

State of Maryland 

State Board of Elections – May 27, 2021 Meeting

Attendees (via conference call):

William G. Voelp, Chair
Patrick J. Hogan, Vice Chair
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
Mary Cramer Wagner, Director of Voter Registration

Also Present: Justin Williams, newly appointed SBE Member
Eric Blitz, Chair of the Maryland Libertarian Party

DECLARATION OF QUORUM PRESENT

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

ADDITIONS TO THE AGENDA

There were no additions to the agenda.

APPROVAL OF MEETING MINUTES: APRIL 22, 2021

Mr. Funn made a motion to approve the minutes from the April 22, 2021 open meeting. Mr. Hogan seconded the motion. The motion passed unanimously.

APPROVAL OF MINUTES OF CLOSED MEETING

Ms. Woodward made a motion to approve the minutes from the closed meetings on April 22, 2021 and May 6, 2021. Mr. Funn seconded the motion. The motion passed unanimously.

ADMINISTRATOR'S REPORT

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

Announcements & Important Meetings

New Employee

Mr. DeMarinis welcomed Devki Dave to the Campaign Finance Division. Devki is an experienced trilingual Maryland State government professional with over 7 years of business and management-based experience previously with the Maryland Department of Labor. She is a highly organized, critical thinker who demonstrates leadership and embraces strong teamwork.

State Employees' Appreciation Day

Ms. Charlson stated that though State Employees' Appreciation Day was May 5, that SBE celebrated all week. Although there are not enough ways to thank the employees of SBE and recognize their work over the last year, we tried.

Election Directors' Meetings

We hosted an election directors' meeting on May 20th. Topics discussed included voter registration, the inventory process, and the project to replace the electronic pollbooks for the 2022 elections. A summary of the meeting is provided with the County Bulletin when it is complete.

SBE's Biennial Meeting and Maryland Association of Election Officials' (MAEO) Annual Conference

Ms. Charlson reminded the members of the Board that MAEO is hosting its annual conference in Ocean City the week of August 23 and that SBE will host its mandatory, biennial meeting on August 25, with virtual access available for individuals who prefer not to attend in person. Meeting details are being developed and will be distributed once finalized.

Election Reform and Management

Student and Military Voters: Information and New Process

Ms. Charlson stated that with the end of the legislative session, SBE has been busy working to implement the election-related bills that passed. [Senate Bill 283](#) and [House Bill 156](#) of the 2021 Legislative Session (effective June 1, 2021) requires certain information on our website for college students and the acceptance of the electronic signatures affixed by the U.S. Department of Defense's Common Access Card for certain transactions. Ms. Charlson stated that [our updated website](#) includes the required information for college students, and proposed changes to regulations will be presented at this meeting to incorporate the Common Access Card requirements of these bills.

SBE has joined Instagram

We have recently joined Instagram as @md_sbe. This new social media account will allow us to further expand our voter education outreach, along with our communications and customer service efforts. You can find us on Twitter, Facebook, YouTube and now Instagram.

Mail-In Voting: Usability Review

[Chapter 56 \(Senate Bill 683\)](#) and [House Bill 1048](#) (effective June 1, 2021) requires that we have a usability expert review and provide recommendations on mail-in voting information available to voters. We are working with the University of Baltimore (UB) on an agreement for usability experts at UB to perform this work and expect that the majority of the work will be performed during the summer.

These laws also create a permanent absentee voting list for voters and allow these voters to select how they wish election officials to communicate with them (*i.e.*, mail, text, or email). To implement these changes, we are updating the impacted systems - MDVOTERS, the statewide voter registration, candidacy, and election management system - and the online systems voters can use to request mail-in ballots.

High Speed Envelope Sorter Solution

Last month, we issued a Request for Information to learn about available high speed envelope sorting solutions. Several of the large local boards are interested in solutions to expedite the processing and sorting of returned envelopes with voted mail-in ballots. The deadline for vendors to submit information was May 21, and three vendors provided information about their products. We will share this information with interested local boards and determine our next steps.

Voter Registration

MDVOTERS

Ms. Wagner stated that training classes are being held or planned in the near future for election judge training assignments and proper address entry and general information for districts and precincts to assist with the redistricting process.

MDVOTERS Audits

Ms. Wagner stated that Janet Smith is SBE's full time auditor for MDVOTERS. At least 44 audits are performed monthly, and audits cover all transactions within the database. Additionally, the local boards perform monthly audits on another local board's transactions. SBE reviews the monthly data audits performed by the local boards, and these reviews require accessing 144 files.

