

State of Maryland 

State Board of Elections – March 28, 2019 Meeting

Attendees: David McManus, Chair
Patrick J. Hogan, Vice Chair
Michael R. Cogan, Member
Kelley A. Howells, Member
Malcolm L. Funn, Member
Linda Lamone, Administrator
Andrea Trento, Assistant Attorney General
Nikki Charlson, Deputy Administrator
Donna Duncan, Assistant Deputy, Election Policy
Keith Ross, Assistant Deputy, Project Management
Jared DeMarinis, Director, Candidacy and Campaign Finance
Erin Perrone, Director, Election Reform and Management
Tracey Hartman, Director of Special Projects
Paul Aumayr, Voting Systems Director
Nikia Wilbon-Turner, MDVOTERS System Administrator, Voter Registration
Sarah Thornton, Technical Writer, Project Management Office
Janey Hegarty, Information Technology Division

Also Present: David Garreis, Deputy Director, Anne Arundel County Board of Elections
Joe Torre, Director, Anne Arundel County Board of Elections
Allison Murphy, Director, Caroline County Board of Elections
Katherine Berry, Director, Carroll County Board of Elections
Paula Troxell, Deputy Director, Carroll County Board of Elections
Gwendolyn Dales, Director, Dorchester County Board of Elections
Allison McCord, Vice President, Harford County Board of Elections
Cynthia Remmey, Director, Harford County Board of Elections
Christine Jones, Director, Queen Anne's County Board of Elections
Kim Spence, Deputy Director, Queen Anne's County Board of Elections
Kaye Robucci, Director, Washington County Board of Elections
Anthony Gutierrez, Director, Wicomico County Board of Elections
Dionne Church, Deputy Director, Wicomico County Board of Elections
Dona Sauerburger, League of Women Voters – Maryland
Niecy Chambers, League of Women Voters – Maryland
Joyce Brooks, National Federation of the Blind
Joyce Martin, National Federation of the Blind
Portia Chandler, National Federation of the Blind
Leah Palmer, National Federation of the Blind
Ray Rogers, National Federation of the Blind
Marva Rogers, National Federation of the Blind
Erik Fifer, National Federation of the Blind
Larry Rodriguez, National Federation of the Blind
Quanni Pickins, National Federation of the Blind
Lois Staves, National Federation of the Blind
Karen Herstein, National Federation of the Blind
Jill Collins, National Federation of the Blind
Brenda Moller, National Federation of the Blind
Sharon Maneki, National Federation of the Blind

DECLARATION OF QUORUM PRESENT

Mr. McManus called the meeting to order at 2:00 pm and stated that there was a quorum present. Mr. McManus stated that the meeting was being recorded.

RATIFICATION OF MINUTES FROM JANUARY 2019 MEETING

Mr. Hogan made a motion to ratify the approved minutes from the January 10, 2019 meeting, and Mr. Cogan seconded the motion. The motion passed unanimously.

ADDITIONS TO THE AGENDA

There were no additions to the agenda.

ADMINISTRATOR'S REPORT

1. Announcements & Important Meetings

Senate and House Committee Briefings

On January 23rd, we briefed Senate's Education, Health and Environmental Affairs Committee on how elections are administered in Maryland, an overview of the 2018 General Election, and preparations for the 2020 election cycle. We provided the House of Delegates' Ways and Means Committee with a similar briefing on January 29, 2019. Because both committees have newly elected members and members who are new to the committee, much of the briefing was focused on election administration issues and how Maryland's election structure is different from most other states. The briefings were well received.

National Association of State Election Directors' Winter Meeting

Linda Lamone attended the winter meeting of the National Association of State Election Directors (NASSED) from February 2nd - 4th in Washington, DC. The agenda included an overview of the 2018 General Election by representatives of the U.S. Department of Homeland Security (DHS), briefings from congressional staff members and the U.S. Election Assistance Commission (EAC), and panels on audits, vendor management, redistricting, same day registration implementation, and ranked choice voting.

Fiscal Year 2020 Budget

On February 12th and February 13th, the Senate's Budget and Taxation Committee and the House Appropriation Committee's Public Safety and Administration Committee, respectively, held hearings on SBE's proposed FY2020 budget. A copy of the Department of Legislative Services' budget analysis and our response to the analysis was provided in the meeting folder. The legislature adopted the Department's first recommendation (restricting \$1.3 million for support of MD CRIS) and rejected the second recommendation (narrative about ballot ordering).

Congressional Delegation Briefing - Department of Homeland Security Report

On February 15th, Linda Lamone and Nikki Charlson attended a briefing requested by Maryland's Congressional Delegation. The purpose of this briefing was to provide representatives of the delegation information about DHS' report on our data center. Representatives of DHS gave information about the type of assessment it performed and its findings and recommendations, and we provided an update on the various recommendations.

