

State of Maryland 

State Board of Elections – August 12, 2020 Meeting

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Attendees (via video conference call):

Michael R. Cogan, Chair  
Patrick J. Hogan, Vice Chair  
William G. Voelp, Member  
Kelley A. Howells, Member  
Malcolm L. Funn, Member  
Linda Lamone, Administrator  
Andrea Trento, Assistant Attorney General  
Nikki Charlson, Deputy Administrator  
Donna Duncan, Assistant Deputy, Election Policy  
Tracey Hartman, Director of Special Projects  
Fred Brechbiel, Chief Information Officer  
Erin Perrone, Director of Election Reform and Management  
Shafiq Satterfield, Regional Manager Supervisor  
Keith Ross, Assistant Deputy, Project Management

Also Present (via conference call):

David Garreis, President, Maryland Association of Election Officials (MAEO)

**DECLARATION OF QUORUM PRESENT**

Mr. Cogan called the meeting to order at 2:01 pm. After taking roll call, he stated that all members were present, that Ms. Howells was joining by phone call, and that there was a quorum. He stated that the meeting was being livestreamed.

**ADDITIONS TO THE AGENDA**

There were no additions to the agenda.

**CLOSED SESSION**

Mr. Cogan 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. Meeting in closed session allows the members to be briefed on a personnel matter and share their views without compromising the confidentiality of those discussions, consult with Board counsel without waiving attorney-client privilege and obtain information relevant to potential or pending litigation. Mr. Hogan made a motion to convene in closed session under General Provisions Article, §3-305(b)(7) and (8), and Mr. Voelp 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 2:07 pm. Mr. Cogan, Mr. Hogan, Ms. Howells, Mr. Voelp, and Mr. Funn attended the closed meeting. In addition to the board members, Ms. Lamone, Ms. Charlson, Mr. Trento, and Ms. Duncan attended the closed meeting.

Mr. Trento provided legal advice and staff provided information relevant to potential or pending litigation.

No actions were taken.

The closed meeting adjourned at 2:46 pm.

The open meeting reconvened at 2:55 pm. After taking roll call, Mr. Cogan noted that Ms. Howells had extenuating circumstances and would not be present for the remainder of the meeting. He noted that a quorum was still present.

## **NOVEMBER ELECTION DISCUSSION**

### *Election Day Vote Centers*

Ms. Charlson stated that, in response to the Governor's letter dated August 10, 2020 and the Board's request to use high schools as vote centers, we are working with the local boards to determine what constitutes a public high school and if those facilities are acceptable as vote centers. This is an ongoing process, and we will continue to work with the local boards if a high school is deemed not acceptable for voting. She stated that over the next few weeks, we will present the locations for approval with representatives of the appropriate local boards available to answer questions. In response to a question from Mr. Hogan, Ms. Charlson stated that a final deadline of when the local boards need to determine the locations of vote centers has not been set yet, and that date will partially be determined by the Board's meeting schedule. In response to a comment from Mr. Voelp, Ms. Charlson stated that as much information as is available will be presented for each proposed vote center.

Mr. Cogan stated that the number of high schools in each local jurisdiction should only serve as a floor, not a ceiling, for the number of election day vote centers. Local boards should maximize the number of vote centers that they each can accommodate. In response to a comment from Mr. Funn, Mr. Trento clarified that the number of early voting centers is established by statute, although there are some situations where an additional early voting center is allowed. Mr. Cogan stated that local boards should be prepared with data and justification for the number of election day vote centers proposed. Mr. Hogan reiterated that the more voters who vote by mail or vote early, the less lines there will be on election day.

### *Early Voting*

Mr. Voelp brought up the number of days and daily hours of early voting. Mr. Hogan stated his support of eight days of early voting. After further discussion regarding the number of days, dates, and times for early voting, Ms. Charlson stated that Mr. Garreis was on the call to answer questions. Mr. Garreis stated that MAEO was pleased that the Governor issued a proclamation allowing the use of vote centers. He noted that election day was less than 90 days away and urged the Board to make decisions today. He stated that MAEO supports having the same voting hours for early voting and election day. Regarding the possibility of not having a break in days between early voting and election day, Mr. Garreis stated that MAEO does not oppose that idea but would need to know right away if that was the decision in order to coordinate with voting facilities. A discussion followed regarding the number of early voting days. Mr. Trento clarified that the statute does not specify the number of early voting days, rather it specifies when early voting begins and ends, but the Board has the authority to amend those dates based on the Governor's Proclamation dated June 19, 2020.

Mr. Hogan made a motion to establish the dates for early voting as Monday, October 26, 2020 through Monday, November 2, 2020, from 7 am to 8 pm, and Mr. Funn seconded the motion. The motion passed 4-0.

At the advice of Mr. Trento, Mr. Funn made a motion to suspend Election Law §10-301.1(d)(1) & §10-301.1(d)(2)(i), pursuant to the authority granted to the Board in the Governor's Proclamation dated June 19, 2020, and to direct the Administrator to file the appropriate notifications of the suspension, and Mr. Hogan seconded the motion. The motion passed 4-0.

