

State of Maryland   
State Board of Elections – April 22, 2021 Meeting

Attendees (via conference call):

Patrick J. Hogan, Vice Chair  
William G. Voelp, Member  
Malcolm L. Funn, Member  
Severn Miller, Member  
T. Sky Woodward, Member  
Linda Lamone, Administrator  
Andrea Trento, Assistant Attorney General  
Nikki Charlson, Deputy Administrator  
Donna Duncan, Assistant Deputy, Election Policy  
Jared DeMarinis, Director, Candidacy and Campaign Finance  
Keith Ross, Assistant Deputy, Project Management  
Tracey Hartman, Director of Special Projects  
Fred Brechbiel, Chief Information Officer  
Nikia Wilbon-Turner, Director of Software Development  
Shafiq Satterfield, Director of IT Project Management  
Mary Cramer Wagner, Director of Voter Registration  
Art Treichel, Chief Information Security Officer

Also Present: Linda Dorsey-Walker, Baltimore County resident

**DECLARATION OF QUORUM PRESENT**

Mr. Hogan 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.

**ELECTION OF CHAIRMAN**

Mr. Hogan nominated Mr. Voelp as chairman, and Mr. Funn seconded. The motion passed unanimously. Mr. Hogan congratulated Mr. Voelp and turned the meeting over to the newly-elected chairman to preside over the remainder of the meeting. Mr. Voelp thanked the other members for electing him as chairman.

**APPROVAL OF MINUTES**

Mr. Hogan made a motion to approve the minutes from the February 11, 2021 open meeting, the February 11, 2021 closed meeting, and the March 26, 2021 closed meeting. Mr. Miller seconded the motion. The motion passed unanimously.

**ADMINISTRATOR'S REPORT**

Ms. Charlson stated that only highlights of the Administrator's Report would be presented verbally, but that the full report is available on the SBE website.

**Announcements & Important Meetings**

Election Directors' Meetings

Ms. Charlson reported that SBE hosted election directors' meetings on March 18 and April 15. A summary of the March 18 meeting was provided with the meeting materials, and a summary of the April 15 meeting will be provided when it is complete.

## FY2022 Budget & FY2021 Deficiency Requests

Ms. Charlson reported that the General Assembly recently approved our FY2022 budget and deficiency fund request for FY2021. The approved FY2022 budget includes two additional positions, one in IT and one in election policy, as well as additional funding for voter outreach and election judges training

## HR 1 & S 1 - Federal Election Legislation

On March 3, 2021, the U.S. House of Representatives passed H.R. 1. This legislation has widespread impact on election administration with provisions ranging from voter registration to mail-in voting to election administration to campaign finance to redistricting. In mid-March, similar legislation - S. 1 - was introduced in the US Senate. The Senate's Committee on Rules and Administration is expected to mark up the bill in May.

## Maryland Association of Election Officials (MAEO) - Annual Conference

MAEO is hosting its annual conference in Ocean City the week of August 23. We will provide more information as the agenda and registration information is developed. Discussions on whether to host SBE's biennial meeting during this conference are on-going.

## **Election Reform and Management**

### Manual Audit

Ms. Hartman reported that the manual audit from the 2020 General Election was completed on February 26, 2021 with the manual audit of Washington County. In 21 of the 24 local jurisdictions, there were zero differences between the results of the manual audit and the voting system. In the remaining three local jurisdictions, two discrepancies were determined to be human error, and the other discrepancy was a one vote discrepancy and well below the 0.5% threshold to trigger more auditing. As required by Election Law Article, §11-309(d)(4), a report of the manual audit was posted on our [Ballot Audit Plan webpage](#). Information about the independent software audit is also posted there.

### U.S. Election Assistance Commission (EAC) Data Report

Ms. Hartman reported that after each general election, the EAC asks states to complete an extensive data survey. The survey - called the Election Administration and Voting Survey - requests data on voter registration, voter turnout, mail-in voting by military and overseas voters and domestic, civilian voters, provisional voting, voting locations, pollworkers, and voting systems.