U.S. Election Assistance Commission - "Clearie" Awards

Each year, the EAC gives awards for best practices in election administration in three categories - outstanding innovations in elections, improving access for voters with disabilities,

and recruiting, training, and retaining pollworkers. This year, the Montgomery County Board of Elections won a “Clearie” Award for its “Future Vote Initiative.” This program allows students in 6th through 12th grade to support polling place operations. Since its inception, 43,619 students have worked in the program and 10,000 have served as pollworkers. We congratulate the Montgomery County Board of Elections for its efforts and thank the EAC for recognizing its work in recruiting pollworkers.

Maryland Association of Election Officials (MAEO) - 2019 Annual Meeting

MAEO’s 2019 Annual Meeting is scheduled for May 22nd and May 23rd in Ocean City. SBE staff members are participating in several panels and will be conducting an interactive table top exercise for LBE staff members who did not attend the exercise we hosted in August 2018. LBE staff members who attended the August 2018 exercise will either attend a course on how to conduct a table top exercise or help SBE staff with conducting the exercise for their colleagues. A draft agenda and registration forms were included in the meeting folder. Please let Nikki know if you would like to attend this meeting.

Sexual Harassment Prevention Training

House Bill 1423 was passed during the 2018 General Assembly. HB1423 requires all State employees to receive mandatory in-person sexual harassment prevention training. Several SBE staff attended multiple training sessions to learn about sexual harassment prevention and how to train adults. This agency’s sexual harassment training will begin this week and will end the third week of April.

2. Election Reform and Management

Election Judges Lessons Learned

On March 5th, MAEO’s Election Judge/Early Voting Committee and SBE staff met at the Howard County Board of Elections to discuss election judge lessons learned from the 2018 elections. Many topics were discussed such as enhancements for MDVOTERS, election judge processes and procedures, and election judge recruitment.

Absentee Lessons Learned

On March 8th, many local board staff members and SBE staff met at the Anne Arundel County Board of Elections to discuss absentee lessons learned from the 2018 elections. Many topics, such as enhancements for MDVOTERS, our Online Voter Registration and Absentee Request system, and the absentee paper application, were discussed.

Removal of Ballot Stubs

MAEO’s Regulation Review Committee has begun working on proposed changes to the regulations that currently require a ballot stub on printed ballots. Once their proposal is received, SBE staff will work with the committee to present a proposal for approval. This is expected to happen before 2020.

EAC Data Report

The initial submission for the EAC’s 2018 Election Administration and Voting Survey was due and SBE submitted timely on February 1, 2019. The EAC returned the data report a week later with suggestions for corrections, and a final certified report was submitted and accepted by the EAC on March 2, 2019. The report can be found on the SBE website under “Elections” and “2018.”

Post-Election Manual Tabulation Audit

The post-election manual tabulation audits were completed on February 28, 2019, with the manual audit of Washington County. In all 24 jurisdictions, there were zero vote differences between the result of the manual audit and the voting system results. Simply put, these audits showed that the voting system accurately counted votes.

As required by Election Law Article, §11-309(d)(4), a preliminary report was posted on our website under “Ballot Audit Plan”. More information about the manual audit process, including the resources required for these audits, will be included in the report due to the Senate’s Education, Health, and Environmental Affairs Committee and the House’s Ways and Means Committee by May 1, 2019.

3. Voter Registration

We would like to welcome Shekia Harding-Bey to the team. She comes to us from the Anne Arundel County Board of Elections and brings with her a vast knowledge of Maryland’s voter registration.

MDVOTERS

MDVOTERS 7.1 release will be implemented over the March 29th weekend. Some of the enhancements include masking on the various reports information for confidential voters and updating the ERIC data batch release where the local boards cannot process the files until SBE has released the batches. This ensures that the files have been imported and distributed to the correct local board.

MVA Transactions

During the month of February, MVA collected the following voter registration transactions:

New Registration - 7,898	Residential Address Changes - 13,995
Last name changes - 1,611	Political Party Changes - 4,062

Non-Citizens

Removal of non-citizens - 21

Removal of non-citizens who voted – 1 and still researching

Removal of non-citizens who voted multiple times – 0 and still researching

Non-citizens forwarded to the Office of the State Prosecutor - 6

Non-citizens reported by Immigration & Customs Enforcement - 2

Change in citizenship status (according to the Office of the State Prosecutor) - 3

4. Candidacy and Campaign Finance (CCF) Division

Candidacy

The 2020 candidate filing season has officially opened. Currently, 10 candidates have filed at SBE for the 2020 election cycle.

Campaign Finance

The inaugural campaign finance report for an inauguration committee was due on March 7th. The report detailed the donations received and expenditures made by the Governor’s inauguration committee. Since the committee filed a final report, no further reports are required.

