

State of Maryland 

State Board of Elections – February 23, 2023 Meeting

Attendees (via conference call):

William G. Voelp, Chair
Severn Miller, Member
Michael Summers, Member
T. Sky Woodward, Member
Linda Lamone, Administrator
Nikki Charlson, Deputy Administrator
Dan Kobrin, Assistant Attorney General
Donna Duncan, Assistant Deputy, Constituent Relations
Jared DeMarinis, Director, Candidacy and Campaign Finance
Fred Brechbiel, Chief Information Officer
Melissia Dorsey, Assistant Deputy, Election Policy
Brett Paradise, Director of Voter Registration
Mary Ann Mogavero, Director, Election Reform and Management
Jennifer McLaughlin, Senior Policy Advisor
Tracey Hartman, Director of Special Projects

DECLARATION OF QUORUM PRESENT

Mr. Voelp called the meeting to order at 2:03 pm and declared that a quorum was present. He noted that Mr. Williams was absent but that he may join later¹.

ADDITIONS TO THE AGENDA

There were no additions to the agenda. Furthermore, Mr. Voelp clarified that there would not be a closed meeting today.

APPROVAL OF MEETING MINUTES: OPEN MEETING ON JANUARY 19, 2023

Mr. Summers made a motion to approve the open meeting minutes from the January 19, 2023 meeting. Mr. Miller seconded the motion. The motion passed unanimously by the four members that were present.

ADMINISTRATOR'S REPORT

Announcements & Important Meetings

Fiscal Year 2024 Budget Hearings

Ms. Charlson reported that on February 14 and 15, the Senate's full Budget and Taxation Committee and the House Appropriations' Public Safety and Administration Subcommittee, respectively, held a hearing on SBE's requested FY24 budget. At both hearings, a representative of the Department of Legislative Services (DLS) presented [DLS' analysis of our FY24 budget request](#) and we provided a [written response](#) with the requested comments and agreed with the analysis' recommendations.

National Association of State Election Directors (NASED) Meeting

The winter NASED meeting was held in Washington, DC from February 16 - 18. Representatives of the federal Cyber Security and Infrastructure Administration, U.S. Department of Justice, and the U.S. Election Assistance Commission shared information, and election officials from around the country shared information about voter outreach and communications strategies, the use of geographic information systems in elections, and how to implement an accessible vote by mail

¹ Mr. Williams did not join the meeting.

solution. Ms. Lamone attended the conference, and Ms. Charlson shared information about Maryland's accessible vote by mail solution.

Senate Education, Energy, and the Environment Committee (EEE) Briefing

During most legislative sessions, we are asked to provide a briefing to the committees with jurisdiction of elections. Our briefing before the Senate EEE Committee will be held on February 22. At this briefing, we will share how elections are administered in Maryland and the implementation status of recent legislative initiatives and highlights from the 2022 General Election. Our presentation will be similar to the briefing we provided last month in the House's Ways and Means Committee.

2022 General Election

Post-Election Audits - Manual Audit

The local boards continue to perform the required manual audit of the 2022 General Election. As of this meeting, 23 of the 24 local boards have performed their audit, with Worcester County performing their audit this morning. Prince George's County will conduct the last audit, which will take place February 27. So far, only two local boards have had any discrepancies with their audits, for a total discrepancy of 3 votes between the voting system and the audit. A report on the manual audits will be published on SBE's website within 14 days of the last audit.

Election Reform & Management

Election Judge Recruitment and Training

We rescheduled the second session of a lessons learned meeting related to election judges to March 1 to accommodate the completion of manual audit activities at some local boards. Topics for this second session will include canvassing, pay, and online training.

Election Forms

We continue to work with the University of Baltimore and a workgroup of local board representatives to revise some of our more heavily used election forms into a more user-friendly format. We are also in the final stages of revisions for the new combined same day registration/provisional ballot application. It has been recently submitted to initiate the procurement process.

Mail-In Ballot Voting

Work has already begun on long-lead items related to mail-in voting for the 2024 elections.

Voter Registration

MDVOTERS

MDVOTERS release 9.0 took place on February 10, 2022. The release included enhanced features in the election judge module. It also included enhancements to searching capabilities allowing users to search by email address. Release notes were also distributed to the local boards.

MDVOTERS Audits

Monthly audits of voter registration data continue to verify compliance with federal and State laws governing voter registration. The monthly audits include review of the local boards of elections' processing of Electronic Registration Information Center (ERIC) reports, Department of Health's 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.

Electronic Registration Information Center (ERIC)

Maryland receives ERIC data on a monthly basis. On even-numbered months (February, April, etc.) we receive the In-State Updates, Cross-State, and NCOA (National Change of Address) reports for processing. Odd months we receive In-State Duplicate and Social Security Administration Death files for processing. ERIC will hold their next Board of Directors meeting on February 19, 2023 to provide important updates on ERIC activities. For more information on ERIC, please visit www.ericstates.org.

Motor Vehicle Administration (MVA) Transactions

During January, MVA collected the following voter registration transactions:

New Registration - 13,456	Residential Address Changes - 21,349
Last Name Changes - 3,745	Political Party - 5,672

Current Total Registered Voters

As of January 31, 2023, there were 4,151,556 active voters in Maryland.

Candidacy and Campaign Finance (CCF) Division

Campaign Finance

The candidacy filings are scheduled by appointment, and as of February 14, two candidates have filed at SBE.

The next scheduled campaign finance is due March 7 for the gubernatorial inaugural committee. Only the governor is required to file an inaugural committee report.

The CCF Division has published the coordinated in-kind contribution limits for the 2026 Election Cycle. A copy is in the meeting folder.

