

State of Maryland 

State Board of Elections – July 23, 2020 Meeting

Attendees (via 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
Jared DeMarinis, Director, Candidacy and Campaign Finance
Art Treichel, Chief Information Security Advisor
Fred Brechbiel, Chief Information Officer
Keith Ross, Director of Project Management
Erin Perrone, Director of Election Reform and Management

Also Present: David Garreis, President, Maryland Association of Election Officials
Katie Berry, Election Director, Carroll County Board of Elections
Lynn Garland, Citizen

DECLARATION OF QUORUM PRESENT

Mr. Cogan called the meeting to order at 2:04 pm. After taking roll call, he stated that all members were present, and that there was a quorum. He stated that the meeting was being livestreamed.

ADDITIONS TO THE AGENDA

Mr. Cogan stated that there were three additions to the agenda in the form of speakers, including Mr. Garreis under agenda item four, Ms. Berry under agenda item 10, and Ms. Garland under “New Business.”

RATIFICATION OF MINUTES FROM PREVIOUS MEETINGS

Mr. Funn made a motion to ratify the approved minutes from the May 14, 2020, May 20, 2020, May 28, 2020, June 18, 2020, and June 30, 2020 meetings, and Mr. Voelp seconded the motion. The motion passed unanimously.

ADMINISTRATOR’S REPORT

1. Announcements & Important Meetings

National Association of State Election Directors - Summer Meeting.

Ms. Charlson reported that Ms. Lamone attended this virtual conference, which was held over several days. The topics included effective voter education and balancing in-person and voting by mail on July 9; election worker recruitment efforts and accessibility on July 10; an update from the Cybersecurity and Infrastructure Security Agency (CISA) and 2020 lessons learned on July 16; and signature verification procedures on July 17. The last session to be held on July 24 is to discuss various items internal to the organization.

Baltimore City Council’s Legislative Investigations Committee Hearing

Ms. Charlson reported that on July 15, this committee held a virtual hearing on the June 2

and November 3 elections. SBE was represented by PJ Hogan, Linda Lamone, and Nikki Charlson, and the Baltimore City Board of Elections was represented by Bruce Luchansky, President of the Baltimore City Board of Elections, and Armstead Jones, Election Director for the Baltimore City Board of Elections. Most of the questions related to planning for and conducting the November 3 election. The Committee indicated that they may schedule another hearing in the fall.

National Active and Retired Federal Employees Association's Virtual Town Hall

Ms. Charlson stated that on July 21, she participated in a virtual town hall hosted by the 4th Congressional District delegation of the National Active and Retired Federal Employees Association. About 70 individuals participated in this event, which included briefings on COVID-19 and the upcoming election. Congressman Brown shared his thoughts on the November election and how the U.S. Congress is supporting this election, and Ms. Charlson and Alisha Alexander, Election Director for the Prince George's County Board of Elections, shared experiences from the primary election and planning for the November election. The moderator offered to help with the election, and both Ms. Charlson and Ms. Alexander both asked for individuals to sign up as election judges.

Election Directors' Meetings

Ms. Charlson reported that SBE is meeting weekly with the Election Directors to plan for the upcoming election. Meeting summaries were included in the board meeting folder, and we will continue to provide them as they are finalized.

Election Advocacy Organizations' Working Group

Several advocacy organizations, including the League of Women Voters, Common Cause, the American Civil Liberties Union, the Baltimore City Chapter of the NAACP, created a working group to prepare for the upcoming election. The working group invited Ms. Charlson and a representative of the Governor's Office to attend the meetings, share information about the upcoming election, and receive feedback.

2. Election Reform and Management

Post-Election Audits

Ms. Hartman reported that after each primary election, SBE performs a comprehensive audit and an automated ballot tabulation audit.

Work continues on the comprehensive audit for the 2020 Primary Election. Staff is collecting and reviewing various documentation from the local boards to complete their auditing tasks.

She reported that the automated audit of ballot images from the 2020 Primary Election is complete. Before certifying election results, each local board received four reports comparing the voting system's results against the results from the independent tabulation performed by the automated audit software.

These reports showed that:

1. The voting system and audit system tabulated the same number of ballots (cards cast).
2. Any differences between the two systems' results were less than 0.5%.
3. The voting system accurately tabulated the results.

After the completion of the canvasses and prior to the State Board of Canvassers' certification of the election results, all ballot images were re-tabulated and the second set of reports were issued. These reports confirmed that the voting system accurately tabulated the ballot images from all canvasses. The comparison reports and automated audit results (generated before we provided the voting system's results) are posted on SBE's website. The public portal of ballot images and reports will be published soon.

"Mail-in Ballot" and "Mail-in Voting"

Ms. Perrone reported that earlier this year, the General Assembly passed SB145/HB37 - Absentee Voting - References in Public Communications and Prepaid Postage for Return of Ballots. This bill mandated the prepaid postage return envelope for ballots mailed to voters and changed the terminology from "absentee ballot" and "absentee voting" to "mail-in ballot" and "mail-in voting." Ms. Perrone stated that we are updating the website, documentation, and communications to reflect that change.