Enforcement Actions

The CCF Division received the payments for the following civil penalties:

- Maryland Classified Employees Association, Inc. PAC failed to report contributions and expenditures on numerous campaign finance reports and paid a civil penalty of \$3,995.00 on 11/26/2018.
- Friends of Julian Lopez made cash disbursements greater than \$25.00 and paid a civil penalty of \$600.00 on 12/06/2018. The committee had multiple offenses.
- Scott Bernal for Sheriff made cash disbursement greater than \$25.00 and paid a civil penalty of \$100.00 on 12/07/2018.
- Holly (Harriet) Wright for Senate failed to include an authority line on campaign material and paid a civil penalty of \$250.00 on 12/11/2018.
- Friends of Gareth E. Murray failed to maintain accounts of books and records and report contributions and expenditures on its campaign finance report. The committee paid the civil penalty of \$1,050.00 on 12/31/2018.

5. Project Management office (PMO)

Inventory: Excess Equipment Disposal

SBE continued to work with the Department of General Services (DGS) to auction off, recycle, or send to trash the equipment and supply items located in the central warehouse. After making several attempts to sell the black cases for the legacy equipment (TS-R6), SBE is using DGS' trash contractor to dispose of them. To date, 15,985 of the 17,200 black cases have been picked up by the trash contractor.

Inventory Management

There are several tasks underway to update the inventory system and ensure a greater level of accuracy of inventory data.

April 1st will be start of the FY2019 Annual Inventory Audit for equipment and supplies at SBE, the SBE warehouse, and the local boards. The inventory audit will involve the scanning of each equipment item and counting of supplies.

Additional Space

DGS obtained approval for SBE to lease the additional space on the 2nd floor (formerly occupied by Trace). The PMO has been leading many of the tasks involved with the new space. The office construction plans for the new space are being finalized, and work is expected to start soon.

Other

The lease for SBE's current warehouse in Glen Burnie is set to expire on January 31, 2020. The PMO is working with DGS to determine the possibility of SBE to remain at the location for another three to five years.

6. Voting System

Electronic Pollbooks.

For the last few months, SBE and ES&S have been working on a pollbook hardware update that was potentially to be used for the 2020 election cycle. Unfortunately, ES&S could not meet all of SBE's requirements and deliver in time for the 2020 Primary Election. SBE is therefore going to continue using the current pollbooks for the 2020 election cycle. While these pollbooks are aging, the pollbooks performed well in 2018, and post-election maintenance has gone well with them too.

As it appears that legislation related to same day registration on Election Day will pass, we are performing some testing with the current software version and also drafting specifications for updates that will be need to be made to reflect the requirements of the legislation.

Post-Election Maintenance.

Local boards have been continuing post-election maintenance on the equipment, and many have finished. All local boards are required to finish it 120 days after the equipment is released after the election. For the 2018 General, this is April 16th. Those pieces of equipment that have failed the post-election maintenance are being repaired.

Electionware Update

ES&S is currently developing an upgrade to the voting system software. This would involve an update to all components of the voting system, including the Electionware server and workstations, ballot scanners and the ballot marking devices. The update has features SBE would like, including improved navigation for the ballot marking devices, and we have provided input and requirements for it. However, the development and federal certification timeline is extremely tight, and while we would like to use the updated version in 2020, it may not be possible.

7. Legislation

1. HB 71/SB184 - Video Streaming and Recording State Board of Elections Meetings: Requires DoIT assistance with requirement. Passed both houses with an October 1, 2019, effective date.
2. HB79/SB461 - Early Voting Centers - Establishment: Authorizes all counties to establish one additional early voting center.
3. HB 172 - Departmental - Voter Registration Deadlines and Security: Authorizes SBE to impose a civil penalty on a person who fails to report a breach in the secure storage of voter registration information. Also, with the majority of voter registration transactions submitted electronically, alters the hours that SBE and the local boards must be open on the voter registration deadline.
4. HB174 - Departmental - Absentee Ballot Requests - Last Four Digits of Social Security Number: Conforms law to practice of only requesting the last four digits of a Social Security number on an absentee ballot application.
5. HB176 - Departmental - Candidates - Revisions: Allows a new political party to file paperwork for the nomination of candidates by the new party.
6. HB177 - Departmental - Judicial Proceedings Involving Local Board Notice: Allows a local board to notify SBE of judicial proceedings by email instead of by certified mail.
7. HB237 - Early Voting Centers - Hours of Operation: Keeps early voting hours from 10 am to 8 pm for any primary election, but changes them to 8 am to 8 pm for any general election.
8. HB252/SB936 - Correctional Facilities - Voting Coordinators (House Bill title): Requires each correctional facility to designate an employee to act as the facilities' voting coordinator. Mandates SBE conduct an annual training program.
9. HB286/SB449 (Not cross filed but same topic) - Registration and Voting at Precinct Polling Places: Provides that, if an individual provides proof of residency, the individual may register and vote on election day at the polling place.
10. HB 577 - County Employee Service as Election Judge - Administrative Leave: Expands the provisions for administrative leave to employees serving as election judges.
11. HB747 - Links to Online Voter Registration: Requires the Maryland State website template used by State agencies to contain a link to the online voter registration system.