Public Financing

Mr. DeMarinis reported that the CCF Division is working closely with Baltimore City's legal department and finance department regarding the implementation of the public financing program for the Baltimore City Mayoral and councilmanic elections in 2024. We are drafting a summary guide and reporting schedule. Additionally, in accordance with COMAR 33.13.14.02, the CCF Division reviewed and approved the program for compliance with State laws and regulations.

Website Activity

In January 2023, the MD Campaign Reporting Information System (MD CRIS) website was visited by 460,023 individuals for an average of 14,839 per day. Additionally, it had 2,144,567 hits. Each viewer looked at an average of approximately 3.8 page views per day. The Business Contribution Disclosure System (BCDS) website had 844,476 hits, with 145,444 visitors with an average of nearly 5.6 page views per day.

Enforcement

Listed below are the recent enforcement actions from January 2022. The information provided is the name of the committee, the amount of civil penalty paid, and the violation. The total amount collected was \$2,650.

1. Stokes, Carl Citizens For; \$1,000, Failure to record contributions & expenditures
2. Khan, Hamza Friends of; \$1,000, Failure to report contributions, expenditures, Anonymous Contribution, Lump Sum Entry
3. Wantz, Bradley Citizens for; \$50, No Bank Account
4. Rowe, Dennis Friends of; \$50.00, No Bank Account
5. Mowery, Joseph Friends of; \$50, No Bank Account
6. Blair, David for Montgomery; \$200, Disbursement by unauthorized method
7. Moore, Kayla for Board of Education; \$50, No Bank Account
8. Lytes, Latrece Hawkins Friends of; \$50, No Bank Account
9. Carroll, Elizabeth Friends of; \$50, No Bank Account
10. Gannon, (Holton) Joe Friends of; \$100, Failure to record expenditures
11. Jones, William H. Citizens for; \$50, No Bank Account

Voting Systems

Post-Election Maintenance

The local boards continue to perform post-election maintenance on equipment used during the most recent election. All voting equipment is assessed during this period to ensure functionality, and any equipment requiring maintenance or repair is addressed during this period.

New Voting System - 2026 Elections

Mr. Brechbiel reported that SBE continues to progress through the project initiation and planning phases.

Initiation: To date, the request for a Major IT Development Project (MITDP) determination by the Department of Information Technology has been submitted along with the Information Technology Project Request (ITPR).

Planning: The initial draft of the Project Management Plan has been completed and is being reviewed internally. Several other key project documents are under development at this time. Our FY24 budget includes funding to obtain contractual support for this project.

Electronic Pollbook

Software: The ePolltab and Merlin software are scheduled for vendor system integration testing (SIT) beginning February 27 and ending May 12.

Equipment: The tablet manufacturer tentatively plans to ship tablets to SBE's central warehouse on or about March 10. There, SBE teams will execute hardware acceptance tests to ensure tablets arrive in working order. DemTech personnel will arrive in Maryland in the April/May timeframe to conduct software installation, configuration and testing prior to shipping to LBEs for additional statewide testing.

Project Management Office (PMO)

Central Warehouse

The warehouse team continued to work with the Pollbook team on the logistics for the upcoming receipt, quality checks, testing, and other plans for the new pollbooks and related equipment and supplies.

Additional cameras were procured and are scheduled for installation at the Central Warehouse.

The warehouse team is working on two replacement projects for pollbooks printers and network devices being exchanged between the local boards and the Central Warehouse.

Equipment and Supply Inventory

Mr. Ross reported that SBE's FY2023 Inventory Audit is in progress with a statewide completion of 58.08%. June 30, 2023 is the last day for completing the inventory audit.

Records Inventory

The PMO continued to work on several tasks related to the agency's Records Inventory Management to ensure that it can fulfill the State's requirements for managing records/documents.

Baltimore City Relocation

The Baltimore City Board of Elections is working with Baltimore City concerning the local board's need to relocate its office and warehouse, preferably this year, to one location.

Legislation

The 2023 Maryland General Assembly session convened on January 11 and will adjourn on April 10. Ms. Duncan reported that SBE staff continues to work with the General Assembly and the Department of Legislative Services to provide relevant election insights and information and are monitoring all proposed legislation. Updated monitored legislation lists were included with material to the Board. Mr. DeMarinis reported that today was the first meeting of the Election Law Subcommittee in the House's Ways and Means Committee, and the Senate's Education, Energy, and Environment Committee has its first voting session on election bills. In response to a question from Ms. Woodward, Mr. DeMarinis stated that there were two cross-filed bills regarding counting ballots prior to election day.

ASSISTANT ATTORNEY GENERAL'S REPORT

Mr. Kobrin provided the following report:

1. *In re Petition for Emergency Remedy by the Maryland State Board of Elections, C-15-CV-22-003258 (Cir. Ct. for Montgomery County)*. On September 2, 2022, SBE filed a petition in the Circuit Court for Montgomery County pursuant to § 8-103(b) of the Election Law Article seeking an emergency remedy for the anticipated amount of incoming mail-in ballots for the 2022 Gubernatorial General Election. The petition sought a court order permitting mail-in ballots to be canvassed and tabulated beginning October 1, 2022 at 8:00 a.m. On September 14, 2022, Delegate Daniel Cox, current Republican nominee for the 2022 gubernatorial election, moved to intervene and oppose the petition. The Court held a contested hearing on September 20, 2022. Three days later, the Court issued a written opinion and order granting SBE's motion and permitting the early canvass.

On September 27, 2022, Delegate Cox appealed the ruling to Appellate Court of Maryland and moved that court to stay the circuit court's judgment. SBE opposed the stay. The next day, September 28, 2022, SBE petitioned the Supreme Court of Maryland to issue a writ of certiorari to bypass review in the Appellate Court of Maryland, hear the matter, and decide it on an expedited basis. The Appellate Court of Maryland denied Delegate Cox's request for a stay of the circuit court's order on September 29, 2022. The Supreme Court of Maryland then granted SBE's petition on September 30, 2022.