Mail-in Ballot Application Mailer

Ms. Perrone stated that an existing contract with the Department of General Services (DGS) is being modified to include the mailing of a mail-in ballot application to eligible voters who have not requested a mail-in ballot. Kathryn Summers from the University of Baltimore is assisting us with revising the application to increase the clarity and usability. The mailing is expected to be sent to eligible voters mid to late August.

In response to a statement from Ms. Howells that she wanted to discuss her concerns with the Mail-in Ballot Application regarding ballots delivered via the internet, Mr. Cogan stated that she should address her concerns during new business.

"How to Request a Mail-in Ballot" Video

Ms. Perrone reported that Cortnee Bryant is developing a new video showing voters how to use the online Voter Registration and Mail-in Ballot Request site to request a mail-in ballot. Once the video is finished, it will be disseminated using social media and posted to SBE's website.

Emergency Solicitation - Ballot Printing, Inserting and Mailing

Ms. Perrone stated that the emergency solicitation for ballot printing, inserting and mailing was posted to Maryland Marketplace on July 15. The pre-bid conference call was held on July 20. The deadline for vendors to submit sample ballot packets is July 28 and submit a written proposal is July 31.

Supply Ordering

Ms. Perrone reported that the ordering of various supplies, such as "I Voted" stickers, provisional and contingency supplies, for the local boards will begin in preparation for the general election.

Call Center

Ms. Duncan reported that the call center will once again be operational for the upcoming November election. The start date is still to be determined, but it is likely to coincide with the mailing of the mail-in ballot applications. As of the time of the meeting, eleven local boards and SBE will be participating.

Ballot Drop Boxes

Ms. Duncan reported that local boards are currently assessing their need for additional ballot drop boxes. To meet manufacturing needs, the deadline to order more drop boxes is August 3.

In response to a question from Ms. Howells, Ms. Charlson stated that SBE did not receive any reports of ballot drop boxes being overstuffed with ballots.

In response to a question from Mr. Hogan regarding additional ballot drop boxes for local boards, Ms. Duncan stated that so far, approximately 40 additional ballot drop boxes have been requested by local boards.

Emergency Solicitation - Voter Education Campaign

Ms. Duncan stated that the deadline for vendors to submit proposals for a statewide voter education campaign for the November election was July 13. We are currently reviewing these proposals and hope to have a contract in place next week.

3. Voter Registration

MDVOTERS

Ms. Duncan reported that with the successful completion of mock election testing, the latest release will be moved into production the weekend of July 31. This release includes updates and enhancements to reports and exports across all facets of MDVOTERS, ERIC enhancements and a re-design of the electronic registration screens. Training for the local boards on this release will be conducted the week of July 27.

MVA Transactions

During June, MVA collected the following voter registration transactions:

New Registration - 3,499	Residential Address Changes - 11,867
Last name changes - 588	Political Party Changes - 2,178

MVA Data Comparison

Ms. Duncan reported that the MVA is performing a data comparison on three voter registration files. These files include ballots that were returned as “undeliverable” on the June 2 election, “inactive” voters, and voters who were sent a confirmation mailing due to undeliverable mail. If MVA has a more current address, SBE will send letters requesting the voters provide us with their most current address for voter registration purposes.

Electronic Registration Information Center (ERIC)

Reports from ERIC of deceased individuals have been distributed to the local boards for processing. The due date for completion is July 24. The next report of deceased voters will be distributed in August.

Non-Citizens

As a result of all resources focusing on election operation, no information is available at this time.

4. Candidacy and Campaign Finance (CCF) Division

Campaign Finance

Mr. DeMarinis reported that the deadline to file a certificate of candidacy for petition, non-principal political parties and new political parties is August 3 at 5 pm. Candidates need to submit the petition or a certificate of nomination and the filing fees. Additionally, for

any city or county office, a financial disclosure statement is required as well. We will manage the process remotely.

Enforcement

The CCF Division received payment for the following civil penalties:

1. Citizens for Sandy Rosenberg committee paid \$50.00 on June 30, 2020, for self-reported authority line violation.
2. Friends for Sherone E. Thompson for Board of Education committee paid \$200.00 on June 23, 2020, for failure to record all contributions and expenditures.

5. Project Management Office (PMO)

Inventory Management

Mr. Ross reported that at the time of the meeting, 95.65% of equipment and supplies have been audited for FY2020. The PMO continues to reconcile the inventory not audited in preparation for the submission of the annual inventory reports to the Department of General Services in August and September.

FY2022 Pollbook Project

The PMO continued working on tasks related to the project that included:

- The completion of the development and review of the project management plans by SBE. The plans were submitted to the Department of Information Technology (DoIT) for their review;
- Continued developing and reviewing requirements for a pollbook solution;
- Completing the onboarding of the three new members of the project team, Sidney Moore (Technical Writer), Charlotte Fox (Program Administration Specialist), and Brittany Davis (Business Process Consultant); and
- Continued work on the Contingency Plan document development, which included the discussions and determination of the level of support and licensing that would be needed to keep the legacy pollbook system operational and available if required for the 2022 election cycle.

