikes in call volume.

Voter Registration

Ms. Dorsey reported that October 18 is the advance deadline to register to vote or to make an address change. Individuals who submitted their information by this date will have their

information in the pollbooks when they arrive to vote. On October 22, the voter registration team pulled information from MDVOTERS for the electronic pollbooks.

On October 17, we sent postcards to 731,558 individuals who are in MVA's database and appear eligible to vote but are not. The postcards have the dates and times for early voting and election day and include a link where individuals can look up their voting locations. These individuals and individuals who are not registered to vote can register or make changes to their registration during early voting or on election day.

Mail-in Voting

Ms. McLaughlin reported that as of October 17, almost 490,000 ballot packets have been mailed by our mail vendor, and that as of October 19, over 75,000 ballots have been sent by web delivery. She reported that as of this meeting, there have been over 600,000 requests for mail-in ballots, with approximately 85% of those requests being for mailed ballots, and approximately 15% for web-delivery ballots. Ms. McLaughlin also reported that around 180,000 mail-in ballots have been returned to local boards, with approximately 50% being returned by mail, and 50% being returned via a drop box.

We will continue twice-weekly data pulls to our vendor until October 28, after which the local boards will have to fulfill requests.

In response to a question from Mr. Voelp, Ms. Charlson stated that there were approximately 1.5 million requests for mail-in ballots for the 2020 General Election. She noted that while this year's number of mail-in ballot requests was about half of the requests in 2020, it is significantly more than years prior to 2020.

Ms. Charlson stated that eleven local boards have already started or plan to start counting ballots before election day. These local boards are Baltimore City and Allegany, Baltimore, Calvert, Frederick, Howard, Montgomery, Prince George's, Saint Mary's, Talbot, and Washington Counties. The remaining local boards plan to start counting mail-in ballots after election day. Results from the pre-election day canvassing will be released after the polls close on election day, and results from post-election day canvassing will be released each day a local board canvasses ballots.

Logic and Accuracy Testing (L&A)

L&A testing is underway across the state, and a number of the local boards have already completed the testing of the voting equipment. This testing verifies that each scanner accurately counts and reports results. Testing of the voting equipment assigned to early voting locations must be completed 14 days before election day, while testing on the voting equipment for election day polling places must be completed ten days prior to election day.

Early Voting Center Signal Testing

The local boards have completed the cellular signal testing of all early voting locations to be used for the upcoming 2022 General Elections. This testing ensures that adequate cellular coverage is available to early voting centers and also provides SBE with an opportunity to review the readings and determine if a different carrier or configuration may be more appropriate for a specific site.

Election Operations Support

Work continues on the Election Operations Support setup and dashboard for the General Election. In addition, SBE's Election Helpdesk is up and being used to enter and manage issues by SBE and many of the local board management and staff. The helpdesk will be active until mid-November.

Post-Election Manual Audit

Ms. Charlson reported that earlier in the week, she and Ms. Hartman selected the early voting centers that will be audited for the manual audit. The local boards were notified of the selections afterwards, so they can carry out the appropriate steps at the conclusion of the first day of early voting.

Voter Registration

Electronic Registration Information Center (ERIC)

Maryland receives ERIC data on a monthly basis. On even-numbered months (February, April, etc.) we receive the In-State Updates, Cross-State, and NCOA (National Change of Address) reports for processing. Odd months we receive In-State Duplicate and Social Security Administration Death files for processing. For more information on ERIC, please visit www.ericstates.org.

Motor Vehicle Administration (MVA) Transactions

During September, MVA collected the following voter registration transactions:

New Registration - 16,523	Residential Address Changes - 23,573
Last Name Changes - 3,687	Political Party - 5,646

Candidacy and Campaign Finance (CCF) Division

Candidacy

The deadline for write-in candidates to file was October 20, 2022 at 5 pm. Write-in candidates do not need to file a certificate of candidacy in person.

Campaign Finance

On October 14, ballot issue committees had to file a campaign finance report. 78% (11 of 14) filed timely.