12. HB830 - County Public Campaign Financing - Administration: Requires a county government to provide funding and staff for the operation, administration and auditing of a county public financing system.
13. HB878 - Campaign Finance - Late Fees and Certificates of Nomination: Alters the fees that are due for failure to file a campaign finance report, an affidavit, or an amended report and prohibits issuing a certificate of nomination if a candidate owes late fees.
14. SB123 - Coordinated Expenditures and Donations - Investigation: As previously designated, alters the duty to investigate potential coordinated expenditure violations to the State Administrator or designee and allows the issuance of a subpoena for records or testimony.
15. SB226/HB260 - Campaign Finance Violations - Injunctive Relief: Adds that a candidate may seek an immediate injunction against a campaign finance entity supporting a candidate for the same office that has not filed the pre-election campaign finance report.
16. SB230 - Canvassing of Absentee Ballots - Reporting Unofficial Results: Requires local boards to release unofficial absentee results at the end of each day of canvassing.
17. SB364 - Election Day Page Program - Establishment: Requires SBE develop an Election Day Page Program and requires the local boards, in collaboration with the local school systems, to establish a procedure for selecting of pages, and authorizing community service hours for service as an Election Day Page.
18. SB651 - Local Boards of Elections - Membership: Except for Montgomery and Prince George's Counties, alters the membership of all local boards from 3 full members and 2 substitute members to 5 full members effective June 1, 2019. (Impacts Anne Arundel, Baltimore County, Calvert, Dorchester, Howard, and St. Mary's Counties)
19. SB743 - Election Service Providers - Contract Clauses and Termination of Contract: Mandates that certain contracts for election service or support include a clause requiring notice of ownership or investment by a foreign national at the time of award or anytime for the duration of the contract. The contract must also contain language for termination of the contract in whole or in part under certain conditions.
20. SB950 - Campaign Finance - Death of Candidate - Termination of Campaign Committee: Establishes that, within 120 days after the death of a candidate, a candidate's committee shall pay outstanding obligations, dispose of remaining funds in accordance with any expressed wishes by the candidate, and file a final report.
21. SB1004 - Election Calendar and Processes: Alters the election calendar to better accommodate the requirements of the MOVE Act. The 2018 Primary Election demonstrated the need to clarify language and change deadlines regarding the preparation of ballots. The date of an election should be considered the 45th day prior to the actual date of the election. Deadlines for candidates and ballot questions are altered recognizing potential for judicial challenge.

Mr. DeMarinis stated that HB171 was just voted out of subcommittee today and should reach a second reader on the House side this week.

Ms. Duncan noted two bills that are not listed, but should have been included on the list:

1. SB343 – Prepaid Postage for Absentee Ballots: The cost of prepaid postage for absentee ballots would be split 50/50 between SBE and the local boards of elections.
2. SB363/HB565 – Ballot Marking Device: Mandates all voters use the ballot marking device to mark their ballots.

Mr. Cogan asked if we are budgeted accordingly if the absentee ballot postage bill (SB343) passes, and Ms. Duncan said we are not currently budgeted, but we can do an emergency budget deficiency if needed.

In response to a question from Mr. McManus regarding SB226/HB260, Mr. DeMarinis stated that a candidate may seek an injunction against another candidate if they fail to file a campaign finance report immediately due prior to the election. The language now limits the injunction to that condition and states that the injunction will be issued by the judge. The Senate bill was amended, but the House crossfile was not. This bill is unlikely to move forward.

ASSISTANT ATTORNEY GENERAL'S REPORT

Mr. Trento provided the following report.