Other

Mr. Ross stated that the PMO is coordinating the ordering and procurement of the additional privacy sleeves and precinct voting booths for the 2020 General Election.

6. Information Technology

Data Center Transition

Mr. Brechbiel stated that last year, SBE signed a contract with Koniag to host and manage the data center which hosts MDVOTERS, the statewide voter registration, candidacy and election management system; our online suite of voter services (i.e., online voter registration and ballot request system, voter look-up, polling place locator, and online ballot delivery system); and election night results reporting. Because of the special elections in February and April and the June 2 election, the transition of the data center from the current data center to Koniag's data center could not be accomplished until now.

Mr. Brechbiel reported that final preparations are being made this week for SBE's scheduled migration to its new primary Voter Registration Operations Center (VROC) located in Columbia, MD and a secondary data center for Continuity of Operations (COOP) in Dallas, TX over the weekend (July 24/July 26).

This project began in January of this year and has been managed and implemented by the MDVOTERS team under the guidance of Nikia Wilbon-Turner. The technical effort involved in designing, implementing, and testing two new data centers with failover/failback capability on a tight 6-8 month schedule was, to say the least, a great job. Mr. Brechbiel stated that to do that during a year with multiple election events and a global pandemic that required completely redesigning how elections are conducted in Maryland is incredible. Once validated and completed, the new setup will enable SBE to fail over to the COOP in the event of an emergency with very little disruption to an election. Mr. Brechbiel stated that Ms. Wilborn-Turner and her team have done an amazing job.

In response to questions from Mr. Cogan, Mr. Brechbiel stated that a “failover” occurs when a loss of power or connectivity at the VROC would cause SBE and the local boards to connect to the COOP with minimal interruption, and that a “failback” occurs when the power or connectivity at the VROC is resumed and SBE and local boards reconnect to the VROC with minimal interruption.

In response to a question from Mr. Cogan regarding the status of 5G, Mr. Treichel stated that 5G is a physical overhaul of cellular networks that will have a decades long effect on national IT and telecommunications structure. He stated that 5G brings with it new layers of security to cellular networks, but also new risks. Mr. Treichel stated that SBE has been working with the Maryland Cybersecurity Council and former FCC Chairman Tom Wheeler to look at the various security implications from 5G and why we may or may not use it in elections two and four years from now.

REMARKS FROM MR. DAVID GARREIS

Mr. Garreis, on behalf of the Maryland Association of Election Officials (MAEO), stated that he asked to speak regarding election judge vacancies and the resulting issues the vacancies are causing the local boards, as they prepare for the upcoming general election.

Mr. Garreis stated that MAEO’s goal is to comply with the Governor’s instructions for the conduct of the November 3, 2020 Presidential General Election, and that local boards have begun to implement the Governor’s order but have run into major issues. In his July 8, 2020 response to SBE, Governor Hogan said every polling place must be open for the 2020 General Election. However, due to the COVID-19 public health crisis, Mr. Garreis stated that the local boards need him to modify his order so it can be a success.

Mr. Garreis stated that principally, MAEO is asking the Governor to allow the use of vote centers instead of opening every polling place, as many polling places have already chosen not to participate in November. A survey of local boards conducted by MAEO determined that 1,386 polling places are required statewide and of those, 283 facilities have declined or are unconfirmed for the general election. Mr. Garreis stated that there are numerous advantages to allowing local boards to have vote centers on election day, but in a greater number than in the primary election, including:

- Voters cannot accidentally go to the wrong location;
- Voters won’t be turned away or be required to vote by provisional ballot; and
- The local boards will need fewer election judges.

Mr. Garreis stated that election judge vacancies are the crux of the issue of needing to open every polling place. Without election judges, it will be impossible for the local boards to open every

polling place. Mr. Garreis reported that statewide, 39,482 election judges are required for early voting and election day. There is currently a total of 13,970 vacancies statewide, or 35.3%. For early voting, 12,870 election judges are needed statewide, and there are currently 4,573 vacant positions. For election day, 26,612 election judges are needed statewide, and there are currently 9,397 positions vacant. He stated that the vacancy rate this close to an election constitutes an emergency situation for the local boards, and that the only recourse will be to consolidate polling places in order to open polling places with the existing election judge resources.

Additionally, Mr. Garreis stated that the current election judge commitments today are fleeting. As the public health crisis deteriorates, election judges who confirmed they would work in the general election are dropping out with greater frequency. Recruiting election judges is the most difficult task for the local boards under normal circumstances, but in the midst of the public health crisis, it is impossible to make up for the election judge short-fall. Mr. Garreis requested that the State Board members notify the Governor and make him understand that this is not a partisan issue - it is a logistical and public health issue.

