

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

Attendees (via conference call):

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

Also Present: Dr. Kathryn Summers, Director, University of Baltimore, School of Information Arts and Technologies' User Research Lab.
Tasmin Swanson, Center for Civic Design

DECLARATION OF QUORUM PRESENT

Mr. Voelp called the meeting to order at 2:02 pm and declared that a quorum was present.

ADDITIONS TO THE AGENDA

There were no additions to the agenda, but Mr. Voelp announced that agenda item eight (Approval of Mail-In Ballot Application #2 for 2020) would be presented before agenda item seven (Approval of Proposed Changes to COMAR).

ELECTION OF VICE CHAIRMAN

Ms. Woodward nominated Mr. Funn as vice chairman, citing his tenure on the Board, and his extensive knowledge of elections. Mr. Williams seconded. Mr. Funn accepted the nomination which passed unanimously. Mr. Funn thanked the other members for electing him as Vice Chairman.

APPROVAL OF MEETING MINUTES: JUNE 22, 2021

Mr. Funn made a motion to approve the minutes from the June 22, 2021 open and closed meetings. Mr. Hogan 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

Welcome to SBE

Ms. Duncan announced that Melissia Dorsey is joining the election community as the Director of Election Reform and Management. She has a legal background and comes to us from the Maryland Commission on Civil Rights. Melissia has an extensive knowledge of ADA requirements

and anti-discrimination laws. She has expressed great interest and enthusiasm to learn Maryland's election process and share her knowledge to contribute to Maryland's continued election growth, changes and challenges ahead.

Election Directors' Meetings

We hosted an election directors' meeting on July 15. Topics discussed included an update on the pollbook project, various voter registration issues. 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 stated that the State Board's legally mandated meeting will be held in conjunction with MAEO's annual conference. MAEO's conference will begin August 22 through August 27. SBE's Biennial day will be August 25. Ms. Charlson recognized the efforts of Ms. Wagner, SBE's liaison to MAEO for this conference, in organizing our conference planning efforts.

Election Reform and Management

Mail-In Voting: Usability Review

Ms. McLaughlin reported that [Chapter 56 \(Senate Bill 683\)](#) and [House Bill 1048](#) (effective June 1, 2021) require that we have a usability expert review and provide recommendations on mail-in voting information available to voters. Ms. McLaughlin introduced Dr. Summers and Ms. Swanson who conducted the study at the University of Baltimore (UBalt), which included focus groups for local board representatives and testing sessions with potential voters. Using the information from these sessions, UBalt will participate in this meeting and share its proposed mail-in ballot request form. Recommendations on other mail-in voting materials and information will be forthcoming.

Mail-In Voting: Procurement of Vendor

The deadline to submit technical and financial proposals for the procurement of a vendor to print, insert, and mail ballot packets for the 2022, 2024, and 2026 elections was July 16. Only vendors who are certified to print ballots and submitted sample ballot packets were eligible to submit a technical and financial proposal. Seven proposals were received, and our review of the technical proposals has begun.

Voter Registration

MDVOTERS

Ms. Wagner reported that refresher training is being conducted on "district and precincts." This will assist the local boards with cleaning up their street files prior to the upcoming redistricting and reapportionment process.

The Maryland Democratic Party is making changes to how central committee candidates file for office. There is now a new gender designation - "non-binary." All development to support this change, including the "Certificate of Candidacy" and ballot contest headings, has been implemented within MDVOTERS.

MDVOTERS Audits

On a monthly basis, audits are performed on the local boards of elections' processing of Electronic Registration Information Center (ERIC) reports, Department of Health and Mental Hygiene (DHMH) death records, Administrative Office of the Courts (AOC) felony records, and the processing of overall voter registration records. Follow up is conducted with the local boards to

ensure all corrections are completed and to address any training issues. On a monthly basis, a minimum of 144 audits are conducted.

MVA Data

SBE is working with MVA to collect information on individuals who have surrendered their licenses in another state. Correspondence has been developed and translated, and SBE will send letters that comply with the federal National Voter Registration Act (NVRA) guidelines.

SBE is also working with MVA to do a residential address comparison with MDVOTERS' "inactive" voters. SBE will send letters to "inactive" voters for whom MVA has a different residential address to request an updated address. This mailing will also comply with NVRA guidelines.

Both mailings will be sent the first week of August.