1. *Benisek v. Lamone*, No. 1:13-cv-03233 (U.S. District Court, D. Md.). This case involves claims that the State's congressional districting map is an unconstitutional political gerrymander. On November 7, 2018, the court granted the plaintiffs' motion for summary judgment, denied that of the defendants, and awarded judgment to the plaintiffs. Defendants appealed to the Supreme Court, and the ruling was stayed during the pendency of the appeal. On March 26, 2019, the appeal was argued to the Supreme Court, which should rule on the appeal by the end of June 2019.
2. *Fusaro v. Davitt et al.*, No: 1:17-cv-03582 (U.S. District Court, D. Md.). Plaintiff Dennis Fusaro brought a complaint in federal court alleging that Maryland violates the First and Fourteenth Amendments by limiting access to the voter list to Maryland voters and only for purposes related to the electoral process. On September 4, 2018, the State defendants' motion to dismiss the complaint was granted, and the plaintiff appealed. The Fourth Circuit heard argument on the appeal on March 20, 2019. The court has not yet ruled.
3. *Johnson v. Prince George's County Board of Elections*, No. CAL16-42799 (Cir. Ct. Prince Georges Cnty.). No change from the last update. This case involves a challenge under the U.S. Constitution and Maryland Constitution and Declaration of Rights to the SBE's alleged failure to provide information and access to voter registration and voting resources to eligible voters detained by the Prince Georges County Department of Correction during the 2016 election. The case had been originally filed in the Circuit Court for Prince Georges County but was removed on the basis of the federal claims asserted by the Plaintiffs. On February 27, 2018, the U.S. District Court for the District of Maryland granted SBE's motion to dismiss the Plaintiffs' federal claims, declined to exercise jurisdiction over the state claims, and remanded the case to the Circuit Court for further proceedings. The parties are awaiting further direction from the court.
4. *Barber v. Maryland Board of Elections*, No. C-02-CV-17-001691 (Cir. Ct. Anne Arundel Cnty.) No change from the last update. On January 25, Ms. Barber appealed from the Circuit Court's January 11 dismissal of her complaint. Ms. Barber sought damages and judicial review of, among other things, the State Board's decision not to issue a declaratory ruling permitting her to use campaign funds to pay for litigation costs she incurred in her unsuccessful attempt to retain her position as an administrative law judge in the District of Columbia. Ms. Barber was ruled ineligible for that position due to her candidacy in 2016 for Judge of the Circuit Court for Prince George's County, Maryland. The appeal is fully briefed, and on December 18, 2018 the Court of Special Appeals ordered that the appeal would be adjudicated without oral argument.
5. *Judicial Watch v. Lamone*, No. 1:17-cv-02006-ELH (U.S. District Court, D. Md.). This case involves the denial of access to Maryland's voter registration database. Under Maryland law, access to the voter registration list is limited to Maryland registered voters and only for non-commercial, election-related uses. Judicial Watch—an elections watchdog group located in Tennessee—requested Maryland's voter registration "database" and was denied

because it was not a Maryland registered voter. Judicial Watch filed suit, arguing that the database was required to be disclosed under the federal National Voter Registration Act. Discovery has closed summary judgment is being briefed by the parties. Judicial Watch's reply in support of its motion for summary judgment is due April 24.

6. *The Washington Post, et al. v. McManus, et al.*, No. 1:18-cv-02527 (U.S. District Court, D. Md.). This case presents a challenge by a coalition of newspaper publishers that maintain an online presence to certain provisions of the recently-passed Online Electioneering Transparency and Accountability Act (the "Act"). Specifically, the plaintiffs challenge the constitutionality of the Act's imposition of disclosure obligations on newspaper publishers that accept online political ads, its use of terms in defining those obligations that are allegedly vague and overbroad, and its empowerment of the Attorney General to pursue injunctive remedies for violations of the Act. The plaintiffs also contend that the Act is preempted by the federal Communications Decency Act. On November 16, 2018, the court held a hearing on plaintiff's motion for preliminary injunction, and on January 4, 2019, that motion was granted on the ground that plaintiffs' "as applied" constitutional challenge to the statute was likely to succeed. On February 2, 2019, the defendants appealed that ruling to the Fourth Circuit. The defendants' opening brief is due April 12, 2019.
7. *Segal v. Maryland State Board of Elections*, No. 1:18-cv-2731 (U.S. District Court, D. Md.). No change from the last update. On September 5, 2018, Jerome Segal filed a complaint seeking a preliminary and permanent injunction requiring the State Board of Elections to accept the petition filed in support of the creation of the Bread and Roses party, and to include plaintiff's name on the general election ballot as the Bread and Roses Party's nominee for the U.S. Senate contest. On September 18, 2018, the court denied plaintiff's requested preliminary injunction, on October 11, 2018 the court of appeals affirmed that ruling, and on November 14, 2018, the court of appeals denied plaintiff's request for *en banc* review. On January 4, 2019, the district court ordered plaintiff to submit a status report by January 18, 2019, indicating if the case can be dismissed as moot.
8. *Hanna v. Maryland State Board of Elections*, No. C-02-CV-002660 (Cir. Ct. Anne Arundel Cnty.). On September 5, 2018, plaintiff Willie Hanna filed suit to challenge the State Board's rejection of his petition candidacy for the contest for Delegate representing the 40th legislative district, on the ground that he had not submitted sufficient verifiable signatures in support of his petition. Mr. Hanna used a petition form that omitted several components that are required by Maryland law. On October 11, 2018, Defendants filed a motion to dismiss or, in the alternative, for summary judgment. The court held a hearing on that motion on January 17, 2019, at which Mr. Hanna did not appear. On that same day, the court awarded summary judgment to the defendants.
9. *Johnston, et al., v. Lamone*, No. 18-cv-3988-ADC (D. Md.). On December 28, 2018, the Libertarian Party of Maryland (the "Party") and its Chairman, Robert Johnston, filed a lawsuit alleging that the statutory scheme governing the official recognition of minor parties in Maryland, as applied to the Party, was unconstitutional in at least two ways. They alleged that the scheme violates their First Amendment speech and association rights by requiring the Party to undertake the petition process to re-obtain formal recognition under State law, when there are already over 22,000 Maryland voters currently registered as Libertarians. They also alleged that the standard by which Maryland verifies petition signatures is unconstitutionally strict, in that it requires the rejection of signatures of known Maryland voters due to technical noncompliance with the statutory standard. Plaintiffs moved for a preliminary injunction, which was denied at a