Mr. Garreis stated that MAEO will continue to champion its message, but that it needs the support of the State Board to emphasize this is not a partisan issue and that MAEO's goal is to hold a successful election where all of the voters have the opportunity to vote in a safe and convenient manner. Additionally, Mr. Garreis stated that in order to have a successful election, the following is needed:

- Encourage all voters to complete and submit their mail-in ballot applications early.
- Employ vote centers instead of the ad hoc consolidation of polling places.
- Authorization for local boards to begin canvassing the returned vote by mail ballots before election day. MAEO recommends 30 days before election day, based on the canvassing time required in the primary election. If not, delayed certifications could impact the Electoral College.

Mr. Garreis stated that there may be historic turnout this election and all election officials need to work together now to avoid the worst outcome: voter confusion and long lines during a pandemic.

Mr. Cogan stated that in his experience from his years on the Board has been that the Board tends to give the local boards what they need if it is within its power. He also stated that a timely return of the data the Board has requested from each local board regarding what they have and what is needed regarding voting sites for election day and early voting will help the Board help the local boards.

In response to a question from Mr. Hogan, Mr. Garreis stated that the start of election judge training depends on the local board. Larger local boards may be starting in early August, and others may start in September, or even October for smaller local boards. Mr. Hogan suggested that the local boards accept the Governor's offer, as stated in the letter to the Board dated July 8, to recruit State employees to fill the vacancies of election judges. Ms. Howell agreed. Mr. Voelp agreed and added that county employees should be recruited also. Mr. Hogan stated that the number of available election judges and polling places needs to be determined as soon as possible. Mr. Garreis stated that MAEO is keeping track of those numbers and can provide that information to the Board on a weekly basis. Mr. Cogan accepted this offer and requested that the information be shared with the Board every Monday.

In response to a question from Mr. Voelp regarding if there is existing state law that allows the Board to consolidate precincts in the event of an emergency, Mr. Trento stated that there is already a schedule to the consolidation process in COMAR, but there are provisions that allow changes in the event of an emergency. He stated he believed that the consolidations for emergencies could happen at the local level, with notice given to the Board, but he would confirm this and provide more information to the Board. A brief discussion followed between Mr. Voelp, Mr. Cogan, and Mr. Trento clarifying the differences between a vote center and a consolidated precinct.

In response to a comment from Ms. Howells regarding why the Governor's offer to recruit state employees had not yet been accepted, Mr. Cogan stated that the Board needs numbers from the local boards before making that request to the Governor. Ms. Howells stated that she looked forward to receiving the information from the local boards, but stated that she felt it was important to make initial contact with the Governor regarding his offer. Ms. Berry commented that in some local boards, county employees may not be prohibited from working as election judges.

ASSISTANT ATTORNEY GENERAL'S REPORT

Mr. Trento provided the following report.

1. *Fusaro v. Davitt et al.*, No: 1:17-cv-03582 (U.S. District Court, D. Md.). No changes 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 have since conducted discovery and briefed dispositive summary judgment motions. On July 14, 2020, the Court awarded Summary Judgment to the defendants.
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 the SBE's alleged failure to provide information and access to voter registration and voting resources to eligible voters detained by the Prince Georges County Department of Correction during the 2016 election. The case had been originally filed in the Circuit Court for Prince Georges County but was removed on the basis of the federal claims asserted by the Plaintiffs. On February 27, 2018, the U.S. District Court for the District of Maryland granted SBE's motion to dismiss the Plaintiffs' federal claims, declined to exercise jurisdiction over the state claims, and remanded the case to the Circuit Court for further proceedings. The parties are awaiting further direction from the court.
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.). No change from the last update. 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. On February 24, 2020, the Court entered a scheduling order governing the discovery period for the case, and on June 11, 2020, the Court modified that scheduling order following a joint motion by the parties. Discovery is now scheduled to close on November 9, 2020, and dispositive motions are due November 30, 2020.

4. *Hewes v. Alabama Sec’y of State et al.*, No. 1:19-cv-09158-JMF (U.S. District Court, S.D.N.Y.). On October 3, 2019, plaintiff Henry F. Hewes, a putative candidate for the Democratic nomination for President for the 2020 election, sued the unnamed Secretaries of State of 43 states, (including Maryland), alleging that state-imposed limitations on ballot access for federal presidential candidates violate the First and Fourteenth Amendments to the U.S. Constitution. Plaintiff seeks an order compelling the defendants to place the name of the plaintiff and any other candidate who has registered with the Federal Election Commission on the primary ballots of the states named as defendants. The Defendants jointly filed a motion to dismiss asserting common arguments for dismissal on December 19, 2019. On January 23, 2020, the plaintiff filed an amended complaint, and the defendants thereafter renewed their joint motion to dismiss. The plaintiff’s opposition to the motion to dismiss was due May 8, 2020, but the plaintiff has not served an opposition, nor does the docket reflect that an opposition was filed.
5. *Public Interest Legal Foundation, Inc. v. Lamone*, No. 1:19-cv-03564-ELH (D. Md.). Plaintiff Public Interest Legal Foundation, Inc., filed a lawsuit against the State Administrator, the members of the State Board, and Erin Dennis, seeking access to Maryland’s list of registered voters pursuant to the public inspection provisions of the National Voter Registration Act. Plaintiff alleges that the District Court’s published decision in *Judicial Watch, supra*, entitles them to access, and that the issue left outstanding by the court in that case does not implicate their request since they are not seeking individuals’ dates of birth as part of the information provided for each voter on the list. Plaintiffs filed a motion for summary judgment simultaneously with their complaint. On January 17, 2020, defendants answered the Complaint. On January 24, 2020, defendants moved for a stay of the proceedings pending the resolution of the *Judicial Watch* matter and any appeals therefrom, due to the similarity of the issues between the cases. The parties have now agreed to resolve the case on terms similar to the resolution of the *Judicial Watch* matter.
6. *Chong Su Yi v. Hogan*, Nos. 480720, 480721, 480722, 480723 (Cir. Ct. Montgomery Cty.). On March 6, 2020, plaintiff Chong Su Yi filed four apparently identical complaints in the Circuit Court for Montgomery County challenging the results of Maryland’s 2018 elections, and naming Governor Larry Hogan as defendant. Specifically, Mr. Yi appears to be arguing that the results 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. The complaints are substantially identical to complaints Mr. Yi filed in 2019, which the court dismissed with prejudice earlier this year. Defendant moved to dismiss the complaints on May 3, 2020. Beginning