Mr. DeMarinis reported that the Pre-General 2 Campaign Finance Report is due on October 28, 2022. Pre-report notices were sent to the committees in advance of the deadline. Additionally, email reminders will be sent multiple times prior to the deadline. He noted that if there exists a failure to file or late fee, a commission to assume public office will not be issued.

State Public Financing Program

The audit of the public financed gubernatorial committee is ongoing. Currently, the fund has \$7,686,932.33 remaining after the 2022 Primary Election.

County Public Financing Programs

Montgomery County: Currently, 8 candidates are using the program for the General Election. The program disbursed \$163,416 for the 2022 General Election of which \$66,372 was disbursed in September.

Howard County: All five certified candidates are candidates in the general election. The Howard County program disbursed \$188,016 for the 2022 General Election.

Website Activity

In September, the MD Campaign Reporting Information System (MD CRIS) website was visited by 120,209 individuals for an average of 4,006 per day. Additionally, it had 910,176 hits. Each viewer looked at an average of approximately 6.3 page views per day. The Business Contribution Disclosure System (BCDS) website had 804,860 hits, with 44,364 visitors with an average of 17.7 page views per day.

Enforcement

Here are recent enforcement actions:

1. Pope, Jeremiah Citizens for (01013680), 9/29/2022, \$250.00, failure to include authority line.
2. Perez, Tom for Maryland (01013681), 9/28/2022, \$50.00, failure to include sufficient authority line.
3. Stolz, Thomas J. Friends of (01014404), 9/23/2022, \$250, failure to include authority line.
4. Prince George's Property Owners Association Inc PAC (03008454), 9/27/2022, \$250, failure to maintain contribution records
5. Hall, William BJ Citizens For (01013983), 9/22/2022, \$50.00, Failure to include authority line - self reported
6. McKnight, Roger Citizens for (01014406), 9/20/2022, \$50.00, Failure to maintain a campaign bank account
7. Silva, Fernando M. Citizens for (01014611), 9/16/2022, \$50.00, Failure to maintain a campaign bank account
8. Sands, John P Citizens for (01014591), 10/04/2022, \$50.00, Failure to maintain a campaign bank account
9. Fowler, Scott Friends of (01014515), 08/26/2022, \$50.00, Failure to maintain a campaign bank account
10. VanDen Heuvel, Terry Lynn for Judge of the Orphans Court Cecil (01014426), 09/12/2022, \$50.00, Failure to maintain a campaign bank account
11. Jones, Jennifer Friends of (01014326), 09/29/2022, \$50.00, Failure to maintain a campaign bank account
12. Shaffer, Sean Election of (01014218), 09/30/2022, \$50.00, Failure to maintain a campaign bank account
13. Dacey, Karen Friends of (01014214), 09/14/2022, \$50.00, Failure to maintain a campaign bank account
14. Hines-Poole, Yakeisha for Change Movement (01013859), 09/30/2022, \$50.00, Failure to maintain a campaign bank account
15. Myers, Michael S. Citizens for (01014765), 10/04/2022, \$50.00, Failure to maintain a campaign bank account

16. Brown, Michael Voters for (01013859), 10/18/2022, \$50.00, Failure to maintain a campaign bank account
17. Imbraglio, Ronald Friends of (01014751), 09/23/2022, \$50.00, Failure to maintain a campaign bank account
18. Lawrence, Jamie B. Vote for (01014259), 09/19/2022, \$50.00, Failure to maintain a campaign bank account
19. Taylor, Orlando Dell Citizens to Elect (01014658), 10/06/2022, \$50.00, Failure to maintain a campaign bank account
20. Washington, Trance Friends of (01013649), 10/17/2022, \$50.00, Failure to maintain a campaign bank account
21. Coley, Derrick Friends of (01014689), 10/11/2022, \$50.00, Failure to maintain a campaign bank account
22. Ciezkowski, Henry Citizens for (01014563), 10/18/2022, \$100.00, Cash Expenditures in excess of \$25.00
23. McQueeney, John T. Friends (01014081), 09/29/2022, \$50.00, Failure to maintain a campaign bank account

A total of \$1,750 was collected in civil penalties from September 16, 2022 to October 18, 2022.