After oral argument on the morning of October 7, 2022, the Supreme Court issued an order affirming the judgment of the Montgomery County Circuit Court in all aspects.

On January 6, 2023, Delegate Cox filed a petition for a writ of certiorari in the Supreme Court of the United States. On January 12, 2023, SBE filed a waiver of the right of response to the petition. After reviewing the petition at the Court's February 17, 2023, conference, the Supreme Court denied Delegate Cox's petition for certiorari.

2. *Gibson, et al. v. Frederick County*, 1:22-CV-01642-GLR (D. Md.) On July 5, 2022, Lois Ann Gibson and plaintiff-organizations filed suit against Maryland state entities seeking injunctive relief. The complaint alleges that 22 jurisdictions in Maryland engaged in a RICO conspiracy with a Chicago non-profit organization to fund election fraud. The suit seeks a preliminary injunction enjoining the destruction of records of the 2020 Presidential Election. Under federal law, the records of the 2020 election were to be retained until September 3, 2022.

Before any defendants were served, the federal court denied plaintiffs' request for an *ex parte* temporary restraining order to preserve the election records.

Plaintiffs thereafter served SBE process on August 27, 2022. On September 19, 2022, SBE filed a motion to dismiss the complaint for failure to state a claim. Nearly every county-defendant named in the case has filed a similar motion.

On December 16, 2022, the district court granted the motions to dismiss as to all defendants and closed the case.

On January 13, 2023, plaintiffs filed a motion to amend or alter the judgment of dismissal under Federal Rule 59(e). SBE filed a response on January 26, 2023, to which every county defendant joined in support. The 59(e) motion remains pending before the district court.

3. *Johnson v. Hogan*, 8:22-CV-02250-TDC (D. Md.) On September 7, 2022, Thomas P. Johnson filed a complaint challenging the constitutionality of Election Law § 5-706. Mr. Johnson ran during the 2022 Gubernatorial Primary for a seat on the circuit court bench in Montgomery County. He lost that race. Mr. Johnson then sought to file a certificate of candidacy as a write-in candidate for that same office for the general election but was informed by SBE staff that he was ineligible to run pursuant to Election Law § 5-607(b)(2). The law prohibits anyone who has lost a primary election from running in the following general election as a write-in candidate.

The complaint alleges that § 5-706 unconstitutionally prevents Mr. Johnson from campaigning as a write-in candidate. It seeks injunctive relief allowing Mr. Johnson to file a certificate of candidacy as a write-in candidate.

The Office of the Attorney General filed a motion opposing injunctive relief on behalf of Governor Hogan, the sole named defendant, on September 21, 2022. Mr. Johnson filed a response to the OAG opposition on September 23, 2022. The court conducted a hearing on the matter on October 4, 2022. Thereafter, on October 13, 2022, the federal district court issued an order denying Mr. Johnson injunctive relief.

OAG will be filing a motion to dismiss the case outright in the coming weeks. Per local rules, counsel has filed a letter of intent to file a motion to dismiss with the federal court.

4. *Appeal of 22nd Century Technologies, Inc.*, Docket No. MSCBA 3230 (Md. State Board of Contract Appeals). During the spring and summer of 2022, SBE solicited requests for proposals for a surge staff support contract for the 2024 election cycle (with options for 2026 and 2028). An RFP was submitted by the incumbent contractor, 22nd Century Technologies, Inc; however, 22nd Century was not recommended for the award. 22nd Century protested the recommendation on November 28, 2022. SBE replied with its final agency decision on December 27, 2022. 22nd Century thereafter appealed SBE's final agency decision on January 6, 2023 to the Maryland State Board of Contract Appeals (BCA).

On February 6, 2023, SBE filed its full agency report refuting the 22nd Century Appeal. Before the deadline for a response to the report 22nd Century moved to voluntarily withdraw the appeal, ending the matter.

APPROVAL OF REGULATIONS

Approval of Amendments to Various Regulations

Ms. Charlson and Ms. Dorsey presented proposed amendments to the following regulations:

1. 33.01.05.06 – Definitions; General Provisions – Administrative Complaint Procedure

Ms. Charlson stated that the current [Administrative Complaint Form](#) asks the complainant whether they would like a hearing, but the current regulation does not give them that choice - it's required for all complainants alleging a violation of Title III of the Help America Vote Act. The proposed change would make the regulation and the form consistent - that is, a complainant can request or decline a hearing.

2. 33.03.02.01, .03, and .04 – Records Management – Copies of Registration Lists

Ms. Charlson stated that the proposed changes to 33.03.02.01 define "electoral process," a term used in Regulation .04 and in the required affidavit, and update definitions to reflect the current types of lists provided. The proposed changes to 33.03.02.03 reflects a court decision that allows individuals outside Maryland to buy voter data and renumbers the remaining sections. The new §A allows individuals to submit and pay for a request online, and the changes to the new §B reflect current ways of providing data and types of data requests and mirror terminology used on the voter registration application. The changes to 33.03.02.04 establishes what constitutes an electronic signature for an online application for voter data.

Ms. Woodward made a motion to adopt the proposed amendments to COMAR 33.01.05.06, 33.03.02.01, 33.02.02.03, and 33.03.02.04, as presented by Ms. Charlson. Mr. Miller seconded the motion. The motion passed unanimously.

3. 33.10.01.18 – EVS Voting Solution – Ballots – Chain of Custody

Ms. Dorsey explained that prior to the use of precinct-level ballots, election judges were required to count the number of ballots provided to each polling place and count the

number of ballots returned to each local board. With precinct-level ballots, the number of different ballot styles has increased such that it is not possible for election judges to count every ballot of every ballot style and record them. In 2020 and 2022, we asked that the local boards of elections (LBEs) to develop a system to ensure chain of custody and control of all ballots and provide documentation sufficient to prove control of the ballots from the time they were deployed by the LBE to the polling place to the time they were returned to the LBE by election judges. This regulation reflects that change.