hearing on January 31, 2019. Subsequently, the defendant filed a motion to dismiss, which is fully briefed and pending before the court.

10. *Phukan v. Maryland State Board of Elections*, No. C-2-CV-19-000192 (Cir. Ct. Anne Arundel Cnty.). On January 23, 2019, Anjali Reed Phukan, who was the Republican nominee for Comptroller in the 2018 election, filed a lawsuit against the State Board of Elections seeking a writ of mandamus directing the State Board of Elections to decertify Comptroller Peter Franchot’s campaign committee, an injunction requiring Mr. Franchot and his campaign committee to file corrected campaign finance reports, a declaratory judgment that Ms. Phukan is entitled to examine the documentation supporting any corrected campaign finance reports that Mr. Franchot or his committee files, and a declaratory judgment that Ms. Phukan be issued the oath of office as Comptroller and be awarded back pay and the costs of suit, should Mr. Franchot or his committee fail to file corrected campaign finance reports. On March 22, 2019, the defendant filed a motion to dismiss the complaint.

APPROVAL OF REQUESTS FOR WAIVERS OF CAMPAIGN FINANCE LATE FEES

Mr. DeMarinis presented requests from 35 campaign committees to waive late fees incurred by the committees. The committees requesting a waiver of late filing fees are listed below:

- | | |
|---|--|
| 1. Amankwah, John Friends of | 18. Frierson, Jamie Citizens for |
| 2. Baltimore County Chief Fire Officers PAC | 19. Guy, James (Randy), Citizens for |
| 3. Barlow, (Joshua) 4 Delegate | 20. Hall, Kirkland Citizens to Elect |
| 4. Benn, Sarahia Friends to Elect | 21. Holt, Alice L. Friends of |
| 5. Bennett-Nwosu, Catherine Vote For | 22. Holupka, Scott Friends Of |
| 6. Better Budget Baltimore | 23. Kaplan, Suzi Friends of |
| 7. Cager, Chezia Friends of | 24. Lande, Marc non-Violence for |
| 8. Chappell, Justin Citizens Empowered For | 25. Little, Jordan, Friends of |
| 9. Collins Team Baltimore Slate | 26. Phillips, Mike Citizens for |
| 10. Collins, Gary Marylanders for | 27. Pierre, Marylin for Judge |
| 11. Dides, (Emad) for Commissioner | 28. Prince George's Property Owners Association Inc PAC |
| 12. Dixon, Felicia A. Friends of | 29. Robertson, Allen E. Friends of |
| 13. Durso, Mike Citizens For | 30. Rush, Tamera for Board of Education |
| 14. Etienne, Roussan Jr. Friends of | 31. Sierra Club Political Committee - Maryland Chapter PAC |
| 15. Finoh, Sia Citizens for | 32. Sivigny, Donna Friends of |
| 16. Fox, Fred Garrett County Commissioner, Friends to Elect | 33. Sorber, Nathan M. Friends to Elect |
| 17. Frederick Republican Victory Slate | 34. Therrien, Dave for Maryland |
| | 35. Wiles, Jade Citizens of District 19 for |

Mr. Hogan made a motion to approve the 35 waiver requests, and Ms. Howells seconded the motion. The motion passed unanimously.

APPROVAL OF REQUESTS FOR CONFIDENTIALITY OF CERTAIN INFORMATION

Mr. DeMarinis presented nine requests for confidentiality of certain information. He stated that these requests met the requirements for confidentiality. Mr. McManus confirmed that all nine individuals are members of the judiciary.