Mr. DeMarinis referenced the memo of the international observation missions ongoing in the State for the Board members to review. He will inform the Board of an additional requests.

Voting Systems

New Voting System - 2026 Elections

We are in the project initiation phase for the procurement of a new voting system solution. The goal is to procure and implement a new solution prior to the 2026 Gubernatorial Election Cycle. In the coming weeks, we will formally initiate the project with the Department of Information Technology and submit the required documentation (charter, budget, schedule and other documents) for the project.

Electronic Pollbook

Work on implementing the new electronic pollbooks continues. We are simultaneously in the Planning and the Analysis and Design phases. The project analysis and design phase is on schedule for completion by the fourth quarter of 2022. The procurement of the hardware for the proposed solution is also in progress, and it is anticipated that the hardware will begin to arrive at SBE's warehouse in December 2022.

Project Management Office (PMO)

Central Warehouse

275 dropboxes were deployed from the Central Warehouse for the General election. There is constant monitoring, reporting, and any needed action taken concerning any issues with the dropboxes while at the various locations statewide.

Document and Records Management

The PMO continues its work on the records inventory process and procedures that include updating the records inventory per the requirements from the State for records management.

Large Projects

The PMO is working with other SBE divisions on the initial project requirements for the Candidate and Campaign Finance Division's MDCRIS replacement system and voting system projects that are estimated to be to be implemented in 2025 and 2026, respectively.

Information Security

As we prepare for the 2022 General Election, we continue to mature our information security program to anticipate, detect and respond to an ever-evolving cyber threat landscape.

These efforts include several ongoing 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.
- Social media defense 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.
- Conducting regular vulnerability detection to test and improve our cybersecurity posture.
- Implementing industry-standard tools which help our teams detect and respond to cyber vulnerabilities and attacks quickly and effectively.

Ms. Charlson stated that in light of current global events, we continue to work closely with federal and State partners to maintain increased cybersecurity alert and readiness levels. She reported that we had a threat briefing by the Maryland Coordination and Analysis Center on October 20 and will participate in the Multi-State Information Sharing and Analysis Center's election day situational room to track incidents and reports around the country. Our close partnerships with federal, State, and local partners, including Cybersecurity Infrastructure Security Agency, federal Department of Homeland Security, the FBI, and the local boards, continue to provide useful and effective resources and services to support the cybersecurity program.

ASSISTANT ATTORNEY GENERAL'S REPORT

Mr. Kobrin provided the following report:

1. *In re Petition for Emergency Remedy by the Maryland State Board of Elections, C-15-CV-22-003258* (Cir. Ct. for Montgomery County). On September 2, 2022, SBE filed a petition in the Circuit Court for Montgomery County pursuant to § 8-103(b) of the Election Law Article seeking an emergency remedy for the anticipated amount of incoming mail-in ballots for the 2022 Gubernatorial General Election. The petition sought a court order permitting mail-in ballots to be canvassed and tabulated beginning October 1, 2022 at 8:00 a.m. On September 14, 2022, Delegate Daniel Cox,

current Republican nominee for the 2022 gubernatorial election, moved to intervene and oppose the petition. The Court held a contested hearing on September 20, 2022. Three days later, the Court issued a written opinion and order granting SBE's motion and permitting the early canvass.

On September 27, 2022, Delegate Cox appealed the ruling to the Court of Special Appeals and moved that court to stay the circuit court's judgment. SBE opposed the stay. The next day, September 28, 2022, SBE petitioned the Court of Appeals to issue a writ of certiorari to bypass review in the Court of Special Appeals, hear the matter, and decide it on an expedited basis. The Court of Special Appeals denied Delegate Cox's request for a stay of the circuit court's order on September 29, 2022. The Court of Appeals then granted SBE's petition on September 30, 2022.