Mr. Miller made a motion to adopt the proposed amendments to COMAR 33.10.01.18, as presented by Ms. Dorsey. Mr. Summers seconded the motion. The motion passed unanimously.

4. 33.12.02.05 – Recounts – Initiation of Recounts – Personnel

Ms. Charlson explained that the proposed change clarifies that individuals who served as election judges can support a recount and adds State Board staff as another resource to support a local board conducting a recount.

Ms. Woodward made a motion to adopt the proposed amendments to COMAR 33.12.02.05, as presented by Ms. Charlson. Mr. Summers seconded the motion. The motion passed unanimously.

5. 33.16.02.01 and .03 – .06 – Provisional Voting – Provisional Voting Documents and Supplies

6. 33.16.04.02 – Provisional Voting – Pre-Canvass Procedures

7. 33.16.05.04 – Provisional Voting – Canvass of Ballots – Procedures – Record of Disposition

Ms. Dorsey explained that for 33.16.02.01, there are currently two provisional application forms - one for traditional provisional voting and one for same day registration provisional voting. The forms will be combined into one form and referred to as the “Provisional Ballot Application.” This change reflects the need to add a strip of adhesive to the form to affix an oath document used for same day registration provisional voters. 33.16.02.03 updates the regulation to remove the need for a second form. In 33.16.02.04- .06, the numbering of the regulations are adjusted to reflect the deletion of the current Regulation .03. In 33.16.04.02, a reference to a special same day registration application is removed but maintains the process. In 33.16.05.04, Ms. Dorsey explained that the portion of the provisional ballot application used by the local board is currently the last page of the packet. With the proposed changes, the form will be in the middle of the provisional ballot application. This proposed change makes the regulation consistent with the new form.

Mr. Miller made a motion to adopt the proposed amendments to COMAR 33.16.02.01 and .03 – .06, as presented by Ms. Dorsey. Mr. Summers seconded the motion. The motion passed unanimously.

8. 33.17.02.02 and .04 – Early Voting – Early Voting Center

Ms. Dorsey explained that the proposed changes to 33.17.02.02 clarifies the population density consideration for early voting centers where the jurisdiction chooses to have an optional voting center. It will also add to the regulations the number of alternate early voting centers for jurisdictions that are required to have two or four centers and clarify the number of alternate early voting centers required when an optional early voting center is used. Finally, the proposed changes include correcting references to the early voting center form, and stylistic changes to conform with drafting requirements for regulations. The

proposed changes to 33.17.02.04 will require security plans to be submitted with the early voting center approval form, rather than after the proposed early voting center has been approved. A proposed facility's security plan should be part of the review process, and this change provides for that. The other proposed changes fix grammatical errors.

Mr. Miller made a motion to adopt the proposed amendments to COMAR 33.17.02.02 and .04, as presented by Ms. Dorsey. Ms. Woodward seconded the motion. The motion passed unanimously.

9. 33.19.01.01 – Same Day Registration and Address Changes – Definitions; General Provisions

Ms. Charlson explained that the proposed changes to 33.19.01.01 clarify that if early voting is ordered for a special election, these proposed changes require that same day registration and same day address changes be offered during early voting.

Ms. Woodward made a motion to adopt the proposed amendments to COMAR 33.19.01.01, as presented by Ms. Charlson. Mr. Miller seconded the motion. The motion passed unanimously.

10. 33.21.01.02 – Special Elections by Mail – Definitions; General Provisions

Ms. Charlson explained that the proposed changes to 33.21.01.02 resolves a conflict between this regulation and COMAR 33.19.01.01C, which as adopted, requires that same day registration be available on election day for a special election.

11. 33.21.03.02 and .03 – Special Elections by Mail – Issuance and Return

Ms. Charlson explained that the proposed changes to 33.21.03.02 aligns this regulation with this statutory requirement of Election Law Article, §9-310(3)(iv), which requires that all return envelopes include prepaid postage. The proposed changes to 33.21.02.03 enables the local board to use the same delivery method they used to get a mail-in ballot to a military or overseas voter in a regularly scheduled election to get the ballot to the military or overseas voter in the special election.

12. 33.21.04.06 – Special Elections by Mail – Voting Centers

Ms. Charlson explained that the proposed changes to 33.21.04.06 requires that SBE and the local board work together to develop a plan for equipment, personnel and supplies for the voting locations, as there is typically insufficient time to submit a formal allocation plan for a special election.

Ms. Woodward made a motion to adopt the proposed amendments to COMAR 33.21.01.02, 33.21.03.02, 33.21.03.03, and 33.21.04.06, as presented by Ms. Charlson. Mr. Miller seconded the motion. The motion passed unanimously.

In response to a question from Mr. Voelp, Ms. Charlson clarified that she would present proposed amendments to COMAR 33.19.02.01 at the next meeting.

APPROVAL OF TITLE 13 WAIVER REQUESTS

Mr. DeMarinis presented requests from 42 campaigns to waive or reduce late fees incurred by the committee. Nine campaigns were denied waivers of late fees and were presented to the board for informational purposes. No action is required from the Board for denied waivers.