Motor Vehicle Administration (MVA) Transactions

During June, MVA collected the following voter registration transactions:

New Registration - 11,065	Residential Address Changes - 22,709
Last name changes - 2,742	Political Party Changes - 5,283

Non-Citizen Registration and Voting

Ms. Wagner reported that between June 19, 2021 and July 16, 2021, six voter records were cancelled due to a status of non-citizen. Two of these records have voting history from 2012 and 2020. These records will be forwarded to the Office of the State Prosecutor.

Mr. Trento, Mr. DeMarinis, and Ms. Wagner will meet with the Office of the State Prosecutor the first week of August to discuss how to best present findings to the State Board.

Candidacy and Campaign Finance (CCF) Division

Candidacy

Me. DeMarinis reported that candidacy filings are currently scheduled by appointment, and as of July 21, 2021, 78 candidates have filed at SBE.

Campaign Finance

The next campaign finance report due is the 2022 Annual Report. However, independent expenditure entities and Super PACs must file disclosure reports within 48 hours after making disbursements or expenditures of \$10,000 or more.

County Public Financing Programs

Ms. DeMarinis reported on the following county public financing programs:

Montgomery County: The disbursement period opened and as of July 21, 2021, the Montgomery County Public Election Fund made \$113,765 in disbursements to a certified candidate. On July 20, a second candidate requested certification and qualification for public funds; this candidate's filing is currently under review. Committees may file matching fund requests on the first and third Tuesday of every month. 15 candidates in Montgomery County have filed a notice of intent to participate in the program.

Howard County: Two candidates in Howard County have filed a notice of intent to participate in the program.

Baltimore County: Mr. DeMarinis will attend a work group for the Baltimore County public financing program to assist in drafting legislation and answering questions.

Website Activity - May

The MD Campaign Reporting Information System (MD CRIS) website was visited by 217,853 individuals for an average of 7,261 per day. Additionally, it had 1,549,464 million hits. Each viewer looked at an average of over 7 page views per day.

The Business Contribution Disclosure System (BCDS) website had 844,306 hits, 49,455 visitors with an average of over 16 page views per day.

Enforcement

Mr. DeMarinis reported on the following enforcement actions:

1. Pat McDonough Leadership Team paid \$250.00 on June 28, 2021 for the failure to include an authority line.
2. Committee to Elect Anthony Triplin paid \$100.00 on July 16, 2021 for the failure to record expenditure(s) on a campaign finance report.
3. Friends of Dana Beyer committee paid \$600.00 on July 20, 2021 for the failure to record all contributions and expenditures.
4. Friends of Dj (Donjuan) Williams committee paid \$100.00 on July 20, 2021 for disbursement by unauthorized method -Cash greater than \$25.00.
5. John Krowka for Board of Education committee paid \$200.00 on July 20, 2021 for the failure to record all contributions and expenditures.

Any differences in the fine amount for the same violation are due to certain extenuating circumstances, such as self-reporting, the number of transactions not reported, second or subsequent offenses, and if the violations occurred over multiple reports.

The Audit and Enforcement Unit (AEU) sent two notices to 59 political committees which have a vacancy in the position of the responsible officer. If vacancy occurs in the “responsible officer” position, the committee must promptly fill the vacancy. The committee may not engage in any financial activity until the vacancy is filled. If the committee fails to fill the vacancy, AEU will notify the Office of the State Prosecutor.

In response to a question from Mr. Voelp, Mr. DeMarinis clarified that “prompt” is not defined, which is why notices are sent after 30 days. In response to a follow up statement from Mr. Voelp, Mr. DeMarinis stated that there are currently around 2,000 active political committees, and of that, 59 have a vacancy of the responsible officer. Of those 59 committees, a majority of them should have already been closed if the committee had filed a final report.

Voting System Division

Voting System Upgrade

Ms. Satterfield reported that after months of thorough testing, we no longer plan to present for certification a new software version (EVS6110) for our voting system. Although our goal was to upgrade the voting system and its associated software and hardware in 2021, we identified inefficiencies in portions of the software suite that would negatively impact the election calendar, processes and workflows used in Maryland. In keeping with SBE's goal to continuously enhance and improve elections, ES&S and SBE will proactively collaborate to ensure future software suites meet or exceed the standards and needs of Maryland.