After oral argument on the morning of October 7, 2022, the Court of Appeals issued an order affirming the judgment of the Montgomery County Circuit Court in all aspects. An opinion will follow in the coming weeks.

2. *Baltimore Transit Equity Coalition v. Baltimore City Board of Elections*, 24- C-22-003681 (Cir. Ct. for Baltimore City). On August 24, 2022, an organization seeking to place a petition question on the Baltimore City ballot filed a complaint in the Baltimore City Circuit Court challenging the Baltimore City Board of Election's determination that the question petition failed to obtain the requisite number of signatures. On August 31, 2022, the local board filed a motion to dismiss or, in the alternative, a motion for summary judgment. The parties appeared for a hearing before the circuit court on September 7, 2022. After the hearing, the circuit court granted summary judgment in favor of the local board, ruling that the plaintiff-organization failed to provide sufficient evidence that any disqualified signatures were disqualified improperly.

On September 30, 2022, the plaintiff-organization filed a notice of appeal in the Circuit Court for Baltimore City. OAG moved to dismiss the appeal as untimely on October 12, 2022.

3. *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 state 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.

Before any defendants were served, the federal court denied plaintiffs' request for an *ex parte* temporary restraining order to preserve the election records.

Plaintiffs thereafter served SBE process on August 27, 2022. On September 19, 2022, SBE filed a motion to dismiss the complaint for failure to state a claim. Calvert, Washington, Montgomery, Wicomico, and Anne Arundel Counties, and the Maryland Office of the State Prosecutor have filed similar motions.

On October 11, 2022, the court granted the plaintiff's uncontested request for an extension of time to file a reply to the motions to dismiss. Plaintiff's reply is due to the court by November 7, 2022.

4. *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.

5. *WinRed, Inc. v. Ellison, et al.*, No. 22-cv-1238 (8th Cir). 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. On March 25, 2022, WinRed filed its opening brief. The Appellees' response was filed in late April. WinRed filed its reply brief on May 25, 2022.

The case was argued and submitted on October 18, 2022.

APPROVAL OF REGULATIONS

Approval of 33.07.04.02-Election Day Activities, 33.11.03.06-Absentee Ballots, 33.11.05.04 & 33.16.06.04-Rejecting Ballots, 33.15.03.03 &.04-Polling Place-Reassignment and 33.15.03.07-Polling Place-Alcohol Beverage License for Final Adoption

Ms. Charlson presented proposed amendments to COMAR 33.07.04.02, 33.11.03.06, 33.11.05.04, 33.16.06.04, 33.15.03.03, 33.15.03.04, and 33.15.03.07 for final adoption. These proposed regulations were approved by the Board at over three separate meetings in June of this year. The proposed changes were published in the August 26, 2022 edition of the Maryland Register (Vol. 49, Issue 18). The public comment period closed on September 26, 2022. There were no comments.

The proposed changes presented for final adoption are:

1. 33.07.04.02 – Election Day Activities – Order and Decorum: Allows a voter to use an electronic device to provide proof of residency or identification. This change was approved for publication and public comment at the June 23, 2022, meeting. At the same meeting, this regulation was also adopted by emergency regulation; the emergency regulation was effective July 18, 2022.
2. 33.11.03.06 – Absentee Ballots – Issuance and Return: Revises the signature curing process to align the regulations with HB 862 and SB 163 of the 2022 Legislative Session. This change was approved for publication and public comment at the June 23, 2022, meeting. At the same meeting, this regulation was also adopted by emergency regulation; the emergency regulation was effective July 18, 2022.
3. 33.11.05.04 and 33.16.06.04 –Rejecting Ballots – Multiple Ballots from the Same Individual: Requires the local board to accept in most cases a mail-in ballot and reject a provisional ballot if the voter votes and returns both ballots. The exception is if the local board receives the mail-in ballot after the provisional ballot is counted; in this case, the local board rejects the mail-in ballot since the provisional ballot has already been counted. This change was approved for publication and public comment at the June 28, 2022, meeting. At the same meeting, this regulation was also adopted by emergency regulation; the emergency regulation was effective July 18, 2022.
4. 33.15.03.03 & .04 – Polling Places – Reassignments: Updates the circumstances when a voter can be reassigned to another polling place to reflect the use of precinct-level ballot styles. This change was approved for publication and public comment at the June 2, 2022, meeting.
5. 33.15.03.07 – Polling Places – Alcohol Beverage License: Creates a new regulation for the use of a facility with an alcohol license as a voting location. This change was approved for publication and public comment at the June 2, 2022, meeting. At the same meeting, this regulation was also adopted by emergency regulation; the emergency regulation was effective July 18, 2022.