The campaigns requesting a waiver or reduction of late filing fees are:

1. Benn, Sarahia Friends to Elect
2. Blank, Ronald Jacob Friends of
3. Corley, Bruce for Talbot County Council
4. Costello, Eric for Baltimore
5. Fraser, Stanford Friends of
6. Impallaria, Richard Friends of
7. MacMullan, Scot Friends of
8. PAC for the People
9. Parker, Crystal Jackson Citizens for
10. Smith, Andrea D. Friends of
11. Stitt, Lashaune Dr. for School Board
12. Thomas, Justi Friends of
13. Bruno, Richard for Maryland, Dr.
14. Capes, Alexis Citizens For
15. Maryland Votes for Animals, PAC
16. Barret, Stephen for Frederick
17. Belcastro, Lisa Friends of
18. Beverley, David Citizens for
19. Cantwell (Grover) Friends of
20. Carter, Jill P. Committee For
21. Cousins, Pamela Citizens for
22. Davis, Adrienne Citizens for
23. Dresin, David for School Board
24. Dental Hygienists Association PAC, The Maryland
25. DiSeta, Joe Friends of
26. Evans, Bill Friends For
27. Goddard, Urcille Friends of
28. Hadgu, Hiruy Friends of
29. Jenkins, Joy Friends of
30. Layton, William Friends of
31. LESS IS MOORE PAC
32. Marchio (Joseph) Parents for
33. Maryland Votes for Animals, PAC
34. Mathis, James "Jimmy" Friends of
35. Minority Motoring & Trucking Association
36. Perini, Peter E. Friends of
37. Porter, Phylcia Friends for
38. Roberts, William Friends of
39. Robinson, Mavourene for Maryland
40. Rosero, Jonathan Citizens for
41. Schmidt, Stuart Friends of
42. Smith, Denise Friends of

Mr. Summers made a motion to approve the 28 Title 13 late fee waiver requests as presented, and Mr. Miller seconded the motion. The motion passed unanimously.

TITLE 14 WAIVER REQUESTS

Mr. DeMarinis presented three requests from businesses to waive late fees incurred by the business. 14 businesses were denied waivers of late fees incurred by the entity, which were presented to the board for informational purposes only. No action is required from the Board for denied waivers.

The campaigns requesting a waiver or reduction of late filing fees are:

1. Bennet Entertainment LLC
2. Choice Hotels International, Inc.
3. CSAA Insurance Group

Mr. Summers made a motion to approve the three Title 14 late fee waiver requests as presented, and Mr. Miller seconded the motion. The motion passed unanimously.

OLD BUSINESS

There was no old business.

NEW BUSINESS

There was no new business.

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

There were no campaign contributions.

SCHEDULE NEXT MEETING

The next meeting is scheduled for Wednesday, March 29, 2023 at 2 p.m.

ADJOURNMENT

Mr. Miller made a motion to adjourn the meeting, and Ms. Woodward seconded the motion. The meeting adjourned at 2:54 pm.

State of Maryland 

State Board of Elections – March 29, 2023 Meeting

Attendees (via conference call):

William G. Voelp, Chair
Justin Williams, Vice-Chair
Severn Miller, Member
Michael Summers, Member
Linda Lamone, Administrator
Nikki Charlson, Deputy Administrator
Dan Kobrin, Assistant Attorney General
Donna Duncan, Assistant Deputy, Constituent Relations
Keith Ross, Assistant Deputy, Project Management
Melissia Dorsey, Assistant Deputy, Election Policy
Jared DeMarinis, Director, Candidacy and Campaign Finance
Fred Brechbiel, Chief Information Officer
Mary Ann Mogavero, Director, Election Reform and Management
Jennifer McLaughlin, Senior Policy Advisor
Patrick Angel, Chief Information Security Advisor
Shafiq Satterfield, Director of Technical Operations
Tracey Hartman, Director of Special Projects

DECLARATION OF QUORUM PRESENT

Mr. Voelp called the meeting to order at 2:04 pm and declared that a quorum was present. He noted that Ms. Woodward was absent and until Mr. Williams arrived, that the Board could not conduct any business that required a vote. He stated that he expected Mr. Williams to join momentarily.

Mr. Williams joined the meeting at 2:06 pm.

ADDITIONS TO THE AGENDA

There were no additions to the agenda. Mr. Voelp stated that there will be a closed meeting following the open meeting.

APPROVAL OF MEETING MINUTES: OPEN MEETING ON FEBRUARY 23, 2023

Mr. Miller noted that the minutes from the February meeting did not accurately reflect the chain of events at the beginning of the meeting. Ms. Hartman stated that she could make that correction and present the corrected minutes at the next meeting.

ADMINISTRATOR'S REPORT

Announcements & Important Meetings

Personnel News

Ms. Charlson introduced our new Chief Information Security Officer, Patrick Angel. Mr. Angel joins us with extensive information security experience as well as experience supporting election offices in Texas. We are happy to have him join our SBE team and look forward to his contributions.

Ms. Charlson also announced, sadly, that Cortnee Bryant has resigned from SBE. Ms. Bryant performed a variety of duties, including heading the local boards' Social Media Communication Group, partnered in managing multiple SBE's social media accounts, and produced instructional

videos, fliers and graphics. She managed accessibility materials to reflect the US Department of Justice standards and provided guidance to the local boards' compliance with accessibility requirements. She also reviewed polling site accessibility plans, evaluations, ballot accounting processes, as well as conducted election supply procurement, obtained sign language interpreters, and answered emails and calls from voters seeking help with mail-in ballots. We wish her well!

2022 General Election Follow Up

Manual Audit

Ms. Hartman explained that state law requires that election officials conduct a manual audit of randomly selected ballots after each statewide general election. This manual audit is in addition to an independent software audit of all of the ballot images created in an election.

The manual audit from the 2022 General Election was completed on February 28, 2022, when the Prince George's County Board of Elections completed its manual audit. In 22 of the 24 local jurisdictions, there were no differences between the results of the manual audit and the voting system. In the remaining two local jurisdictions, one discrepancy was determined to be human error, and the other discrepancy was a two-vote discrepancy and well below the 0.5% threshold to trigger more auditing.