on May 15, 2020, Mr. Chong filed substantially identical amended complaints in these actions, this time adding the State of Maryland as a Defendant in addition to Governor Hogan. The Defendants have moved to dismiss these complaints, or in the alternative have sought summary judgment on plaintiff's claims. The Court has scheduled hearings for August 25, 2020 on defendants' motions in at least two of the four matters.

7. *Maryland Green Party, et al. v. Hogan et al.*, No. 1:20-CV-01253-ELH (U.S. District Ct., D. Md.). On May 19, 2020, the Maryland Green Party, its Chairman Steven Ellis, the Libertarian Party of Maryland, and its Chairman Robert S. Johnston, III, filed a lawsuit in federal court against Governor Hogan and State Administrator Lamone seeking relief from Maryland's statutory 10,000-signature petition requirement for new party petitions, and from Maryland's statutory signature verification standard for validating and counting petition signatures. The Maryland Green Party also sought damages. Plaintiffs claimed that the 10,000-signature requirement and the signature verification standard, as applied in the COVID-19 environment, violated their First and Fourteenth Amendment rights to obtain access to the ballot as non-principal parties. Plaintiffs sought a reduction in the signature amount required for new party petitions to 1,000, and a requirement that the State Board accept any signature on the petitions that the State Board can match to an actual Maryland voter, notwithstanding any technical non-compliance with the signature standard. On June 19, 2020, the Court entered a consent judgment reducing the signature requirement for new party petitions by 50%, to 5,000 signatures.
8. *The Committee for the Baltimore Regional Transportation Authority Mandate, Inc., et al. v. Lawrence J. Hogan, Jr., et al.*, (State Bd. of Elections June 15, 2020). On June 15, 2020, the Committee for the Baltimore Regional Transportation Authority Mandate, Inc., and Samuel Jordan, filed an Administrative Complaint with the State Board of Elections against Governor Hogan, State Administrator Linda H. Lamone, and the State Board of Elections, alleging that the 10,000-signature requirement established by Article XI-A of the Maryland Constitution for petitions seeking to place a proposed amendment to a the Baltimore City Charter was impermissibly high in light of the restrictions imposed by the COVID-19 pandemic. The complaint also alleged that the lack of access to the internet by numerous Baltimore City residents renders the State Board's promulgation of SBE Policy 2020-01, which allows the use of electronic signatures on petitions, ineffective for Baltimore City petitions. Complainants sought a reduction in the constitutional signature amount to 500 signatures, and the establishment of at least two in-person sites in Baltimore City to permit voters to complete and sign petitions in support of the proposed charter amendment. The complainants also requested expedited consideration of their complaint. On June 26, 2020, the State Administrator, on behalf of the State Board, determined that a hearing was not necessary to decide the administrative complaint and issued a final determination dismissing the administrative complaint.
9. *The Committee for the Baltimore Regional Transportation Authority Mandate, Inc., et al. v. Lawrence J. Hogan, Jr., et al.*, (State Bd. of Elections June 30, 2020). On June 30, 2020, the Committee for the Baltimore Regional Transportation Authority Mandate, Inc., and Samuel Jordan, filed an Administrative Complaint with the State Board of Elections against Governor Hogan, State Administrator Linda H. Lamone, and the State Board of Elections, alleging that the 10,000-signature requirement established by Article XI-A of the Maryland Constitution for petitions seeking to place a proposed amendment to a the Baltimore City Charter was impermissibly high in light of the restrictions imposed by the COVID-19 pandemic. The complaint also alleged that the lack of access to the internet by numerous

Baltimore City residents renders the State Board's promulgation of SBE Policy 2020-01, which allows the use of electronic signatures on petitions, ineffective for Baltimore City petitions. Complainants sought an order from Governor Hogan requiring that the proposed charter amendment be placed directly onto the ballot, and that the election be conducted by mail. On July 8, 2020, the State Administrator, on behalf of the State Board, issued a final determination dismissing the administrative complaint.