Mr. Williams made a motion to approve the proposed amendments to COMAR 33.07.04.02, 33.11.03.06, 33.11.05.04, 33.16.06.04, 33.15.03.03, 33.15.03.04, and 33.15.03.07, as presented by Ms. Charlson. Mr. Miller seconded the motion. The motion passed unanimously.

Approval of 33.14.01, 02, 03, 04 and .05 – Campaign Finance – Public Finance Program

Mr. DeMarinis presented new and proposed amendments to COMAR 33.14.01, .02, .03, .04 and .05 for final adoption. These proposed regulations were approved by the Board at its April 27, 2022 meeting. The proposed changes were published in the August 26, 2022 edition of the Maryland Register (Vol. 49, Issue 18). The public comment period closed on September 26, 2022. There were no comments.

The proposed changes presented for final adoption are:

Chapter .01: Definitions, General Provisions

.02 Definitions: The proposed regulation eliminates terms no longer applicable and replaces outdated terms with new definitions.

.03 Agency Responsibilities- Comptroller: The proposed regulation and the new law require that the Comptroller provide monthly statements of the Fair Campaign Financing Fund. The regulation replaces an outdated term and repeals an obsolete requirement.

.04 Agency Responsibilities- State Board: The proposed regulation repeals outdated requirements.

Chapter .02: Eligibility Requirements and Procedures

.01 In General: The proposed regulation clarifies the process to establish a public financing committee and states the threshold requirements to be certified to receive public funds.

.02 Special Circumstances: The proposed regulation conforms an uncontested gubernatorial election and unaffiliated and write-in candidates to the current requirements of the program.

.03 Deadline for Notice and Certification- Primary Election: The proposed regulation codifies the deadlines for submission of a certification request for a candidate in the Primary Election.

.04 Deadline for Notice and Certification- General Election: The proposed regulation codifies the deadlines for submission of a certification request for a candidate only appearing in the General Election.

.05 Requests for Public Contribution: The proposed regulation establishes the filing periods for submission of a request to receive a public contribution. Additionally, the proposed regulation set forth the necessary information and supporting documents to be included with the filed campaign finance report.

.06 Withdrawal from Public Financing: The proposed regulation repeals outdated requirements. The proposed regulation is updated with the process for withdrawal from the program.

.07 [Request for Contributions- General Election] Candidate Contributions or Loans: The proposed regulation repeals outdated requirements. The proposed regulation is updated with the process for the attribution of a candidate loan or contributions toward the contribution and monetary qualifying thresholds.

.08 Determination of Eligibility: The proposed regulation repeals outdated requirements. The proposed regulation is updated that the State Board shall determine certification within 10 business days of the initial request.

.09 Distributions: The proposed regulation codifies that the first disbursement may not occur other than in the year of the election. Additionally, the State Board shall process supplemental requests for public contribution within 5 business days.

.10 Post Election [Returns]: The proposed regulation repeals outdated requirements. The proposed regulation is updated that the certified gubernatorial ticket committee shall file a final report 90 days after last appearing on the ballot. The committee shall return any unspent portion of the public contribution to the Fair Campaign Financing Fund.