Overall, 44,139 ballots from all 24 local jurisdictions were manually audited, resulting in a statewide audit contest vote discrepancy of 0.009%. There were 2,005,223 ballots cast for Governor and Lt. Governor in the 2022 General Election, which resulted in a statewide contest vote discrepancy of 0.00019%. These audits showed that the voting system accurately counted votes. As required by Election Law Article, §11-309(d)(4), a report of the manual audit was posted on our [Ballot Audit Plan webpage](#). Information about the independent software audit is also posted there.

In response to a question from Mr. Voelp, Ms. Hartman stated that at one local board, there was a mark on a ballot that the voting system counted as an overvote, while the auditing team counted the ballot for a single candidate. This resulted in a one-vote difference between the voting system and the manual audit. At another local board, there was a two-vote difference. It was ultimately determined that at the mail-in ballot canvass, the original ballot and the duplicated ballot were both counted. This resulted in a two-vote difference between the voting system and the manual audit.

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

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

The initial submission for the EAC's 2022 Election Administration and Voting Survey was due and SBE submitted timely on February 1, 2023. The EAC returned the data report two weeks later with suggested corrections, and a final certified report was submitted and accepted by the EAC on March 20, 2023. Ms. Hartman, Janet Smith, and Mark Smith completed this report.

In response to a question from Mr. Summers, Ms. Hartman stated that the EAC does produce a report with the data collected, which is typically available during the summer. She stated that she would share the report when it is available.

Election Reform & Management

Election Judge Recruitment and Training

Ms. Mogavero reported that the Election Judge Workgroup has begun to meet to review and revise the election judge manual and all training peripherals for 2024. The group has members that represent large, medium and small jurisdictions to adequately anticipate and address the needs of all jurisdictions. This group will review almost all printed materials used at voting locations, including manuals, guides, forms and signage, and its members are extremely valuable in identifying procedures needing revision. The work will be used to support other projects that support election judge training, such as the Page Program and online training.

Online Training

We secured a vendor to create the content and platform for the 2024 online judges training program. Production is scheduled to begin in April.

Social Media

We are researching a software solution for concurrent posting to all our social media platforms.

Website Update

The online election judge application was updated to include a source field so we can see where the applicants learned about the opportunity to serve.

Election Forms

Our work continues with the University of Baltimore and the workgroup of local board representatives to revise forms. We are turning our focus to a template for sample ballots next.

Voter Registration

MDVOTERS

Ms. Dorsey reported that the Voter Registration Team is preparing for a three-day product development work session. The session will be held from March 28, 2023 to March 30, 2023. The sessions will include SBE employees and representatives from local boards. During the sessions, the group will discuss possible developments to MDVOTERS.

MDVOTERS Audits

Monthly audits of voter registration data continue to verify compliance with federal and State laws governing voter registration. The monthly audits include review of the local boards of elections' processing of Electronic Registration Information Center (ERIC) reports, Department of Health's death records, Administrative Office of the Courts' (AOC) felony records, and the processing of overall voter registration records. Follow up continues to be conducted with the local boards to ensure all corrections are completed and to address any training issues.

Letters to Voters Affiliated with the Green and Working Class Parties

After the 2022 General Election, the Green and Working Class parties lost their recognized party status. Voters with active registration with the Green and Working Class parties will be sent a letter detailing the change in recognized status of their party. The letters were sent by the local boards the week of March 20 - March 24.

Motor Vehicle Administration (MVA) Transactions

During February, MVA collected the following voter registration transactions:

New Registration - 11,174	Residential Address Changes - 17,333
Last Name Changes - 2,875	Political Party - 4,202

Current Total Registered Voters

As of February 28, 2023, there were 4,144,390 active voters in Maryland.

Candidacy and Campaign Finance (CCF) Division

Campaign Finance

Mr. DeMarinis stated that the candidacy filings are scheduled by appointment, and as of March 20, seven candidates have filed at SBE.

The CCF Division has published the coordinated in-kind contribution limits for the 2026 Election Cycle. A copy was provided in the meeting materials.

Public Financing

Mr. DeMarinis stated that on March 21, the CCF Division participated in a meeting with Baltimore City's Legal and Finance Departments about the Baltimore City Fair Election Fund Commission. We provided a brief overview of the filing program, frequently asked questions, and implementation best practices.

Website Activity

In February 2023, the MD Campaign Reporting Information System (MD CRIS) website was visited by 336,337 individuals for an average of 12,012 per day. Additionally, it had 1,576,534 hits. Each viewer looked at an average of approximately 4.08 page views per day. The Business Contribution Disclosure System (BCDS) website had 766,345 hits, with 120,409 visitors with an average of nearly 6.1 page views per day.

Enforcement

Listed below are the recent enforcement actions from February 2022. The information provided is the name of the committee, the amount of civil penalty paid, and the violation. The total amount collected was \$14,525.

1. Slate for Carroll County Citizens United; \$125, Authority line violation.
2. Delean-Botkin, Susan for Delegate; \$250, Authority line violation.
3. Fitzwater, Jessica Friends of; \$250, Authority line violation.
4. Svehla, Todd Citizens For A; \$50, Authority line violation.
5. Savoy, Brenda Hatcher Citizens for; \$200, Cash Disbursement greater than \$25.
6. Notarcola, Charlene Friends of; \$100, Cash Disbursement greater than \$25.
7. Cannady, Carlmichael "Stokey" for Mayor; \$200, Cash Disbursement greater than \$25.
8. Tyo, Tanya Citizens to Elect for Harco BOE; \$200, Cash Disbursement greater than \$25.
9. Goldsby Jr., Tim People for; \$200, Cash Disbursements greater than \$25.
10. Villanova, Damien Friends of; \$200, Disbursement by unauthorized method.
11. Andy Harris for Congress; \$8,500, Failure to File 48 Hour Report.
12. Wells, Esther Citizens for; \$50, Authority line violation.
13. Douglas, Robert A. Friends of; \$250, Failure to maintain campaign records.
14. United for a Better Baltimore Slate; \$500, Failure to maintain campaign records.
15. Bailey, Charles Friends of; \$100, Failure to maintain campaign records.
16. Brown, Liz (Elizabeth) 4 Board of Education; \$300, Failure to maintain campaign records.
17. Credit Union PAC, MD; \$800, Failure to record contributions & expenditures and failure to maintain campaign records.
18. Savoy, Brenda Hatcher Citizens for; \$100, Failure to record contributions and failure to maintain campaign records.