Ms. Lamone noted that the box regarding law enforcement on the confidentiality form will need to be re-captioned so that it is clearer.

Mr. Funn made a motion to approve the nine requests for confidentiality, and Mr. Cogan seconded the motion. The motion passed unanimously.

APPROVAL OF ADMINISTRATIVE CLOSURE OF CAMPAIGN ACCOUNT

Mr. DeMarinis presented a request for administrative closure of two campaign accounts. He explained that the Office of the State Prosecutor has made numerous attempts to contact the candidates with no success. One candidate has no reports filed and the other candidate has a zero cash balance. The Office of the State Prosecutor has recommended closing both accounts.

Mr. Cogan made a motion to approve the request for administrative closure of the two campaign accounts, and Mr. Hogan seconded the motion. The motion passed unanimously.

APPROVAL OF REGULATIONS – FINAL APPROVAL OF CAMPAIGN FINANCE REGULATIONS PROPOSED IN AUGUST 2018

Mr. DeMarinis presented proposed changes to the COMAR 33.13 regulations, which were adopted at the August 2018 meeting. He noted that they were published in the October 12, 2018 edition of the Maryland Register (Vol. 45, Issue 21), and the public comment period closed on November 12, 2018. No public comments were received on the proposed changes to Subtitles 13, Chapters 1, 10, 19, 20, or 22. Subtitle 13, Chapters 7, 15, and 17 received one public comment from Mr. Ralph Watkins. The comment provides that the proposed regulation could be tightened for its limited application – namely the legitimate merger of business entities and unions. Mr. DeMarinis recommended adoption of the proposed changes with the next round of edits to narrow the scope of the regulations. A memo listing the proposed changes up for final adoption, as well as descriptions of the proposed changes to the regulations from the August 2018 meeting, were included in the meeting folder.

Mr. DeMarinis's recommendation was for the board to approve these proposed changes with the understanding that he would come back with more restrictive language on Chapter 15.13 (Mergers and Acquisitions) at the next board meeting. Mr. Cogan recommended that a timeframe be included in Chapter 15.13, such as "within that election cycle."

In response to a question from Mr. McManus, Mr. DeMarinis explained that it is easier to adopt the regulation changes as they are and amend the language at the next meeting, rather than rejecting them. If the board rejects the proposed changes, the process would start over again and the changes would need to go out for public comment again.

Ms. Howells expressed that she would have liked to receive the public comment prior to the meeting because it is difficult to review all of that information at the meeting. Ms. Charlson apologized that the public comment was not included in the meeting materials that were sent to the board last week. Mr. McManus requested that SBE think about and propose an efficient process for reviewing regulations prior to the board meeting.

In response to a question from Mr. McManus, Mr. Trento stated the proposed regulations will not impact the current litigation.

Mr. Hogan made a motion to adopt the proposed changes to the COMAR 33.13 regulations, taking into account the forthcoming amendments to Chapter 15.13, and Mr. Cogan seconded the motion. The motion passed unanimously.

MARYLAND ASSOCIATION OF ELECTION OFFICIALS' (MAEO) PROPOSAL OF CHANGES TO JOB CLASSIFICATIONS AND SALARIES

Ms. Berry and Mr. Garreis of MAEO presented to the board proposed changes to job classifications and salaries. They stated that MAEO's Personnel Committee has spent over two years working on these proposed changes. Ms. Berry explained that while elections have changed quite a bit since 2003, election officials have not seen adequate growth in office size, salaries, or retention of employees. However, the job duties for employees have significantly expanded. MAEO is requesting a 17% overall increase to existing employee salaries and subsequent increases of 9% and 8% in FY20 and FY21, respectively. These revised job classifications and salary increases are intended to help build career paths in elections, and therefore, to improve staff retention.

In response to a question from Mr. McManus, Ms. Berry stated that the local boards of elections have incorporated these salary costs into their budget requests to their county governments for FY20. She explained that it will take too much time to wait for each county government to give approval, so they are presenting this request to the State Board, which has salary setting authority.

Mr. McManus and the other board members expressed that they felt uncomfortable telling the counties how to spend their money and what their priorities should be. They did not feel they should mandate salaries without buy-in from the counties.

Mr. Garreis stated that in the past, budget changes were proposed in the middle of the fiscal year, but now we have the opportunity to make these salary increases before the start of the fiscal year, therefore allowing counties to plan ahead. He also argued that the State Board does not ask the counties how they want to spend their money on other things, so this should be no different. Mr. Garreis stated that election officials are paid much less compared to other State agencies and that elections are considered critical infrastructure with the IT component only growing, so election officials should be compensated appropriately.