.11 [Seed Money] In-Kind Contributions and Candidate Contributions: The proposed regulation repeals outdated requirements. The proposed regulation is updated that the certified gubernatorial ticket committee may receive an in-kind contribution but will not be eligible for a public contribution match. Additionally, the proposed regulation makes a candidate contribution not eligible for a public contribution match.

.12 Eligible Private Contributions: The proposed regulation repeals outdated requirements. The proposed regulation conforms to the new statutory requirements for an eligible private contribution. The proposed regulation codifies those past contributions to a candidate would count towards the aggregate the candidate is eligible to receive. If a contributor is over the limit, the prior campaign finance entity of the candidate may return the past contributions received.

.13 Electronic Signatures: The proposed new regulation sets forth the requirements to accept an electronic signature on a contribution card. Mr. DeMarinis noted that these new requirements to accept and electronic signature are not required by the new law but rather are best practices learned from the program at the county level.

Chapter .03: [Limitations on] Campaign Expenditures

.01 In General: The proposed regulation repeals outdated requirements for an expenditure limit. The proposed regulation is updated with the requirements for submission of an expenditure. The proposed regulation requires every expenditure made on behalf of the gubernatorial ticket committee be supported with a receipt.

.02 Central Committee: The proposed regulation allows for central committees to make coordinated in-kind contributions to county publicly financed candidates. The proposed regulation set limits and the source of the funding consistent with the enabling legislation

.03 [Political Committee]: The proposed regulation repeals outdated regulation and keeps the numbering in reserve.

.06 In-Kind Contributions: The proposed regulation changes terms to be consistent with the other provisions in COMAR and Title 15 of the Election Law Article.

.07 Prior Expenditures: The proposed regulation repeals the outdated regulation. The proposed regulation requires all campaign finance activity must cease unless conducted through the public financing committee once a notice of intent has been filed. The proposed regulation permits certain enumerated prior expenditures to be assumed by the public financing committee without penalty or payment.

Chapter .04: Disbursement and Expenditure of Public Contribution

.03 [Supplemental Public Contribution]: The proposed regulation repeals outdated regulation and keeps the numbering in reserve.

.04 Single Campaign Fund Required: The proposed regulation requires a gubernatorial ticket committee to maintain one bank account consistent with the rules and regulations for a political committee.

.05 Prohibited Uses of Public Contribution: The proposed regulation updates terms to be consistent with the current law and changes the deadlines to 45 days for the final payment for services rendered to the gubernatorial ticket committee instead of 30 days.

.06 [Reports]: The proposed regulation repeals the outdated regulation and keeps the numbering in reserve.

Chapter .05: Outstanding Obligations

.01 Outstanding Obligations: The proposed regulation repeals the outdated regulation and requires the payment of all outstanding obligations prior to the filing of the final report.

.02 [Post-Primary Election] Fundraising: The proposed regulation repeals the outdated regulation. The proposed regulation allows for a gubernatorial ticket committee to continue to fundraise in a new election cycle to satisfy any outstanding obligation it incurred during the election.

Mr. Williams made a motion to approve the proposed amendments to COMAR 33.14, as presented by Mr. DeMarinis. Mr. Summers seconded the motion. The motion passed unanimously.

Approval of 33.13.02.03, 33.13.10.01 & .04, 33.13.20.03, 33.13.22.01 - .03 and .05 - .07, 33.13.23.01 - .11– Campaign Finance, and 33.18.02 – Violations – Prohibited Acts

Mr. DeMarinis presented new and proposed amendments to COMAR 33.13.02, .10, .20, .22 and .23, and 33.18.02 for approval by the Board.

The proposed new and proposed amendments are:

Campaign Financing (Subtitle 13)

.02 Campaign Finance Report

.03 Final Report

The proposed regulation codifies existing practice that a political committee is officially closed upon receipt and State Board approval of a submitted final report.

.10 Prohibitions

.01 Definitions

The proposed regulations codify the definition of a firewall from an issued declaratory ruling.