19. Butler-Washington, Dottery Friends to Elect Campaign; \$150, Failure to report contributions and expenditures.
20. Progressive Prince Georgians Leadership Slate; \$100, Failure to report contributions and expenditures.
21. McGraw, Virginia Friends to Elect; \$100, Failure to report contributions and expenditures.
22. Gansler, Doug Friends Of; \$500, Failure to report contributions and expenditures and failure to maintain campaign records.
23. Bowling, Gilbert Friends of; \$500, Failure to report contributions and expenditures and failure to maintain campaign records.
24. Hall Sr., Kirkland J. Citizens for; \$500, Failure to report contributions and expenditures.
25. Foreman, Jon Delegate; \$50, Failure to maintain campaign bank account.
26. Ames, (George) Committee to Re-Elect; \$50, Failure to maintain campaign bank account.
27. DiGregory, Bryan For State's Attorney; \$50, Failure to maintain campaign bank account.
28. Nickerson, Amy L. Friends of; \$50, Failure to maintain campaign bank account.
29. Fisher, Joann Committee to Elect; \$50, Failure to maintain campaign bank account.
30. Ritchie, Lisa Friends of; \$50, Failure to maintain campaign bank account.

Voting Systems

Current Voting System - Lease Option Approved

On March 1, 2023, the Board of Public Works approved the final option period on the voting system lease. This means that we will continue to use the current voting system through the 2024 elections.

Post-Election Maintenance

Ms. Satterfield reported that the local boards continue to perform post-election maintenance on equipment used during the most recent election. All voting equipment is assessed during this period to ensure functionality, and any equipment requiring maintenance or repair is addressed during this period. The post-election maintenance period is scheduled to be completed statewide by April 21, 2023.

New Voting System - 2026 Elections

Finally, Mr. Satterfield reported that SBE continues to progress through the project initiation and planning phases.

Initiation Phase: To date, the request for a Major IT Development Project (MITDP) determination by the Department of Information Technology (DoIT) has been submitted along with the Information Technology Project Request (ITPR). While SBE awaits the MITDP determine, we have received approval of the ITPR from DoIT for the NVS project.

Planning Phase: The initial draft of the Project Management Plan has been completed and is being reviewed internally. Several other key project documents are under development at this time. Our FY24 budget includes funding to obtain contractual support for this project.

Electronic Pollbook

Mr. Brechbiel gave the following update:

Software: The vendor for the new pollbook solution has begun system integration testing (SIT) with a planned completion day of May 12, 2023.

Equipment: The tablets for the new pollbook solution arrived in Maryland the week of March 13. The hardware quality check is scheduled to begin March 27 with a planned completion day of

May 12, 2023. DemTech personnel will arrive in Maryland in the April/May timeframe to conduct software installation, configuration and testing prior to shipping to the local boards for additional statewide testing.

Project Management Office (PMO)

Mr. Ross referred to the update below and did not give any further updates.

Central Warehouse

The warehouse team continued planning with the Pollbook team for the receipt of the new pollbook tablets. These tablets will undergo quality checks, testing, and other efforts prior to shipping them to the local boards in the next few months.

The PMO started work with the Department of General Services on pre-lease tasks required before negotiations for a new lease agreement with the landlord can begin. The current lease agreement ends January 2025.

Equipment and Supply Inventory

SBE's FY2023 Inventory Audit is in progress with a statewide completion of 80.03%. June 30, 2023, is the last day for completing the inventory audit.

Records Inventory

The PMO continued work on several tasks related to the agency's Records Inventory Management to ensure that it can fulfill the State's requirements for managing records and documents. The focus this period was on creating the survey for the local boards concerning their records inventory.

Legislation

The 2023 Maryland General Assembly session convened on January 11 and will adjourn on April 10. SBE staff continues to work with the Legislature and the Department of Legislative Services to provide relevant election insights and information and are monitoring all proposed legislation. A report on the current status of monitored legislation was provided with the meeting materials.

ASSISTANT ATTORNEY GENERAL'S REPORT

Mr. Kobrin provided the following report:

1. *Gibson, et al. v. Frederick County, 1:22-CV-01642-GLR (D. Md.)* On July 5, 2022, Lois Ann Gibson and plaintiff-organizations filed suit against Maryland entities seeking injunctive relief. The complaint alleges that 22 jurisdictions in Maryland engaged in a RICO conspiracy with a Chicago non-profit organization to fund election fraud. The suit seeks a preliminary injunction enjoining the destruction of records of the 2020 Presidential Election. Under federal law, the records of the 2020 election were to be retained until September 3, 2022.

On December 16, 2022, the district court granted motions to dismiss as to all defendants and closed the case.

On January 13, 2023, plaintiffs filed a motion to amend or alter the judgment of dismissal under Federal Rule 59(e). SBE filed a response on January 26, 2023, to which every county defendant joined in support. On February 21, 2023, the plaintiff filed its reply. The Rule 59(e) motion remains pending before the district court.

2. *Johnson v. Hogan*, 8:22-CV-02250-TDC (D. Md.) On September 7, 2022, Thomas P. Johnson filed a complaint challenging the constitutionality of Election Law § 5-706. Mr. Johnson ran during the 2022 Gubernatorial Primary for a seat on the circuit court bench in Montgomery County. He lost that race. Mr. Johnson then sought to file a certificate of candidacy as a write-in candidate for that same office for the general election but was informed by SBE staff that he was ineligible to run pursuant to Election Law § 5-607(b)(2). The law prohibits anyone who has lost a primary election from running in the following general election as a write-in candidate.