The initial submission for the EAC's 2020 Election Administration and Voting Survey was due and SBE submitted timely on February 1, 2021. The EAC returned the data report two weeks later with suggested corrections, and a final certified report was submitted and accepted by the EAC on March 6, 2021. Ms. Hartman thanked Susan Tang who assisted in completion of this report.

## **Voter Registration**

### MDVOTERS

Ms. Wilbon-Turner reported that MDVOTERS 7.5 version will be released on April 26 and includes the full integration of the Agency Election Management System (AEMS). Some of the functionality includes the generation of web accessible HTML candidate lists and election results pages, ballot generation and ballot style reporting, write-in vote result processing, candidate nomination certificates, candidate commissions of election, canvass sheets for certifying elections and electoral college documentation in addition to providing an interface to the voting system and other modules within MDVOTERS.

Ms. Lamone thanked Natasha Walker, Director of Election Management Systems at SBE, for leading this project from start to finish over the last three years, in addition to her regular duties.

#### Motor Vehicle Administration (MVA) Transactions

Ms. Wagner explained that under federal and State law, MVA is required to offer voter registration during certain MVA transactions. Since MVA is the primary source of new voter registration and updated voter registration information, we provide monthly data on voter registration activity generated by MVA transactions. Ms. Wagner stated that the voter registration transactions are listed in the full report provided to the members.

#### Electronic Registration Information Center (ERIC)

Ms. Wagner reported that ERIC is a non-profit organization, formed in 2012, with the sole mission of assisting states to improve the accuracy of voter registration rolls. Currently, 30 states and the District of Columbia form ERIC's membership.

Each member submits to ERIC its voter registration and motor vehicle licensee data for comparison and review. Various reports are generated and returned to the states for action. These reports include voters who have moved within their state, voters who moved out of state, duplicate registrations in the same state, and death records from the Social Security Administration (SSA).

Maryland receives these reports every other month, and each local board of elections process these reports within 2 weeks of receipt. Beginning May 2021, Maryland will receive SSA death and in-state duplicate records on a monthly basis.

To learn more about ERIC, Ms. Wagner encouraged those interested to visit [www.ericstates.org](http://www.ericstates.org).

In response to a question from Mr. Voelp, Ms. Wilbon-Turner reported that SBE has begun to receive data on surrendered driver's licenses and we are currently parsing through the data. Ms. Wagner stated that she will include that data in her report next month.

#### MDVOTERS Audits

Ms. Wagner reported that Janet Smith is a voter registration auditor for SBE. These audits include, but are not limited to:

- New registrations;
- Changes to voter records;
- Timely processing of reports;
- Cancellations;
- Party changes;
- Absentee application

Once audits are reported to the local board of elections for correction, Ms. Smith audits those records to make sure the corrections have been made.

#### MDVOTERS Access Security

Ms. Wagner explained that in order to access the statewide voter registration database (MDVOTERS), users must have a two factor authentication token. The MDVOTERS user accounts are audited frequently, and unused accounts are removed. Any token that has not been

immediately reassigned must be returned to SBE.

#### Non-Citizen Registration and Voting

Ms. Wagner reported that non-citizens registered to vote are identified and forwarded to the Office of the State Prosecutor (OSP.) OSP and SBE are working to improve the process and review and identify records identified from March 20, 2020 to March 31, 2021. During that time, 224 individuals had records canceled for non-citizen status and five of these individuals had voting history. Overall, during that same period 219,578 individual voter registration records were cancelled due to other actions - moved out of state, death, voter request and routine voter list maintenance actions.

Mr. Voelp thanked Ms. Wagner for this information and requested that the Board be updated as to the case status of the non-citizens reported to OSP.

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

##### Candidacy

Mr. DeMarinis reported that February 23, 2021 was the first day candidates can file candidacy paperwork for the 2022 Gubernatorial Election cycle. Approximately 20 candidates have filed to date.

##### Campaign Finance

Mr. DeMarinis reported that the prohibition on fundraising during the legislative session has ended.

The next disclosure report due is for persons doing business with State government entities and persons employing lobbyists. Under Title 14 of the Election Law Article, these individuals are required to file a Disclosure of Contributions. Reports are due every six months (November 30 and May 31) with the transaction period ending the last day of the month prior to the due date.