.04 Coordinated Expenditures

The proposed regulations modify the existing regulation to conform with Election Law Article §13-249 by changing terms from an in-kind contribution to coordinated expenditure and substantial to non-incidental for republication. Finally, it set the parameters regarding the use of the same vendor by a candidate and an independent expenditure entity supporting the candidate.

.20 Contributions by Employee Membership and Membership Entities

.03 Recurring Contributions

In 2022, the General Assembly passed House Bill 15 which requires political committees to seek authorization from donor for recurring contributions. Payroll deductions are governed by Election Law §13-241 and 242. This regulation clarifies the requirements for payroll deductions are solely governed by the provisions exclusively for payroll deductions.

.22 Legal Expenses

The 2022 Legislative Session of the General Assembly completely changed the payment of legal expenses relating to maintaining or contesting the results of elections. SB 101 repealed the provisions allowing for individuals to pay reasonable legal expenses without the payment counting towards a contribution limit. The regulations repeal outdated provisions.

.01 Scope

It is clarifying provision that the applicability of the regulation for contesting election results are for political committees.

.02 Establishment

The proposed regulation repeals outdated requirements.

.03 Management

The proposed regulation repeals unnecessary provisions. All expenses are reported on a campaign finance report.

.05 Applicability of Contribution Limits

The proposed regulation repeals outdated requirements. The proposed regulation codifies contributions received by a political committee towards the payment of a legal expense are subject to the contribution limit.

.06 Permissible Uses

The proposed regulation repeals outdated requirements.

.07 Prohibitions

The proposed regulation repeals outdated requirements.

.23 Exploratory Committee

These proposed regulations codify existing State Board policies regarding exploratory committees. The policies have been published in the Summary Guide since 2014. The policy is based upon past advice from the Office of the Attorney General.

.01 Definitions

The proposed regulation defines terms for a draft and exploratory committee.

.02 Applicability

The proposed regulation codifies who may establish a draft and exploratory committee.

.03 Candidate Prohibition

The proposed regulation codifies that a candidate may not establish an exploratory committee.

.04 Scope

The proposed regulation codifies the purpose of an exploratory committee.

.05 Permissible Disbursements

The proposed regulation codifies that an exploratory committee may make certain disbursements.

.06 Prohibition

The proposed regulation codifies that an exploratory committee may not pre-purchase services or items for use once the candidate establishes an authorized candidate campaign committee.

.07 Receipt of Funds

The proposed regulation codify that contribution limits are not applicable to draft or exploratory committees.

.08 Authority Line

The proposed regulation codifies that an exploratory and draft committee are subject to the authority line requirements.

.09 Bank Account

The proposed regulation codifies that an exploratory and draft committee need a designated bank account.

.10 Transfer Allowed

The proposed regulation codifies that an exploratory committee may make a transfer up to \$6,000 to a political committee.

.11 Surplus Funds

The proposed regulation codifies how an exploratory committee disposes of surplus funds.

Violations (Subtitle 18)

.01 Civil Penalties

In 2022, the General Assembly passed SB 15 (departmental legislation) which increased the civil penalties to a maximum of \$1,000 for certain violations. The proposed regulations increase the civil penalties commensurate with the increase in the statutory authority. Additionally, it codifies the civil penalties for new infractions under the enforcement authority of the State Board.

In response to a question from Mr. Williams regarding in-kind donations, Mr. DeMarinis stated that in-kind donations do count towards contribution limits, up to \$6,000.

In response to a question from Mr. Voelp, Mr. DeMarinis stated that campaigns are sent notices which let them know when their account is closed, but that they must also keep all records for two years. Conversely, if an account is not closed, the campaign is sent a notice stating that.

In response to an additional question from Mr. Voelp, Mr. DeMarinis explained that, under Senate Bill 101 (2022), a candidate may use campaign funds to pay for legal fees related to contesting election results, but they must abide by the same contribution limits. The scope of legal expenses for which campaign funds can be used must be related to maintaining or contesting the results of an election.