MDVOTERS Audits

At least 44 audits are performed monthly, and audits cover the following transactions:

- New registrations
- Changes to voter records
- Timely processing of reports
- Cancellations
- Party changes
- Absentee application
- Electronic Registration Information Center (ERIC)

Each month, the local boards audit another local board's transactions. SBE reviews the monthly data audits performed by the local boards, and these reviews require accessing 144 files.

Motor Vehicle Administration (MVA) Transactions

During April, MVA collected the following voter registration transactions:

New Registration - 11,020	Residential Address Changes - 20,183
Last name changes - 2,771	Political Party Changes - 4,638

MVA Notice of Surrendered Licenses from Other States

Ms. Wagner followed up on a previous request from Mr. Voelp regarding the possibility of SBE receiving notice of Maryland drivers' licenses that have been surrendered in other states. She stated that this process is in development between SBE and MVA. We anticipate receiving the data during June or July. When we receive this data, a notification will be generated to the voter in accordance with federal National Voter Registration Act (NVRA) guidelines.

Non-Citizen Registration and Voting

Between February 1, 2021 and April 30, 2021, 96 voter records were cancelled due to a status of non-citizen. None of these individuals have voting history.

Ms. Wagner stated that her and Mr. DeMarinis continue to work with the Office of the State Prosecutor regarding the best method to report to the Board the findings of their investigations.

Candidacy and Campaign Finance (CCF) Division

Candidacy

Mr. DeMarinis stated that individuals must file certain paperwork, pay a filing fee, and appear in person to become a candidate for the 2022 election. The filings are currently scheduled by appointment, and as of May 25, 28 candidates have filed at SBE.

Campaign Finance

The next disclosure report due is for persons doing business with State government entities and persons employing lobbyists. They are required to file a *Disclosure of Contributions* every six months (November 30 and May 31) with the transaction period ending the last day of the month prior to the due date. Currently, over 425 statements have been received for the Spring 2021 filing. There are over 850 entities registered in the system. Since May 31 is a legal holiday, the statement is due on June 1. Failure to file will result in late fees. Late filing fees are calculated in the same method as campaign finance report late filings with the maximum penalty of \$1,000.

In response to a question from Mr. Voelp regarding the procedure when a candidate files for office in a specific district but is redistricted to a different district, Mr. DeMarinis stated that the candidate's filing is automatically moved into the new district, but that the candidate has the option to withdraw if they choose.

In April, MD Campaign Reporting Information System (MD CRIS) website was visited by over 230,000 individuals for an average of over 7,700 per day. Additionally, it had over 1.6 million hits. Each viewer looked at an average of nearly 6 page views per day. The Business Contribution Disclosure System (BCDS) website had over 810,000 hits, over 42,000 visitors with an average of over 18 page views per day.

Project Management Office (PMO)

Inventory Management

Mr. Ross stated that the FY21 Inventory Audit started on February 1 and will conclude on June 30, 2021. The current statewide inventory audit completion is 86.32%.

FY2022 Electronic Pollbook Project

The PMO continued working on tasks related to the project, including:

- The procurement of a new electronic pollbook system is in the evaluation phase with the on-site evaluation of the vendors' equipment. This phase is expected to be completed in mid-June.
- Shared project information to the local boards via monthly project status meetings and the biweekly *County Bulletins*.
- Updated and addressed questions concerning the pollbook's Contingency Plan.
- Planning for the post-evaluation (*e.g.*, request for Board of Public Works approval) and the implementation phases of the project.

Other

The Central Warehouse team continued to work on a number of activities and events at the facility that included:

- Receiving equipment and supplies from local boards requesting storage or that will be going through the disposal process.
- Logistics planning and scheduling of the statewide pickup and delivery of equipment involved in the potential voting system upgrade.

ASSISTANT ATTORNEY GENERAL'S REPORT

Mr. Trento stated that there was no update in three of the four cases reported last month. In the case of *Chong Su Yi v. Hogan*, Nos. Nos. 480720, 480721, 480722, 480723 (Cir. Ct. Montgomery Cty.), Mr. Trento stated that the Appellant filed his brief with the Court of Special Appeals, and Appellee's response is due next month. Mr. Trento also stated that a Petition for a Writ of Certiorari filed by the Plaintiff in related cases was denied.