Ballot Marking Device – Calibration Checks

Mr. Satterfield reported that SBE, in conjunction with the local boards of elections, will conduct additional screen calibration checks on a subset of ballot marking devices used during the 2020 General Election. This assessment will be in addition to the already completed post election maintenance. A checklist will be used to ensure the same steps are performed on all ballot marking device units with reported screen calibration issues. SBE expects this assessment to begin as early as Monday, July 26, 2021.

In response to questions from Mr. Voelp regarding the decision not to upgrade the voting system, Ms. Charlson stated that the current contract option with ES&S ends in March 2023. We have an optional period after that which, if exercised, would end in March 2025. Additionally, Mr. Satterfield responded that talks with ES&S regarding future enhancements have been positive thus far.

In response to a question from Ms. Woodward regarding the inefficiencies identified by the EVS6110 software, Mr. Satterfield explained that the upgrades to the software would cause certain processes in the creation of the election and the ballots to take longer than allowed. Ms. Charlson elaborated that window of time from when candidates are finalized to when ballots must be printed is very short and is compounded by the number of ballots that must be created.

In response to a follow up question from Ms. Woodward, Mr. Satterfield clarified that the proactive collaboration between SBE and ES&S includes a series of meetings prior to future software releases to ensure that standards that must be met in Maryland are met or exceeded. Mr. Satterfield additionally stated that he can't speak to ES&S's timeframe of the next software release.

Project Management Office (PMO)

Inventory Management

Mr. Ross reported that the FY21 Inventory Audit started on February 1 and completed on June 30, 2021. The current statewide inventory audit completion is 96.65%. The reconciliation of the inventory audit is currently taking place in preparation for the annual inventory report submissions to the Department of General Services (DGS) in August and September.

FY2022 Pollbook Project

The PMO continued working on tasks related to the project that included the following areas of note:

- The pollbook Request for Proposal (RFP) solicitation is in the financial evaluation phase. Discussions about the requirements for Best and Final Offer (BAFO) requests of the vendors are on-going.
- Continued to share information with the local boards via monthly project status meetings, County Bulletins, and Election Directors' meetings.
- Continued to update and address questions from the Department of Information Technology (DoIT) and new developments into the pollbook Contingency Plan.
- Continued planning for the post-evaluation (e.g., BPW approval) and the implementation phase of the project.

In response to questions from Mr. Funn, Mr. Ross stated that we are currently evaluating the financials phase of the project. Because there is not comparable project at SBE or a different jurisdiction, and because the vendor has not been selected yet, it is impossible to estimate the cost of the project. Mr. Voelp stated that because the project is still in procurement, the

Other

We are working with the local boards to identify additional number of voting booths, ADA tables, ballot and precinct carts that will be needed for the 2022 elections.

Information Systems & Technology and Security

Auxiliary Data Processing Centers

Mr. Brechbiel reported that [House Bill 1048](#) of the 2021 Legislative Session requires applications for mail-in ballots be sent to all eligible voters at least 60 days prior to the elections. We expect that this mailing will result in the local boards receiving and needing to process a significant number of applications for the 2022 Primary and General Elections.

As they did for the 2020 General Election, the MVA has indicated its willingness to provide secure workspace and workstations for an auxiliary data processing center (if needed) to process mail-in ballot requests for the 2022 Primary and General Elections. Points of contact have been established and procedures have been documented for establishing secure data communication between the MVA data processing center and SBE's primary and secondary data centers.

Texting Solutions

Also to comply with [House Bill 1048](#) and [Chapter 56 \(Senate Bill 683\)](#), SBE's IT Division has been researching technology solutions for communicating to Maryland voters via text messaging. Several solutions have been identified and are undergoing more detailed analysis to determine the best solution for Maryland elections.

Hybrid Meeting Solutions

The IT Division is evaluating technology solutions to facilitate hybrid meetings at SBE headquarters. A hybrid meeting is defined as a meeting with a mixture of in-person and virtual participants. The participants must be able to interact effectively. Results are positive thus far.

In response to questions from Mr. Voelp, Mr. Brechbiel stated that ideally, yes, the hybrid meeting solution would work for board meetings, but that a timeframe for the solution depends on the procurement schedule.