##### Enforcement

Mr. DeMarinis reported that the CCF Division received payment for the following civil penalties:

1. Ironworkers Political Action League PAC paid \$250.00 on February 26, 2021 for the failure to record all contributions and expenditures.
2. Friends of Dr. Kathleen White committee paid \$600.00 on March 3, 2021 for the failure to record all contributions and expenditures.
3. Craig Carozza-Caviness for county council committee paid \$450.00 on March 3, 2021 for the failure to record all contributions and expenditures.
4. Citizens for Jeffrey Kenney committee paid \$200.00 on April 09, 2021 for the failure to record all contributions and expenditures and for filing affidavits instead of a Campaign Finance Report.
5. Citizens for Patrick Gutierrez committee paid \$500.00 on April 12, 2021 for the failure to record all contributions and expenditures.

##### Financial Disclosure Statements

Mr. DeMarinis reminded the Board members that they are required to file a financial disclosure statement with the Ethics Commission. The deadline is April 30, 2021.

##### MD CRIS Contract - Options Approval

Mr. DeMarinis explained that there are two contracts that support Maryland Campaign Reporting

Information System (MD CRIS), a browser-based campaign committee information and finance reporting system with a module for business contributions to election campaigns. One contract (MDCRIS AP) supports and provides system maintenance and development, business process support and documentation, database management, cybersecurity support to audit the application software and for web security, and incident reporting for the application. The other contract (MD CRIS DC) provides web hosting and security monitoring for MDCRIS, includes data center hardware and software, and provides security monitoring to protect against denial of service (DOS) or breach of personal identifying information (PII). The vendor for both contracts is Netorian, LLC.

At its March 10 meeting, the Board of Public Works (BPW) approved exercising option periods for both MD CRIS contracts. The option period is for 2 years (April 1, 2021- March 31, 2023). After the current term, the contracts have one two-year option left for renewal.

## **Voting Systems Division**

### Voting System Upgrade

Mr. Satterfield reported that SBE has begun initial testing of the voting system software suite and firmware upgrades. The voting system upgrade contains significant benefits to the voting equipment and back-end processes associated with election-related activities. On April 19, 2021, SBE began the State certification process for the voting system software suite. The certification process has a 60-day window. The certification timeline will include a public demonstration period for the voting system, which is tentatively scheduled to take place during the month of May.

### Transportation Contract

Ms. Charlson reported that at its March 10 meeting, the Board of Public Works (BPW) approved exercising the final option period for our contract with Interstate Moving Solutions. Under this contract, Interstate delivers election equipment and supplies to early voting and election day locations and returns the same equipment and supplies to the local boards' warehouses, schedules, manages, and tracks deliveries, and follows SBE's strict security procedures for moving this equipment and supplies. The option period is for 2 years (July 1, 2021 - June 30, 2023) and covers transporting election equipment and supplies for the 2022 elections.

## **Project Management Office (PMO)**

### Inventory Management

Mr. Ross reported that the FY21 Inventory Audit, which is required by state law and is an inventory of physical equipment used by SBE, is 70.26% complete.

### Electronic Pollbook Replacement Project

Mr. Ross reported that we are in the third of four major steps in the evaluation phase of the pollbook replacement project, which is the receiving of equipment from vendors so on-site evaluations can be performed. This step will be completed by the evaluation team and is expected to be completed min-June. The project team continues to maintain the project communication with the local boards via monthly project status meetings

### Other

Mr. Ross reported that SBE has a warehouse in Glen Burnie that, which also has training facilities, and two SBE employees. These individuals continued:

- Disposing of equipment and supplies through the State's auction and recycling options
- Returning of local board equipment temporarily stored at the warehouse for the 2020

#### General Election

- Receiving local boards' equipment and supplies for temporary storage
- Coordinating the use of the warehouse facility for the on-site training of the newly added pollbook contract project team members. The coordination included making sure that everyone was adhering to the COVID-19 distancing and face coverings guidelines.