Joe Torre, Anthony Gutierrez, and Guy Mickley, the Election Directors for Anne Arundel, Wicomico, and Howard Counties, respectively, communicated that salary increases are greatly needed and that it would be very helpful to have the support of the State Board. Mr. Mickley asked the board to formulate a letter to the counties, asking for their buy-in before the board makes a state mandate.

Mr. McManus stated that he is in favor of using gentle persuasion with a letter to the counties, explaining that election officials' job responsibilities have expanded significantly, and urging the counties to adopt the new position classifications and salary increases. The chairman will sign the letter and it will be sent to the county executives or county commissioners. This would communicate that the board is supportive of these changes and prepared to approve them.

Mr. Cogan made a motion to approve a resolution indicating that SBE will work with MAEO to draft a letter recognizing that the job duties have changed, urging the counties to approve the salary increases that have been proposed as part of the budget process, and stating that the State

Board is supportive of these requests. Mr. Hogan seconded the motion. The motion passed unanimously.

OLD BUSINESS

Montgomery County Board of Elections: 2018 General Election Instructions to Election Judges Regarding Missing Early Voting Transactions in Electronic Pollbooks

Mr. McManus stated that this agenda item will be tabled until next month, when Margaret Jurgensen, Election Director for the Montgomery County Board of Elections, is able to attend the meeting. He requested for the same documents to be provided in next month's board meeting folder.

NEW BUSINESS

Public Comment from the National Federation of the Blind

Sharon Maneki from the National Federation of the Blind (NFB) expressed to the board concerns about SBE's policies on use of the ballot marking device (BMD). Ms. Maneki feels this is an opportune time to change these policies, since the lease is soon ending on the BMDs. She communicated that the NFB takes issue with their ballots being identifiable and would like to know what the State Board plans to do to restore the secrecy of the ballot for blind and disabled voters. Ms. Maneki stated that NFB went to the General Assembly and has voiced their concerns to the legislature. NFB has proposed amendments that would increase the percentage of voters required to use the BMDs to ten percent for each precinct; the amendments were included in the board meeting folder.

Mr. McManus acknowledged that this is an important issue and expressed that the board takes ballot secrecy very seriously. He stated that the board tried to create a policy that would address the navigation issues with the BMD and also preserve the secrecy of the ballot. However, he feels that the existing policy hasn't really worked in execution. If the navigation issues on the BMDs persist, Mr. McManus claimed that he is not inclined to continue with the policy of limiting the number of people who use the BMDs, as it can compromise the secrecy of the ballot.

Mr. Cogan echoed Mr. McManus's sentiments and stated that he is committed to finding a solution to this issue in a way that benefits all citizens of Maryland.

Mr. Hogan agreed with the other board members and expressed that the current policy for BMDs was meant to be a balance between a number of different factors and was intended to be temporary. He is concerned about the timing of the ES&S software update because if ES&S is not able to deliver and the software is not certified in time, then the navigation issue might not be resolved in time for the 2020 elections. Mr. Hogan stated that if the navigation issue is addressed, then it will no longer be necessary to limit the number of people using the BMD and the secrecy of the ballot will be preserved. Mr. Hogan asked if there is anything federal elected officials can do to expedite the certification of ES&S's software update so it is ready in time for the 2020 election.

Ms. Lamone explained that part of the certification process is the federally certified laboratory testing of equipment and software, and evaluating if it meets the federal voting system guidelines. She stated that it is uncertain how long this process would take. As part of the process, all manufacturers must not only submit software and hardware, but also a test plan, and the test plan has to be reviewed to ensure it meets the Election Assistance Commission's (EAC) standards. If not, it has to go back to the manufacturer for revision. Ms. Lamone expressed that there might be a way to expedite the process on either end of the test lab, and though the labs are not receptive to being pushed, it is something we can look into.

Mr. Hogan proposed that the board send a letter to the congressional delegation, explaining the issue and asking them to help move this process forward. He stated that there were members of the delegation who were very concerned about the navigation issue, so it is reasonable to expect them to help us get it resolved in time for the 2020 election.

Mr. McManus stated he feels it is safe to assume ES&S will not deliver the software update in time, since that has been a recurring issue of theirs. He suggested that the board work toward changing the BMD policy, even if ES&S does not fix the navigation issue because the current policy has not been working. Mr. McManus believes there must be a way to work around the navigation issue that doesn't require limiting the BMD to a small number of voters, and Mr. Hogan agreed.

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

Mr. Cogan disclosed a contribution of \$100 to Friends of Fred Paone. No other Board members had any contributions to report.

SCHEDULE NEXT MEETING

The next meeting is scheduled for Wednesday, April 24, 2019, at 2:00 pm.

ADJOURNMENT

Mr. Hogan made a motion to adjourn the open meeting, and Ms. Howells seconded the motion. The motion passed unanimously. Mr. McManus adjourned the meeting at 4:15 pm.