APPROVAL OF REGULATIONS- COMAR 33.05 – VOTER REGISTRATION AND COMAR 33.11 – ABSENTEE BALLOT

Ms. Charlson presented for adoption proposed amendments to COMAR 33.05.01.02, 33.05.04.04, 33.11.01.01, and 33.11.02.05. These changes are necessary to implement the recently enacted Student and Military Voter Empowerment Act. One provision of the new law requires that election officials accept on certain Federal Post Card Applications (FPCA) an electronic signature applied by a Common Access Card. Under this new law, an electronically submitted FPCA with changes to an existing registration or a request from a registered voter for a mail-in ballot can be signed using a Common Access Card. Ms. Charlson clarified that the Common Access Card cannot be used to register to vote.

Ms. Charlson explained that the proposed amendments define “Common Access Card” and “Federal Post Card Application,” incorporates the new requirement that a signature applied by a Common Access Card can be used to request a ballot, and corrects a drafting error. She also explained that the proposed amendment to COMAR 33.05.04.04 is a clerical correction to reflect current practice to allow for the use of electronic signatures.

Mr. Funn made a motion to approve the proposed amendments outlined in Ms. Charlson’s May 13 memo to the Board. Mr. Miller seconded the motion. It passed unanimously.

APPROVAL OF TITLE 13 LATE FEE WAIVERS

Mr. DeMarinis presented requests from 22 campaign committees to waive late fees incurred by the committee. Seven campaign committees were denied waivers of late fees and were presented to the board for informational purposes.

The committees requesting a waiver of late filing fees were:

1. Addison, Jackie Citizens to Elect
2. Anne Arundel County Licensed Beverage Association PAC
3. Bartlett, Bobby Friends of
4. Branch, Alexis for Action
5. Future of Baltimore Super PAC
6. Cannon, John Friends of
7. Clay, Regina Friends of
8. Common Sense Talbot PAC
9. Constitutional Conservatives for Maryland PAC
10. Elder, Joyce Citizens for
11. Harrison, Virginia Friends Of
12. Keegan-Ayer, M.C (Mary) Friends of
13. MARYLAND STRONG PAC
14. McCready, Terry Citizens for
15. Montgomery County Green Central Committee
16. Otonna, Collins, Real Change Coalition for
17. Price, Laura for County Council
18. Prince George's Property Owners Association Inc PAC
19. Rzepka, Donna Citizens for
20. Sampson, Otis, for School Board District 1
21. Thomas, Brenda Friends for
22. Williams, Sonya M. Friends of

In response to a question from Mr. Hogan, Mr. DeMarinis clarified that after a filing deadline has passed, the system allows for data entry for the next scheduled report. In this case, the next report due for a committee is the 2022 Annual Report. Late filers sometime select the wrong Annual Report when filing. Mr. DeMarinis stated that SBE is working with the software developers to highlight to the filer that the committee may be filing a campaign finance report out of sequence by error.

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

APPROVAL OF CONFIDENTIALITY REQUESTS

Mr. DeMarinis presented a request from two voters (a judge and the judge's spouse) to keep their address and phone numbers confidential and stated that the Candidacy and Campaign Finance Division verified that the requesting individual was eligible to have their residential address and telephone numbers be confidential.

In response to a request from Ms. Woodward for background regarding confidentiality requests, Mr. DeMarinis stated that COMAR 33.04.02.02 allows certain individuals to ask that their residence addresses and telephone numbers be designated as confidential. The categories of individuals who may request confidentiality are law enforcement personnel, persons being threatened, victim of or witness to felony and others due to safety or serious invasion of privacy.

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

REVIEW REQUEST FOR CONTINUATION OF ELECTRONIC PETITION SIGNATURE ACCEPTANCE

Speaker

Eric Blitz, Chair of the Maryland Libertarian Party (MLP)

Mr. Blitz stated that he submitted joint written testimony from the MLP and the Maryland Green Party (MGP). He emphasized that the Board had the opportunity to make an administrative change to continue acceptance of electronic petition signatures. This originally arose from the adjustments made during the pandemic, but the Board has the authority and opportunity to make accepting electronic petition signatures a permanent policy. He stated that while his focus was on petitions used to form a new political party or reform a party that has lost its recognized status, such a policy would have a positive impact on all petition drives. Mr. Blitz emphasized that the authority the Board used to make the emergency change in April 2020 was not an emergency authority, and therefore he, and on behalf of the MLP and MGP, recommended that the Board permit petition signatures to be submitted electronically permanently.