#### Information Systems & Technology and Security

Mr. Brechbiel reported that Ms. Wilbon-Turner and Mr. Satterfield have been given expanded responsibilities towards making the IT Services & Technology Division (IS&T) an even more cohesive unit in support of election activities.

#### Software Development

Ms. Wilbon-Turner is expanding her technical management role to include MDVOTERS, Voter Services and now the Pollbook/EPIC team. She will apply her proven technical leadership capabilities to the other software development teams within the IS&T Division to establish a consistent set of methodologies, tools and processes. Mr. Brechbiel expressed his confidence in Ms. Wilbon-Turner's ability to make a positive difference in this new role.

#### IT Project Management

Mr. Satterfield will add to his current duties to establish and build this new division within IT Systems and Technology. His goal is to work with all teams within IS&T to create and implement a consistent set of IT project management processes and methodologies to enhance visibility and consistency into the way IT project management is conducted at SBE.

#### Legislation

Ms. Duncan reported that the Department of Legislative Services issued a summary of legislation following the end of the 90 day session, which was included in the meeting materials. She stated that the election section of the *90 Day Report - A Review of the 2021 Legislative Session* was included in the report. Ms. Duncan stated that we are currently identifying the requirements of each new law. She thanked Ms. DeMarinis and Ms. Wagner for their hard work on behalf SBE during the legislative session. Ms. DeMarinis and Ms. Wagner highlighted a few bills that passed including expanded early voting hours, a change in how the number of early voting centers is calculated, and changes to public campaign financing. Ms. Charlson stated that many of the laws passed require regulations, which will be presented to the members in the next few months.

In response to a question from Ms. Woodward, Mr. DeMarinis stated that he did not anticipate or was aware of any litigation that might arise from any of the passed legislation.

In response to a question from Mr. Funn regarding the cost split of new early voting centers, Ms. Charlson stated that the answer depends on what the purpose of the cost. Costs related to voting equipment would be a shared cost between SBE and the local boards, but costs related to facility rentals or additional election judges would be fully the responsibility of the local board.

#### SECURITY BRIEFING

Mr. Treichel reported that SBE has been working diligently with its vendors and public partners to advance SBE's cybersecurity governance, infrastructure, and operations programs. He explained that today's cyber adversaries are better-funded, more organized than ever, and using increasingly more sophisticated methods attacks, with a mission to disrupt US government and private industry. SBE has been responding to these threats through the implementation of our five-part cybersecurity program.

The cornerstone of these programs is a risk-based information security program that is based on the National Institute of Standards and Technology (NIST) Cyber Security Frameworks, which includes standards for governance, architecture, threat and vulnerability management, and incident detection and response. This framework is mandated for federal agencies and is in use in a majority of US organizations. As part of this program, improvements are made based upon in-depth and ongoing assessments and penetration testing.

The second part of the cybersecurity program is secure cyber architecture, which implements a zero trust approach that secures not only the perimeter of the framework but helps to contain bad actors even if there is intrusion. The secure cyber architecture also includes a redundant architecture that allows for a fail over if critical systems fail.

The third part of the cybersecurity program is threat and vulnerability detection management. In this segment, SBE works internally and with federal partners to find, track, and mitigate any vulnerabilities in our infrastructure before a bad actor does.

The fourth part of the cybersecurity program is detection and analysis of potential cyber attacks. This includes a security operations center (SOC), which monitors data center activity, applications, webservers, and devices in real time 24/7 to detect and alert any malicious activity. Additionally, the Center for Internet Security provides us with threat detection and alerts. We also work with our partners at DHS' Cybersecurity and Infrastructure Agency (CISA), FBI, and the Maryland Coordination and Analysis Center (MCAC) to monitor for wider-spread attacks that may be happening nationally or globally. We also monitor social media for threats such as impersonation of election officials, misinformation, and fraud. Social media monitoring is not a permanent part of our monitoring efforts.

The final part of the cybersecurity program is the rapid response and remediation of attempts to attack. This includes procedures for a wide range of incident scenarios and regular table top exercises to rehearse and test those procedures, incidence response services at the SOC and datacenter, a continuity of operations (COOP) backup site in the event of a failover, and working closely with our partner organizations including CISA, MCAC, the FBI, and the local boards of elections.