10. *Amber Ivey v. Linda H. Lamone*, No. 1:20-cv-01995-RDB (D. Md.). On July 7, 2020, Amber Ivey – who is seeking an unaffiliated nomination-by-petition to appear on the ballot in November as a candidate for election to the U.S. House of Representatives representing the 7th Congressional District – filed a lawsuit claiming that the statutory petition signature requirements for her candidacy violated her First and Fourteenth Amendment rights, due to the impact of COVID-19 and government restrictions on public gatherings on the ability of candidates in her position to collect signatures in support of nomination. Ms. Ivey sought a 50% reduction in the required number of signatures, which under the law is the lesser of 1% of the number of voters eligible to vote in the election for which she is seeking office, or 10,000 signatures. On July 20, 2020, the Court entered a consent judgment reducing the signature requirement for candidates seeking the nomination by petition pursuant to Elec. Law § 5-703 for the 2020 Presidential General Election by 50%.

APPROVAL OF PRE-PAID RETURN ENVELOPE FOR MAIL-IN VOTING APPLICATION

Ms. Charlson stated that SBE is currently preparing to send mail-in ballot applications to voters by the middle to the end of August. She requested that the Board approve a motion to allow including a return envelope with prepaid postage with the application. Ms. Charlson stated that providing a return envelope with prepaid postage complies with the Governor's message to encourage voting by mail.

Mr. Hogan made a motion to approve including return envelopes with prepaid postage in the mail-in ballot application, and Mr. Funn seconded. The motion passed unanimously.

APPROVAL OF LATE FEE WAIVERS

Mr. DeMarinis presented the Board with 17 requests from campaign committees to waive late fees incurred by the committee. Eight 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. Ajaz, Haroon Citizens for
2. Asphalt Political Action Committee, Maryland
3. AT&T PAC MD
4. Bramble Philip Committee to Elect
5. Chaudhry, Anil Committee for
6. Dhillon Jr., Kahan S. Friends of
7. Fire Fighters For A Safer Baltimore Super PAC
8. Health, Dianne for Board of Education
9. Howard County Police Supervisors Alliance PAC
10. Keen, Dawn Citizens for on BOE
11. Kowalski, Mary, Citizens for
12. Physical Therapists for Md PAC
13. Powery, Erik People for
14. Printing Industries of Maryland PAC
15. Realtors Political Action Committee of Harford Co. Assn.
16. T.I.G.E.R-Truth in Government Election Reform PAC
17. Zolke, George Friends of

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

APPROVAL OF TITLE 14 WAIVERS

Mr. DeMarinis presented the Board with one request from a business – Adventist Health Care – to waive late fees incurred by the business. Two businesses were denied waivers of late fees and were presented to the Board for informational purposes.

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

APPROVAL OF EMERGENCY AND PROPOSED REGULATIONS: SUBTITLE 19- SAME DAY REGISTRATION AND ADDRESS CHANGES

Ms. Hartman stated that the proposed amendment to COMAR 33.19.02.01(A) changes the requirement for the pre-election mailing to each pre-qualified voter from being sent before the close of voter registration to after voter registration but before election day. Moving the timeframe of the mailing after the close of voter registration will allow the information about the same day registration process to be fresh in the minds of pre-qualified voters. Ms. Hartman further stated that due to the short time frame before the general election, that the proposed amendment would be simultaneously submitted as an emergency amendment and a regular amendment under the normal promulgation process.

Mr. Hogan made a motion to adopt the emergency and regular changes to COMAR 33.19.02.01(A), and Ms. Howells seconded the motion. The motion passed unanimously.

APPROVAL OF EARLY VOTING AND POLLING PLACE CHANGES

Ms. Duncan presented a request from the Carroll County Board of Elections to approve an additional early voting center. Ms. Berry explained that at its July 2019 meeting, the Carroll County Board of Elections voted unanimously to move forward with establishing a third early voting center for the presidential primary election, as it was anticipating reaching 125,000 voters during the 2020 election cycle. All required paperwork and surveys were completed and sent to the State Board for final approval. However, the Carroll County Board was notified in August 2019 that because they had not yet met the minimum of 125,000 active registered voters, they were not allowed to establish the center. Ms. Berry stated that Carroll County is currently 500 voters shy of 125,000 registered voters, and she anticipates exceeding that marker prior to the general election. She stated that she is requesting that the Board consider approval of establishing a third early voting center in Carroll County.

In response to a question from Mr. Cogan, Mr. Trento stated that the current statute requires that new early voting centers need to be established no later than six months prior to the primary election. The Governor's Emergency Order, however, allows state agencies to suspend the effect of statutory deadlines or time periods if doing so would not harm the public interest. He further stated that if the Board exercised the authority granted to them in the Executive Order, regulatory changes would need to be made, which he cautioned would apply to all local boards, not just Carroll County, and could therefore alter the required number of early voting centers in other jurisdictions.