Mr. Blitz supported his request with the following:

1. That the rate of validity of signatures obtained electronically since the policy began has improved dramatically. While Mr. Blitz was not able to provide specific percentages, he estimated electronic validity to be around 90%, whereas wet signatures generally yield a 60-70% validity rate.
2. Electronic signatures allow supporters with transportation issues to sign a petition without having to travel or incur mailing costs.

Mr. Blitz clarified that allowing permanent signatures does not replace the need for in-person signatures.

Mr. Blitz closed by stating that allowing permanent electronic signatures on petitions will increase the options for Maryland registered voters to participate in the petition process and urged the Board to make the policy permanent.

Board Discussion

The Board followed Mr. Blitz's testimony with a discussion regarding SBE Policy 2021-01: Extension of Temporary Electronic Petition Signature Acceptance, which was adopted by the Board at its January 12, 2021 meeting, and is set to expire today.

In response to a question from Mr. Voelp regarding how an electronic signature is confirmed, Mr. Blitz explained, using a recently submitted MLP petition as an example, that before someone can sign a petition electronically, the online petitions asked for pertinent personal information, which is then checked against the voter registration database that the MLP purchased from SBE. If a person's registration was not found, Mr. Blitz directed the person to look up their registration on SBE's website. With traditional wet signatures, Mr. Blitz stated that the petitioner does not have the ability to verify a signer's registration. He also noted that the MLP has various other checks in place that prevent fraudulent activity.

In response to a question from Ms. Woodward, Mr. DeMarinis explained the history of SBE Policy 2021-01, stating that the policy to allow electronic signatures stemmed from the need to allow political parties access to the ballot during the pandemic. He noted that nationally, other election offices adopted similar policies. In the interest of public health and safety, the policy was extended twice, most recently at the Board's January 2021 meeting. The current policy's expiration date was set to coincide with the end of the legislative session and the signing of any related bills. Mr. DeMarinis noted that there were two bills introduced to allow for permanent electronic signatures but that neither passed out of committee. Considering the lack of action from the legislature, Mr. DeMarinis argued that if the Board were considering making the policy permanent, extending the policy would not be the correct path. He stated that proposed changes to COMAR would be the preferred method to make permanent policy changes, which would allow public input on the changes and could also specify security related to available technology. Mr. Blitz concurred with Mr. DeMarinis that specifics related to security and technology should be included in regulations moving forward.

A discussion followed between the members of the Board, Mr. Blitz, Mr. DeMarinis, and Mr. Trento regarding if the best way to move forward was a policy change, a regulatory change, or a legislative change. In the end, Mr. Hogan, Mr. Funn, and Mr. Miller stated that they believe this should be a legislative action. Ms. Woodward agreed but proposed the idea of the Board extending the policy temporarily. Mr. Voelp stated that he generally supports the idea of electronic signatures but does not believe that he has enough information today to extend the policy permanently and is not inclined to move forward with another temporary extension. Following a comment from Mr. Trento, the members all agreed that this was the time to study the idea further.

In response to a question from Mr. Voelp, Ms. Charlson stated that staff can come back to the Board at the next meeting with a proposed timeline of studying the issue.

No motion was made to extend the policy, and as a result, the policy for accepting electronic signatures expired.

OLD BUSINESS

There was no old business.

NEW BUSINESS

There was no new business.

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

There were no campaign disclosures.

SCHEDULE NEXT MEETING

The next meeting is scheduled for Tuesday, June 22, 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.

Mr. Hogan made a motion to convene in closed session under General Provisions Article, §3-305(b)(7) and (8), 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) and (8) of Section 3-305 of the Open Meetings Act to receive advice from counsel and consult with staff about pending or potential litigation.

The closed session began at 3:24 pm. Mr. Voelp, Mr. Hogan, Mr. Funn, Mr. Miller, and Ms. Woodward attended the closed meeting. In addition to the board members, Mr. Williams, Ms. Lamone, Ms. Charlson, Mr. Trento, and Ms. Duncan attended the closed meeting.

Mr. Trento provided legal advice regarding pending litigation. Mr. Miller made a motion to authorize Mr. Trento to proceed with a certain course of action regarding the pending litigation, and Mr. Hogan seconded the motion. The motion passed unanimously.

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

The closed meeting adjourned at 3:36 pm.

ADJOURNMENT

The open meeting adjourned at 3:15 pm.