National "TableTop the Vote" Exercise

Ms. Charlson reported that earlier this month, SBE participated in a nation-wide tabletop exercise sponsored by the federal Cybersecurity and Infrastructure Agency (CISA). SBE Cybersecurity brought together a team of 27 participants from information technology, cybersecurity, local boards, vendors and partners. The exercise was facilitated by Art Trechiel, Paula Paschall, one of SBE's Regional Managers, and Ms. Hartman.

This exercise provided an opportunity to come together to plan for various scenarios and test and improve our response plans. This year's exercise included discussions about relevant cybersecurity, misinformation/disinformation, and physical security threats before and during elections. Reactions to the exercises have been positive.

ASSISTANT ATTORNEY GENERAL'S REPORT

Mr. Trento gave the following updates:

1. *Fusaro v. Davitt et al.*, No. 20-1879 (U.S.C.A. for the 4th Cir.). No change from the last update. 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. On July 12, 2019, the Fourth Circuit vacated the dismissal order, and remanded the case for further proceedings. The parties then conducted discovery and briefed dispositive summary judgment motions. On July 14, 2020, the Court awarded Summary Judgment to the defendants on the issue of whether the "electoral process" requirement was unconstitutionally vague, and declined to reach the issue of whether Maryland's registered voter requirement violates the First Amendment. Plaintiff has appealed to the United States Court of Appeals for the Fourth Circuit, and briefing is now complete. Oral argument has been scheduled for the week of September 21, 2021.

2. *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 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 parties have agreed in principle on the terms of a final resolution of this case and are in the process of negotiating the terms of a settlement agreement. The stay has since been extended several times and is now set to expire August 2, 2021.
3. *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. The appeal is now fully briefed, and on June 21, 2021 the Court of Special Appeals indicated that it would be ruling on the case without oral argument.

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 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. On April 23, 2021, the Court denied Mr. Yi's petition for certiorari.

4. *Bravo, et al. v. Pelosi, et al.*, No. 6-21-cv-162 (W.D. Tex.). On February 22, 2021, several individual plaintiffs filed a purported class action complaint on behalf of "all 328 million Americans deprived of an elected form of government" by the conduct of government official and private sector defendants. The named defendants include President Biden and Vice President Harris, all current members of the U.S. Congress, all Governors and Secretaries of State of the 50 states (including Governor Hogan and Secretary Wobensmith), the Democratic and Republican National Committees, the Democratic Congressional and Senate Campaign Committees, Facebook and its CEO (Mark Zuckerberg), Twitter and its CEO (Jack Dorsey), Sapphire Strategies (a Democratic consultancy) and several of its employees, the National Vote at Home Institute and its CEO (Amber McReynolds), the Center for Tech and Civic Life, Mike Podhorzer and Beto O'Rourke. The theory of the case is that, beginning in 2019, and continuing into and during the election of 2020, the defendants conspired to enact laws (or refuse to enact laws) and promulgate rules that violated HAVA and the Civil Rights Act of 1960, and violated the Plaintiffs' First Amendment Rights. The plaintiffs are pursuing constitutional and RICO conspiracy claims against the defendants and seek a restraining order against the "illegitimate Congress and Executive Branch" and an order that the election be redone. On June 10, 2021, a Second Amended Complaint was filed. On June 24, 2021, Governor Hogan and Secretary Wobensmith were voluntarily dismissed from the case. With their dismissal, Mr. Trento noted that this case will not be listed on his next report as no Maryland officials remain as defendants.

6. *WinRed, Inc. v. Ellison, et al.*, No. 21-cv-1575 (D. Minn.). On July 7, 2021, WinRed, Inc. – a federal PAC created to assist Republican Party candidates – filed a lawsuit against the Attorneys General of Connecticut, New York, Maryland, and Minnesota, seeking a declaration that State consumer protection statutes and regulations are preempted by federal law, to the extent that these State laws are being enforced to regulate the use of pre-checked recurring contribution boxes for solicitations for federal offices. WinRed had received letters from the defendants requesting information and documents regarding its use of pre-checked boxes in that context. (It is now public that ActBlue – the PAC formed to assist Democratic Party candidates – has received a similar request from the same State AGs, but has not joined this lawsuit.) A response to the complaint is due on July 29, 2021.