Mr. Cogan suggested that today the Board should respond to Ms. Berry's request with a sense of what the Board will do, and that he would then direct the State Administrator to bring to the Board next month the regulations that need to be amended in order to follow through with Ms.

Berry's request. Mr. Voelp stated, and Ms. Howells concurred, that he supports whatever option is the most flexible for the local boards.

There was a short recess at 3:33 pm fix the audio of the livestream. After roll call, the meeting resumed at 3:44 pm. Mr. Cogan restated his last comment before the recess. Ms. Berry stated that Mr. Cogan's plan is satisfactory for her requirements. Mr. Trento reiterated the possible impact on other local boards if regulations are amended. Ms. Charlson and Ms. Lamone concurred with the plan.

Mr. Hogan made a motion to provide a consensus of the Board to approve a third early voting center for Carroll County when the appropriate regulatory changes are in place. Mr. Voelp seconded the motion, and it passed unanimously.

In response to a question from Mr. Cogan, Ms. Charlson clarified that there were no other requests from local boards for additional early voting centers.

OLD BUSINESS

There was no old business to report.

NEW BUSINESS

Comments from Ms. Howells Regarding Internet-Delivered Ballots

Letter from Common Cause. Ms. Howells stated that the Board had received a number of letters from organizations concerning the use of internet-delivery ballots. She pointed out that a letter from Common Cause states the Maryland is one of only three states that allows internet delivery of ballots. The letter asked a question about spoofing the identity and email addresses of Maryland voters. In response to a question from Ms. Howells regarding if this question could be addressed in the open meeting, Ms. Charlson stated that the question could best be addressed in closed session.

Letter from Lynn Garland. Ms. Howells referred to a letter received from Ms. Garland in which she estimates the number of internet-delivery ballots for the general election. Ms. Howells stated her concern regarding the burden of the duplication process of internet-delivery ballots on local boards. She stated her surprise that 40,000 ballots needed to be duplicated in the primary election, as that number was higher than in 2018, and because every voter was mailed a ballot. She requested the number of downloaded ballots for each local jurisdiction for 2020 and 2018. Ms. Charlson stated that she would provide that information.

Ms. Howells stated that, in her letter, Ms. Garland estimates that 700,000 ballots will need to be duplicated, based on 70% of voters choosing to vote by mail-in ballot, and one-third of that 70% choosing to download their ballot (a figure based on the number of downloaded ballots in 2018). Ms. Howells reiterated her concern over local boards needing to duplicate such a large number of ballots.

In reference to the changes being made to the mail-in ballot application (as stated in the Administrator's Report), Ms. Howells suggested including language that encourages voters to use a ballot that is mailed to them, and discourages downloading their ballot from the internet. Mr. Funn agreed with this suggestion. In response, Ms. Charlson stated that the language is being streamlined but is substantially the same as what the Board has already approved for the 2020 election cycle. She stated that a draft of the application was received the prior day, but that SBE would take Ms. Howells suggestions into consideration, and the draft will be presented at the

next meeting of the Board for approval. In response to a comment from Mr. Funn, Ms. Charlson stated that the application for the ballot, not the ballot instructions, includes language regarding the duplication process for internet-delivery ballots.

Mr. Cogan stated that the instructions for a mail-in ballot application that are posted on SBE's website should not be overlooked, as voters who request a mail-in ballot online are the most likely to request a ballot via internet delivery. Mr. Cogan directed Ms. Charlson to have SBE staff provide to the Board, as soon as possible, the current mail-in ballot application language for both the paper and online versions, and the proposed changes. Mr. Hogan suggested adding a block or disclaimer to the top of the introduction page for mail-in voting the SBE website (<https://elections.maryland.gov/voting/absentee.html>) stating that internet-delivery ballots should only be used in emergency situations, and that internet-delivery ballots must be duplicated which can cause delays in the election results. He reiterated Mr. Cogan's statement that voters who are going to the website to request a mail-in ballot are the most likely to also be requesting an internet-delivery ballot. Ms. Howells, Mr. Funn, and Mr. Cogan concurred with Mr. Hogan's idea.

Comments from Ms. Garland Regarding Internet-Delivered Ballots

Ms. Garland, a resident of Montgomery County, stated that her purpose in speaking to the Board was her concern that Maryland may not be able to certify its winning candidates before the Electoral College meets on December 14. After stating her credentials, Ms. Garland clarified that she is not affiliated with any organization. She made the following points:

- Mail-in ballots that voters receive in the mail come with a return envelope with prepaid postage. These ballots are machine readable and can be quickly counted when returned to the local board of elections.
- Mail-in ballots that voters receive electronically must be printed out, and the voter must provide their own envelope and stamp. Most importantly though, these ballots are not machine readable and must be manually duplicated by the local board. This process is very laborious, and could delay the election results for weeks.
- By her estimate, approximately 700,000 ballots will need to be duplicated statewide. Referencing the discussion earlier in the meeting, Ms. Garland noted that this number is an estimate and could be lower, but also could be higher. Regardless, she stated that it is reasonable to assume that hundreds of thousands of ballots will need to be duplicated. She noted Ms. Howell's previous comment that only 40,000 ballots were duplicated for the primary election and that number proved to be an administrative burden.
- Moving forward, Ms. Garland stated that SBE has three options:
 - Make sure the new ballot request form strongly encourages voters to choose to receive their ballots by mail rather than electronically.
 - Email all voters who have already asked for an electronically delivered ballot and request that they switch to receiving their ballots by mail, if receiving by mail is not a problem for them.
 - Ensure that voter outreach messages encourages voters to receive their absentee ballots by mail, not electronically.
- Finally, Ms. Garland noted that there are numerous security risks associated with internet ballot delivery.

In response to a question from Mr. Voelp, Ms. Charlson stated that while it is certainly possible to email each voter who has requested their ballot be delivered electronically, it is another step to send the email, and another step in the voter registration database to change the ballot delivery method. Mr. Voelp requested SBE provide the Board with the number of electronic delivery mail-

in ballot requests that have been received so far. Ms. Charlson stated that SBE would provide that information.

Comments from Mr. Voelp Regarding the Motor Vehicle Administration (MVA)

Mr. Voelp stated that he had two questions regarding the MVA that did not affect the current election but were questions for the future. Those questions were:

1. What happens when a voter moves within the state and changes their address at the MVA? Why does that information not come to SBE so that the voter registration database can be updated? Would a change to enable this data transfer be a statutory or a regulatory change?
2. Why is the MVA not a member of the AAMVA (American Association of Motor Vehicle Administrations)? The AAMVA which a network of motor vehicle administrations nationwide who share driver licensing information.

In response to Mr. Voelp's questions, Ms. Charlson stated that Mary Cramer-Wagner, Director of Voter Registration, would be able to get back to Mr. Voelp with some answers to his questions. Mr. Trento stated that he would look into the legal questions in Mr. Voelp's first question.

Comments from Mr. Funn

Mr. Funn referenced a letter from the 2020 Voting Rights Advisory Group which Ms. Charlson mentioned in the Administrator's report, asking if the Board would be responding and attending the organization's meetings. In response, Mr. Cogan stated that attendance would be up to each member. Mr. Voelp stated his interest in attending, as did Mr. Funn. Ms. Charlson offered to coordinate their attendance with the organization.

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

Mr. Hogan disclosed a contribution of \$500.00 to Senator Chris Van Hollen.

Mr. Cogan disclosed the following contributions:

- 3/20/20 - \$100 McConnell for Senate
- 3/31/20 - \$106 National Republican Senatorial Committee (NRSC)
- 3/31/20 - \$50 Republican National Committee (RNC)
- 3/31/20 - \$ 50 National Republican Congressional Committee (NRCC)
- 4/17/20 - \$53 NRCC
- 4/30/20 - \$38 NRCC
- 5/10/20 - \$50 Maryland Republican Party
- 5/15/20 - \$41 NRSC
- 5/30/20 - \$42 Trump for President
- 5/30/20 - \$35 NRCC
- 5/31/20 - \$52 NRSC
- 6/29/20 - \$42 Trump for President
- 6/30/20 - \$50 Trump for President
- 6/30/20 - \$33 McSally for Senate
- 6/30/20 - \$25 Jim Jordan for Congress
- 6/30/20 - \$50 NRCC
- 7/8/20 - \$75 NRSC

Totals for Mr. Cogan:

National Republican Senatorial Committee \$274
National Republican Congressional Committee \$226
Trump for President \$134
McSally for Senate \$33
Jim Jordan for Congress \$25
Republican National Committee \$50
Maryland Republican Party \$50
McConnell for Senate \$100

SCHEDULE NEXT MEETING

The next meeting is scheduled for Wednesday, August 5, 2020, at 2:00 pm.

ADJOURNMENT

Mr. Cogan stated that the open meeting would not reconvene after the closed session. Ms. Howells made a motion to adjourn the open meeting, and Mr. Hogan seconded. The motion passed unanimously. The open meeting adjourned at 4:30 pm.

CLOSED MEETING

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; and (15), which permits closing a meeting to discuss network architecture and security of election networks. 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 pending litigation, and discuss the security of election information systems and prevent the public disclosure of security information. Mr. Voelp made a motion to convene in closed session under General Provisions Article, §3-305(b)(7), (8), and (15), and Ms. Howells 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), 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 the security of election information systems.

The closed session began at 4:40 pm. Mr. Cogan, Mr. Hogan, Ms. Howells, Mr. Voelp, and Mr. Funn attended the closed meeting. In addition to the board members, Linda Lamone, Nikki Charlson, Andrea Trento, Donna Duncan, and Art Treichel attended the closed meeting.

Mr. Trento provided legal advice about potential or pending litigation, and Mr. Treichel provided an update on recent work to protect election systems and preparations for the November election.

No action was taken.

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

The closed meeting adjourned at 5:20 pm.