In response to a question from Mr. Voelp, Ms. Charlson stated that we are working through the questions regarding same day address change and will report back when there are answers.

#### *Election Day Vote Centers*

Mr. Hogan made a motion directing SBE staff to work with the local boards to develop a list of proposed vote centers and staffing requirements for each, on a schedule to be determined by the Administrator, for approval by the State Board. Mr. Voelp seconded the motion. The motion passed 4-0.

#### *Canvassing Dates*

In response to a letter received from the Montgomery County Board of Elections, Mr. Funn made a motion directing SBE staff and the local boards to determine dates for canvassing, and Mr. Voelp seconded the motion. The motion passed 4-0.

#### *Ballot Drop Off Boxes*

In response to a question from Mr. Hogan, Ms. Charlson stated we currently have 75 ballot drop off boxes, with at least 50 more ordered. In response to follow up questions from Mr. Hogan, Ms. Charlson further stated that, at the next election director's meeting, she would survey the local boards regarding their capacity for more ballot drop off boxes. She stated that we could order more boxes if the local boards can handle more and if the vendor can manufacture more.

There was no further general discussion regarding the November election.

### **ADOPTION OF EMERGENCY REGULATIONS: SUBTITLES 2, 8, 11, AND 17**

Ms. Charlson presented five emergency changes to Subtitles 2, 8, 11, and 17, stating that four of the changes the Board previously approved for the June and April elections. All proposed regulations would be effective for the presidential general election (November 3, 2020) only.

#### *Emergency Changes to COMAR 33.02.03.04(A)(2): Judges' Manuals and Training*

The proposed change to Subtitle 2 allows remote training of election judges, which will help the local boards with training and provide a safer way to conduct election judges' training. Ms. Charlson stated that this was the only proposed change that was not presented in the April or June elections.

#### *Emergency Changes to COMAR 33.08.01.02(B): Definitions; General Provisions*

The proposed change to Subtitle 8 removes the requirement that the members of the local board of elections be present at all times during the multi-day canvass. If adopted, the members would be required to be present (via videoconferencing) when the canvass starts, when the canvass ends, and for all decision sessions. This proposed change is identical to the changes made for the April 28 and June 2 elections. The changes do not prohibit a local board from being present at other times during the canvass but do not require it.

#### *Emergency Changes to COMAR 33.11.03.06(A): Issuance and Return*

Because of the number of returned ballots each local board will receive for the 2020 Presidential General Election, the requirement to stamp the date received on each return envelope is changed.

- If a return envelope is received two or more days before election day, the proposed change to Subtitle 11 removes the requirement of the local board to date stamp the return envelope but requires the local board store the return envelopes in a container with a label showing the date the return envelopes were received.
- If a return envelope is received the day before the election, election day, or any day after election day, a local board must date stamp each return envelope.

*Emergency Changes to COMAR 33.11.03.06(F) and 33.11.03.08(B)(3): Issuance and Return*

With ballot drop off containers available throughout the State, the proposed changes to Subtitle 11 incorporate the ballot drop off containers in the voting process. The proposed change to Regulation .06 establishes requirements for the ballot drop off container and retrieving voted ballots from the container. The proposed change to Regulation .08 incorporates similar changes to the “timely” definition.

*Emergency Changes to COMAR 33.17.05.01(C): Election Judges*

The proposed change to Subtitle 17 removes the requirement that a representative of the local board be physically present to open or close a vote center, but requires the local board provide remote support as needed.

In response to a question from Mr. Voelp regarding the proposed changes to COMAR 33.08.01, Ms. Charlson stated that the Board previously made a motion requiring the continual use of cameras during canvassing as a policy, and that policy is still in effect.

Mr. Voelp made a motion to adopt the emergency changes to COMAR 33.02.03.04, 33.08.01.02, 33.11.03.06, 33.11.03.08, and 33.17.05.01, and Mr. Hogan seconded the motion. The motion passed unanimously.

## **OLD BUSINESS**

### *Absentee Ballot Application*

In response to a question from Mr. Funn regarding whether it was possible to make the online absentee ballot application be a fillable pdf file, Ms. Charlson stated that we will be posting a new application soon as a fillable PDF.

## **NEW BUSINESS**

There was no new business.

## **DISCLOSURE OF CAMPAIGN CONTRIBUTIONS**

Mr. Funn disclosed a \$100 contribution to Antoine White for Calvert County School Board.

## **SCHEDULE NEXT MEETING**

Mr. Cogan stated that the meeting scheduled for Friday, August 14, 2020 is not needed and therefore is cancelled.

The next meeting is scheduled for Wednesday, August 19, 2020, at 2:00 pm.

## **ADJOURNMENT**

Mr. Hogan made a motion to adjourn the open meeting, and Mr. Voelp seconded. The motion passed unanimously. The open meeting adjourned at 3:57 pm.