Mr. Trento noted that *Johnson v. Prince George's County Board of Elections*, No. CAL16-42799 (Cir. Ct. Prince Georges Cnty.) has been removed from his update list. The case involved 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 George's County Department of Correction during the 2016 election. The case had been originally filed in the Circuit Court for Prince George's 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, where it has sat dormant for three years. Legislation was passed during the 2021 Legislative Session that sets the requirements for voter registration and getting voting resources and to eligible voters, therefore making the suit moot.

In response to a question from Ms. Woodward, Mr. Trento confirmed that the Plaintiff in *Bravo, et al. v. Pelosi, et al.*, is being represented by counsel.

APPROVAL OF MAIL-IN BALLOT APPLICATION #2 FOR 2022 ELECTIONS

Ms. Charlson explained that the current mail-in ballot application, which was approved at the June meeting, and the proposed version which is based on the testing by UBalt and the Center for Civic Design were provided. Ms. Charlson introduced Dr. Summers and Ms. Swanson to present the proposed application.

After a brief introduction, Dr. Summers explained that the goal of the project, which was set by the legislature, is to make mail-in voting easier for voters, specifically by helping voters in requesting a mail-in ballot, which also benefits election administrators by reducing processing time. Dr. Summers identified four guiding principles of the project which all relate to reducing cognitive load:

1. Make it look easy to read;
2. Use simple, familiar words and simple sentences;
3. Create a linear path; and
4. Support immediate action.

Dr. Summers explained the testing procedures which included 1) focus groups with 15 administrators from local election offices to understand pain points during the 2020 general election, and 2) rapid iterative testing and evaluation where 17 participants filled out the mail-in ballot request form. In the second step, small revisions were made based on observed errors or moments of confusion of the participants, and then the revised materials were tested again.

The focus groups identified several specific issues from the 2020 General Election, including voters not providing their registration address, submission of multiple requests, selecting multiple ways to receive the mail-in ballot, and voters not expecting to need to print ballots received by email.

- Dr. Summers explained the changes that were made to the mail-in ballot request form, including: Section 2 - Rewrote and tested language explaining that this address must be where you are registered to vote. Pre-filled "MD" in the State section to prompt users to provide the address where they are registered in Maryland;

- Section 3 - Added a line to the instructions on the left explaining that you need to be affiliated with a party in order to vote in the primary election;
- Section 5 - Rewrote instructions on the left for plain language (shorter sentences) and to explain delivery options for email ballots; added word and visual cues to make it clear that you only need to fill out one of the delivery options; set mailing address blanks off to the side next to the "different address" option to make it clearer that you can skip this if it doesn't apply to you; used and/or in email option; changed the option headers to be verb focused ("send my ballot" instead of "I want my ballot mailed to..."); changed all mentions of email to "email a link to print my ballot;"
- Section 6 - Created a new section dedicated to contact info to make it easier for election officials to contact a voter if needed;
- Section 7 - Used color to bring attention to the voter signature;
- LBE Contact Information - Changed background to white and made it bilingual.

Dr. Summers explained that the next steps for the project were to continue testing with Spanish-speaking voters, test language about mail-in voting in the online request tool, revise and test email and text communications about mail-in voting, and test information about mail-in voting on SBE's website.

In response to a question from Mr. Funn, Dr. Summers stated that including locations of ballot drop boxes on the contact list form option could be explored and thanked Mr. Funn for bringing it to her attention.

Ms. Woodward thanked Dr. Summers and Ms. Swanson for their significant efforts to update application. She suggested use of the word "correct" instead of "right" in section one. Mr. Williams brought up, in regard to the instructions to the left of section five, that a ballot faxed to a voter would also require the voter to use their own envelope. Mr. Trento pointed out, in regard to political party affiliation in section three, that only the Democratic and Republican Parties have primary elections. Mr. Voelp reiterated the desire of the board to balance the needs to voters with disabilities to print their ballot with the preference of the board for voters who can receive their ballot by mail to do so. Mr. Voelp expressed his appreciation for Dr. Summers' and Ms. Swanson's work on the updated mail-in ballot application.

In response to a statement from Mr. Voelp, Ms. Charlson confirmed that the next step was for the Board to approve the application as presented, and any future edits to the application could be brought back to the Board for approval. There was a short discussion regarding approving multiple versions of the application, of which Ms. Woodward, Mr. Williams, and Mr. Miller had concerns. Mr. Voelp recognized their concern but noted that the updated application is much improved from the current application.