Ms. Charlson explained that Mr. Treichel's security update stems from a Board motion approved several years ago to provide the members with quarterly security updates.

## **ASSISTANT ATTORNEY GENERAL'S REPORT**

Mr. Trento gave an update on the following cases:

1. *Fusaro v. Davitt et al.*, No. 20-1879 (U.S.C.A. for the 4th Cir.). Mr. Trento explained that this is a challenge, brought by a Virginia resident, of the laws that govern access to Maryland's list of registered voters. 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. The issue of voter access did not reach the District Court due to unrelated but similar litigation happening around the same time, which concluded that the National Voter Registration Act (NVRA) already required that records related to list maintenance be available for public inspection. The Court did reach the issue of limiting access to the voter list only for purposes related to electoral processes and upheld that aspect of the law.

Plaintiff has appealed to the United States Court of Appeals for the Fourth Circuit, and briefing is now complete. Oral argument has not yet been scheduled.

2. *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 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 to federal court 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. Mr. Trento noted that legislation passed this year to formalize the process by which individuals who are in detention but are still eligible to vote are required by the Department of Corrections and SBE to be given information and access to voter registration materials and the ability to vote, which may make the outstanding aspects of this case moot.
3. *National Federation of the Blind, Inc., et al. v. Lamone et al.*, No. 1:19-CV-02228-ELH (U.S. District Court, D. Md.). On August 1, 2019, the National Federation of the Blind ("NFB"), NFB's Maryland chapter, and three individual plaintiffs filed a lawsuit against the State Administrator and the individual members of the State Board of Elections alleging that SBE's ballot marking device (BMD) policy has, in practice, violated the rights of voters with disabilities "to an equal opportunity vote in person by a secret ballot," in violation of Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. Plaintiffs seek an order requiring the State Board "in all future elections to offer BMDs to every in-person voter as the default method of voting, with paper ballots offered only to those voters who affirmatively opt out of using the BMD or in cases where there are long lines of people waiting to vote." On September 3, 2019, defendants filed a motion to dismiss the complaint, and on September 20, 2019, plaintiffs filed a motion for a preliminary injunction, seeking relief in time for the November 2020 election. On February 10, 2020, the court denied the defendants' motion to dismiss, and denied the plaintiffs' motion for preliminary injunction, and the parties proceeded to discovery. On October 6, 2020, the parties filed a joint motion to extend the discovery deadline to December 9, 2020, which was granted by the Court. On November 12, 2020, the parties filed a joint motion to stay the case for 60 days to allow for a focused period of settlement discussions, which was also granted by the Court. The stay has since been extended several times and is now set to expire April 26, 2021.
4. *Chong Su Yi v. Hogan*, Nos. 464985, 466396, 480720, 480721, 480722, 480723 (Cir. Ct. Montgomery Cty.). On September 8, 2019, plaintiff Chong Su Yi filed two complaints in the Circuit Court for Montgomery County challenging the results of Maryland's 2018 elections, and naming Governor Larry Hogan as defendant (Nos. 464985, 466396). Specifically, Mr. Yi argued that the results of that election are invalid because of the use of religious facilities as polling places, that the State's use of "scanners" to tabulate ballots is unconstitutional and/or not permitted by federal law, and that the State's identification of candidates' party affiliations on the general election ballot is not permitted by State law. Mr. Yi amended his complaints, and in January 2019 both of his amended complaints were dismissed by the Circuit Court. On January 21, 2020, Mr. Yi appealed from the dismissal in

No. 466396. (Mr. Yi had also previously filed interlocutory appeals from non-final orders, but these were dismissed by the Court of Special Appeals.) On November 4, 2020, the Court of Special Appeals dismissed Mr. Yi's appeal for failure to file a civil information report, but on November 30, 2020 granted Mr. Yi's motion for reconsideration and reinstated the appeal. On April 16, 2021, Mr. Yi filed an informal appellant's brief with the Court of Special Appeals. On April 22, 2021, that brief was rejected for failure to include a certificate of service, and Mr. Yi was directed to refile his brief with the appropriate certificates within 30 days.