In response to a question from Mr. Summers, Mr. DeMarinis explained that an exploratory committee is formed by a potential candidate for office, and a political committee (or campaign committee) is formed when an individual opens a campaign account, even if the individual has not yet filed for a specific office. He further clarified that a current candidate can not open an exploratory committee.

Mr. Williams made a motion to approve the proposed amendments to COMAR 33.13.02, .10, .20, .22 and .23, and 33.18.02, as presented by Mr. DeMarinis. Mr. Summers seconded the motion. The motion passed unanimously.

APPROVAL OF TITLE 13 WAIVER REQUESTS

Mr. DeMarinis presented requests from 32 campaigns to waive or reduce late fees incurred by the committee. Seven campaigns were denied waivers of late fees and was presented to the board for informational purposes. No action is required from the Board for denied waivers.

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

1. Asante-Muhammad, Dedrick Friends for
2. Ahmed, Anis Friends of
3. Bishop, John, Committee to Elect
4. Blank, Ronald Jacob Friends of
5. Briggs, Jonathan Committee to Elect
6. Bruce, Carol P. Friends of
7. Chiappelli, Jeremiah Citizens for
8. Ciezkowski, Henry Citizens for
9. Dishon, Steve Friends of
10. Dudley, Chris (Charles) Committee to Elect
11. Dunn, Brian Friends of
12. Families Unite Howard County LLC, PAC
13. Fenati, Pat Friends of
14. Grogan, David for Sheriff
15. Hanes, Norris Elect
16. Harris, Bill Campaign Fund
17. Helvey, (Russell) Grant People to Elect
18. Henry-Spires, Diedra Friends of
19. Kennard, Sherise Friends of
20. Lehn, Stacy Elect
21. McCoy, Jacky Friends of
22. McQueeney, John T. Friends of
23. Mireku-North, Bernice Friends of
24. Montgomery, April Friends of
25. Riemer, Hans-Grassroots Supporters of
26. Roycroft Ill, George W. Citizens to Elect
27. Simms, Vontasha Vote 4 Senate D28
28. Smero, Kathleen Citizens for
29. Sriram, Sanjeev Friends of
30. Supervisory, Management and Confidential Interests PAC
31. Walsh, John for District 20
32. Welsh, (Charles) for Kent County BOE

In response to a question from Mr. Williams regarding the amendments to COMAR 33.18.01 that the Board just approved, Mr. DeMarinis stated that fees collected from civil violations go to the

Fair Campaign Finance Fund. All campaign filing fees and late filing fees are also deposited into the fund.

Mr. Summers made a motion to approve the 32 Title 13 late fee waiver requests as presented, 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 disclosures.

SCHEDULE NEXT MEETING

The next meeting is scheduled for Thursday, December 8, 2022 at 2 p.m.

CLOSED SESSION – PERSONNEL & LEGAL ADVICE

Mr. Voelp requested a motion to close the board meeting under several provisions of §3-305(b)(1) of the General Provisions Article, which permit closing a meeting to discuss compensation of officials over whom the State Board has jurisdiction. Mr. Miller made a motion to convene in closed session under General Provisions Article, §3-305(b)(1), and Mr. Williams 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) of Section 3-305 of the Open Meetings Act to discuss compensation of officials over whom the State Board has jurisdiction. The closed session began at 3:12 pm. Mr. Voelp, Mr. Williams, Mr. Miller, and Mr. Summers attended the closed meeting. In addition to the board members, Ms. Lamone, Mr. Kobrin, Ms. Charlson, and Ms. Malcolm attended the closed meeting.

Ms. Malcolm presented a compensation request submitted by a local board of elections and Ms. Lamone's recommendation. Mr. Williams made a motion to approve the State Administrator's recommendation, and Mr. Miller seconded the motion. The motion was approved unanimously.

Mr. Williams made a motion to adjourn the closed meeting, and Mr. Summers seconded the motion. The motion passed unanimously. The closed meeting adjourned at 3:22 pm.

ADJOURNMENT

The open meeting adjourned at 3:03 pm.