Mr. Funn made a motion to approve the mail-in ballot application, as presented by Dr. Summers, as an interim form, recognizing that the application will be finalized at a future meeting. Mr. Williams seconded the motion. It passed unanimously. Mr. Voelp thanked Dr. Summers, Ms. Swanson, and Sean Johnson from the Center for Civic Design for their work on updating the application.

APPROVAL OF REGULATIONS: COMAR 33.01.01.01 – DEFINITIONS, 33.05.04.02C – VOTER REGISTRATION, 33.11.02.05 – ABSENTEE BALLOTS, 33.11.03.06A & 06F & 08A – ABSENTEE BALLOTS, AND 33.17.05.01D – EARLY VOTING

Ms. Charlson presented for adoption proposed amendments to COMAR 33.11.01.01, 33.05.04.02C, 33.11.02.05, 33.11.03.06A, 33.11.03.06A, 33.11.03.08, and 33.17.05.01D. The proposed changes related to this implementation are:

1. 33.01.01.01B (General Provisions – Definitions): Since “ballot drop box” will be used in various chapters of COMAR Title 33, it should be a defined term. The proposed change adds “ballot drop box” as a defined term and references the definition in Election Law Article, §1-101(d-1), added by Chapters [56](#) and [514](#) of the 2021 Laws of Maryland.
2. 33.05.04.02C (Voter Registration – Processing Applications) and 33.11.02.01D (Absentee Ballots – Applications): Under Chapters 56 and 514 of the 2021 Laws of Maryland, voters can use a ballot drop box to return voted ballots, absentee ballot applications, and voter registration applications. These proposed changes add a reference to voter registration applications returned at a ballot drop box when determining whether the application was timely and establishes a deadline for an application for an absentee ballot deposited into a ballot drop box.
3. 33.11.02.05A (Absentee Ballots – Processing Applications): Election officials are now required to mail to eligible voters the form to request a mail-in ballot. Because this mailing is expected to generate a larger than normal number of applications, this proposed change streamlines the processing of completed requests while preserving the ability to identify the date the application was received.
 - If a local board receives an application for an absentee ballot on or before the Friday before the deadline to request a ballot by mail, the local board is not required to date stamp the application but it must store the application in a container with a label showing the date the applications were received. The deadline to request an absentee ballot by mail is the Tuesday before election day.
 - If a local board receives an application on or after the Saturday before the deadline, a local board must date stamp each application.

This change is similar to an emergency change made before the 2020 General Election.

4. 33.11.03.06A and F (Absentee Ballots – Return of Ballot)
Regulation .06A: Election officials are now required to mail to eligible voters the form to request a mail-in ballot. Because this mailing is expected to generate a larger than normal turnout by mail, this proposed change streamlines the processing of return envelopes while preserving the ability to identify the date the voted ballot was returned.
 - If a local board receives a return envelope two or more days before election day, the local board is not required to date stamp the return envelope but it must store the return envelopes in a container with a label showing the date the return envelopes were received.
 - If a local board receives a return envelope the day before the election, election day, or any day after election day, a local board must date stamp each return envelope.

This change is the same as an emergency change approved for the 2020 elections.

Regulation .06F: These proposed changes authorize a voter to return a voted ballot to a ballot drop box and establishes requirements for the ballot drop boxes and retrieving voted ballots. This is now authorized under Chapters 56 and 514 of the 2021 Laws of Maryland.

These changes are substantively the same as the emergency changes adopted for the 2020 General Election. The only change is the use of “ballot drop box,” now a defined term under the new law, instead of “ballot drop off location.” For the 2020 elections, we issued procedures for the retrieval of voted ballots from ballot boxes; these procedures are now required by law.

5. 33.11.03.08B (Absentee Ballots – Timely): The proposed change incorporates into the “timely” definition ballots returned at a ballot drop box.
6. 33.17.05.01D (Early Voting – Election Judges): This proposed change means that a representative of the local board does not need to be physically present to open or close the vote center every day of early voting. Under these proposed changes, onsite support is required to open and close the early voting center on the first day of early voting and to close the early voting center on the last day of early voting. On other days of early voting, the local board must provide remote support if there is not someone providing onsite support.

This change is similar to an emergency change made for elections in 2020. The emergency changes provided for remote support for all days of early voting, while this proposed change allows for remote support on the second through seventh days of early voting.