Meanwhile, on March 6, 2020, Mr. Yi filed four complaints in the Circuit Court for Montgomery County (Nos. 480720, 480721, 480722, 480723) asserting substantially identical claims to those asserted in his prior two complaints. Beginning on May 15, 2020, Mr. Yi filed amended complaints in these actions, this time adding the State of Maryland as a Defendant in addition to Governor Hogan. Defendants filed motions to dismiss and/or for summary judgment as to these complaints, and on August 25, 2020 those motions were granted. After moving for reconsideration unsuccessfully, on October 9, 2020, plaintiff filed notices of appeal to the Court of Special Appeals in each of these matters. Plaintiff also sought waivers of the filing fees associated with these appeals, which were denied. On January 6, 2021, the Court of Special Appeals dismissed the appeals for failure to pay the filing fee. On February 4, 2021, plaintiff filed a petition for writ of certiorari in the Court of Appeals, and also requested waiver of the filing fees. The Court of Appeals granted Mr. Yi's request for waiver of filing fees and was scheduled to consider Mr. Yi's petition at conference on March 25, 2021. The petition for certiorari is still pending.

## **OLD BUSINESS**

There was no old business.

## **NEW BUSINESS**

There was no new business.

## **SPEAKERS**

*Linda Dorsey-Walker, Baltimore County Resident*

Ms. Dorsey-Walker reported that she has attended all meetings of the State Board over the last year, and frequently reports information from the meetings to the community. She stated that there was a need for the members of the State Board to establish sanctions against any local board of election's director under certain conditions, as well as two proactive protective measures to prevent the need for such sanctions. Ms. Dorsey-Walker alleged that during the last election cycle, an election director did not discuss with the County Executive the option for each local board to have one additional early voting center, and that the County Executive was not aware of this option until Ms. Dorsey-Walker informed the County Executive about this option. Ms. Dorsey-Walker suggested that, in order to prevent this from happening in the future, there should be written proof that the election director has informed the County Executive of this option, and that the County Executive has either accepted or declined the additional early voting center. Mr. Miller thanked Ms. Dorsey-Walker for bringing her concerns to the Board, and Mr. Voelp stated that the Board will take the information under advisement.

## **DISCLOSURE OF CAMPAIGN CONTRIBUTIONS**

There were no campaign disclosures.

## **SCHEDULE NEXT MEETING**

The next meeting is scheduled for Thursday, May 27 at 2 p.m.

**CLOSED SESSION – LEGAL ADVICE & SECURITY**

Mr. Voelp requested a motion to close the board meeting under General Provisions Article, §3-305(b) (7) and (8), which permits closing a meeting to consult with counsel to obtain legal advice and with staff about pending or potential litigation, and (10) and (15), which permits closing a meeting to discuss public security, network architecture, and security of election network without introducing risk to the process.

Mr. Hogan made a motion to convene in closed session under General Provisions Article, §3-305(b)(7), (8), (10), and (15), and Ms. Woodward seconded the motion. The motion passed unanimously.

The motion having passed, the Board met in closed session in accordance with exemptions defined in (b)(7), (8), (10), and (15) of Section 3-305 of the Open Meetings Act to receive advice from counsel and consult with staff about pending or potential litigation and discuss public security, network architecture, and security of election network without introducing risk to the process.

The closed session began at 3:20 pm. Mr. Voelp, Mr. Hogan, Mr. Funn, Mr. Miller, and Ms. Woodward attended the closed meeting. In addition to the board members, Ms. Lamone, Ms. Charlson, Mr. Trento, Ms. Duncan, and Mr. Treichel attended the closed meeting.

Mr. Trento provided legal advice on potential or pending litigation, and Mr. Treichel answered questions concerning information security.

No action was taken.

Ms. Woodward made a motion to adjourn the closed meeting, and Mr. Hogan seconded the motion. The motion passed 4-0.

The closed meeting adjourned at 4:10 pm.

**ADJOURNMENT**

The open meeting adjourned at 3:18 pm.