In response to a question from Mr. Funn regarding why the forms use “mail-in ballots” but the regulations use “absentee,” Ms. Charlson explained that the Maryland Constitution uses “absentee”, but a recent law requires that public documents must use “mail-in.” Mr. Trento, in response to a follow up question from Mr. Funn, confirmed that COMAR could be amended to reflect the word “absentee” in parenthesis following the use of “mail-in.” After a discussion, Mr. Funn agreed that defining “mail-in” in the Definitions chapter of Subtitle 11 – Absentee Ballots would be an adequate solution. Ms. Woodward concurred with Mr. Funn regarding the confusion in the use of the two terms. In response to a question from Ms. Woodward, Ms. Charlson explained the promulgation process of adopting new or amendments to existing regulations.

Mr. Williams made a motion to approve the proposed amendments as presented by Ms. Charlson. Ms. Woodward seconded the motion. It passed unanimously.

APPROVAL OF DEPARTMENTAL LEGISLATIVE PROPOSALS

Mr. DeMarinis presented two proposed legislative changes to the Election Law Article for approval, both of which were approved by the Board last year as departmental legislation in whole or in part.

The first bill protects contributors’ information on the website and campaign finance reports and is modeled after a federal campaign finance contribution information protection statute preventing the use of the information for commercial solicitations. See 52 U.S.C. §3011(a)(4) and 11 CFR 104.15. During the 2021 Legislative Session, the bill passed the Senate but failed in the House on Sine Die, and during the 2020 Legislative Session, the bill passed in the House, but failed in the Senate due to the Legislative Session being adjourned early.

The other proposed bill combines two previously approved departmental bills into one comprehensive enforcement bill and also proposes a new civil enforcement provisions for the State Board. First, the bill would increase statute of limitations on Election Law Article offenses from three years to four years. Additionally, the proposed legislation:

- Clarifies the enforcement powers of the Office of State Prosecutor to seek civil penalties against entities filing a late disclosure statement under Title 14. Title 14 mandates that business entities that have a single contract of at least \$200,000 with a governmental entity file contribution disclosure statements with the State Board listing the business' applicable contributions.
- Changes the criminal penalties to \$25,000 from \$1,000, which mirrors the penalty for a criminal violation of Title 13 of Election Law Article¹.
- Mandates that the entities that employ a lobbyist and make applicable contributions maintain certain records for a period of years and makes the criminal penalty similar to the penalties for Title 13 and Title 14 filers.
- Grants the State Board civil enforcement authority over technical Title 14 violations. This is a similar power to authority granted under Title 13 of the Election Law Article.

Mr. DeMarinis stated that he is also working with the MAEO on legislation to allow local boards to continue to open mail-in ballots prior to election day, as was done in 2020.

In response to a question from Mr. Voelp on the first proposed bill regarding the penalty for violations, Mr. DeMarinis responded that the penalty would fall under the General Penalty Provision of Title 13 of the Election Law Article, which has fines of up to \$5,000 for civil violations and \$25,000 for criminal violations. Mr. Trento clarified that the information referred to in the bill is already public information, but the bill clarifies what can be done with that information.

Mr. Miller made a motion to approve the departmental legislative proposals as presented, and Ms. Woodward seconded the motion. The motion passed unanimously.

APPROVAL OF TITLE 13 LATE FEE WAIVERS

Mr. DeMarinis explained that the requests to waive Title 13 late fees are submitted by campaign committees assessed late filing fees. He added that the deadlines are statutory, and all campaign committees are sent physical and electronic reminders of the deadlines. Campaigns can pay the fine or apply for a waiver of the late fees if there is an extenuating circumstance. The Board does not take action on requests for waivers that have been denied but must approval waivers that are granted.

Mr. DeMarinis presented requests from six campaign committees to waive late fees incurred by the committee. Two 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. Building Industry PAC Baltimore City, Maryland
2. Hawkins, Wesley Friends of
3. Mason, Tom (Philip) Citizens for
4. Massett, Sabrina for Senate

In response to a question from Mr. Williams regarding if the Board has the authority to override a waiver denial, Mr. DeMarinis stated that the committee has the opportunity to submit a request for reconsideration, which would then be brought to the Board

¹ See Election Law Article §13-603.

Ms. Woodward made a motion to approve the waiver requests, and Mr. Williams seconded the motion. The motion passed unanimously.

APPROVAL OF TITLE 14 LATE FEE WAIVERS

Mr. DeMarinis explained that Title 14 of the Election Law Article pertains to doing business with the State. Reports must be filed twice a year (May and December), and that the businesses are contractually obligated to file the reports. As with Title 13 waiver requests, the Board does not need to take any action on waiver denials but must approval waivers that are granted.

Mr. DeMarinis presented requests from 18 businesses to waive late fees incurred by the committee. 17 campaign committees were denied waivers of late fees and were presented to the board for informational purposes.

The business requesting a waiver of late filing fees is:

1. CAPSA, Inc. & Grindon Lane., Joint Venture

In response to a question from Mr. Williams, Mr. DeMarinis explained that generally he waits until he has a significant number of requests before presenting to the Board, but the businesses whose waiver requests were denied have already been notified.

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

Ms. Woodward explained her vote, stating that she agrees with the philosophy of the previous Boards to hold businesses that are contractually obligated to file reports to a higher standard than the campaigns under Title 13.

OLD BUSINESS

There was no old business.

NEW BUSINESS

Approval of Confidentiality Request Form

Ms. Wagner explained that the Board had previously requested that the Confidentiality Request Form include a note stating that when confidentiality is granted to a voter, they will not receive certain notices. Ms. Wagner read the note as it is presented on the form:

“Note: When a voter record is designated confidential, there are several voter services that become unavailable to that voter: the voter’s voter registration information will not be available on our Voter Lookup website, and the voter will not receive ballot status email updates or a sample ballot mailing.”

She noted additional changes include that the voter making the request only list their month and day of birth, and that the request, when required, is subject to appropriate documentation satisfactory to the “election board.” Mr. DeMarinis added that the word “candidacy” has been added to a statement regarding if the request is based on candidacy for public office, as well as a checkbox for immediate family members of an individual who is eligible status.

In response to a question from Mr. Williams, Ms. Wagner clarified that the request before the Board is for approval of the updated form, as opposed to each change.

There was discussion regarding the statement *“My request for confidentiality is based on my candidacy for public office or serving as an officer of a political campaign or both. Please circle one: Yes / No.”* Mr. DeMarinis clarified that this statement is separate from the listed categories that qualify a voter for confidential status and to signify to the Candidacy and Campaign Finance office that any personal information on the voter’s Certificate of Candidacy must also be removed. After a further discussion regarding the wording of the document, and with no objection from the Board, Ms. Duncan stated that we would rework the document and resubmit at a future meeting.

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

There were no campaign disclosures.

SCHEDULE NEXT MEETING

The next meeting is scheduled for Thursday, September 9, 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) (1), (7) and (8), which permits closing a meeting to discuss compensation of officials over whom the State Board has jurisdiction, receive advice from counsel, and consult with staff about pending or potential litigation.

Mr. Miller made a motion to convene in closed session under General Provisions Article, §3-305(b)(1), (7) and (8), and Mr. Funn seconded the motion. The motion passed unanimously.

The motion having passed, the Board met in closed session in accordance with exemptions defined in (b)(1), (7) and (8) of Section 3-305 of the Open Meetings Act to discuss compensation of officials over whom the State Board has jurisdiction, receive advice from counsel, and consult with staff about pending or potential litigation.

The closed session began at 3:43 pm. Mr. Voelp, Mr. Funn, Mr. Miller, Ms. Woodward, and Mr. Williams attended the closed meeting. In addition to the board members, Ms. Lamone, Ms. Charlson, Mr. Trento, and Ms. Duncan attended the closed meeting. Shermaine Malcolm, SBE's HR Director, and the President and Vice President of a local board of elections attended part of the closed meeting.

The local board members shared information about the compensation request pending before the State Board and left the closed meeting. Ms. Lamone made a recommendation on the compensation request. Ms. Woodward made a motion to accept the State Administrator’s recommendation, and Mr. Miller seconded the motion. The motion passed unanimously. Ms. Malcolm left the meeting.

Mr. Trento provided legal advice on potential or pending litigation. Ms. Woodward made a motion to accept the course of action proposed by Mr. Trento in connection with that litigation, and Mr. Miller seconded the motion. The motion passed unanimously.

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

The closed meeting adjourned at 5:50 pm.

ADJOURNMENT

The open meeting adjourned at 4:30 pm.