The complaint alleges that § 5-706 unconstitutionally prevents Mr. Johnson from campaigning as a write-in candidate. It seeks injunctive relief allowing Mr. Johnson to file a certificate of candidacy as a write-in candidate.

The Office of the Attorney General filed a motion opposing injunctive relief on behalf of Governor Hogan, the sole named defendant, on September 21, 2022. Mr. Johnson filed a response to the OAG opposition on September 23, 2022. The court conducted a hearing on the matter on October 4, 2022. Thereafter, on October 13, 2022, the federal district court issued an order denying Mr. Johnson injunctive relief.

OAG will be filing a motion to dismiss the case outright in the coming weeks. Per local rules, counsel has filed a letter of intent to file a motion to dismiss with the federal court.

Additionally, Mr. Kobrin stated that as of this morning, the Supreme Court of Maryland issued its opinion in the mail-in ballot issue case. He reminded the members that on October 7, 2021, the Court issued an Order stating that the decision of the Circuit Court for Montgomery County was affirmed and allowed the early canvassing of mail-in ballots. The opinion issued today explains the basis for the Order.

APPROVAL OF TITLE 13 WAIVER REQUESTS

Mr. DeMarinis presented requests from 24 campaigns to waive or reduce late fees incurred by the committee. Nine campaigns were denied waivers of late fees and were presented to the board for informational purposes. No action is required from the Board for denied requests for waivers.

The campaigns requesting a waiver or reduction of late filing fees are:

- | | |
|--|-------------------------------------|
| 1. ABC of Chesapeake Shores PAC | 13. Murtha, Troy for County Council |
| 2. Allen, Cathy for BOE | 14. Nottingham, Andre Friends of |
| 3. Ashraf, Zia For District 5 | 15. The Right Slate Friends of |
| 4. Banks, Kim for Clerk of the Court | 16. Schauber, Allan Friends of |
| 5. Blanton, Chris Citizens For | 17. Sparaco, Dan Friends of |
| 6. Burdet, Jake Friends of | 18. Speert, Katie Citizens for |
| 7. Culver, Bob Committee to Elect | 19. Team 40 Slate |
| 8. Jackson, Carl Citizens for | 20. Vilus, Darren Friends of |
| 9. Gillespie, Kerry Citizens for | 21. White, Antoine Citizens for |
| 10. Johnson, Dannine Friends of | 22. Paschall, Patrick Friends of |
| 11. Johnson, Steven T. Friends of | 23. Sneed, Shannon For Maryland |
| 12. Malesh, William Friends for Public Education | 24. Coleman, Quincy Friends of |

Mr. Miller made a motion to approve the 24 Title 13 late fee waiver requests as presented, and Mr. Williams seconded the motion. The motion passed unanimously.

TITLE 13 WAIVER REQUESTS

Mr. DeMarinis presented nine requests from campaigns to waive late fees. 24 campaigns were denied waivers of late fees incurred by the entity, which were presented to the board for informational purposes only. No action is required from the Board for denied waivers.

The campaigns requesting a waiver or reduction of late filing fees are:

1. Branch, Talmadge Friends of
2. Mechanical Contractors Association Of Maryland PAC
3. Otonna, Collins, Real Change Coalition for
4. Realtors Political Action Committee of Harford Co. Assn
5. Terrell, China Friends of
6. Masset, Sabrina for Senate
7. Alfeo, Gian Committee to Elect
8. MD Black Businesses Mater PAC
9. Garcia, Michelle Friends of

Mr. Miller made a motion to approve the nine Title 13 late fee waiver requests as presented, and Mr. Williams seconded the motion. The motion passed unanimously.

TITLE 14 WAIVER REQUESTS

Mr. DeMarinis presented six requests from businesses to waive late fees incurred by the business. One business was denied waivers of late fees incurred by the entity, which was presented to the board for informational purposes only. No action is required from the Board for denied waiver.

The campaigns requesting a waiver or reduction of late filing fees are:

1. Best Buddies International
2. Business Health Services
3. Columbia Care LLC
4. The Healing And Air Conditioning Contractors Assoc
5. MAFSC
6. Odyssey Investment Partners, LLC

Mr. Summers made a motion to approve the six Title 14 late fee waiver requests as presented, and Mr. Miller seconded the motion. The motion passed unanimously.

OLD BUSINESS

There was no old business.

NEW BUSINESS

Statement from the State Administrator of Elections

Ms. Lamone gave the following statement:

"Today, I am announcing that I will be stepping down this summer as the Administrator of Elections for the State of Maryland.

I have thoroughly enjoyed working with so many talented and dedicated people to help shape election policy at the state and national level. We've worked tirelessly to conduct

numerous successful elections, each one with its own challenges. There were new systems to implement, new procedures to expand access to the electoral process to develop and administer, and election systems and data to protect in response to cyber threats.

And through it all, we were steadfast in our commitment to protecting the integrity of our electoral process and safeguarding the right and ability of all eligible voters to cast their ballots.

I have been blessed to have an incredible staff working alongside me who are passionate about serving the voters of Maryland.

In particular, I would like to thank Nikki Charlson, our Deputy Administrator, for being the lynchpin of this office.

I have been fortunate to serve with outstanding members of the State Board of Elections. Each member has brought their professional, political, and life experiences to the board, and I am grateful for their service and guidance. I also want to thank the many local election boards and election judges who volunteer their time to make our elections work.

I love this job. It was not always easy, but through Republican and Democratic administrations and through COVID, cyber threats, redistricting, changing election dates, and changes in voting behavior, we delivered for the voters in Maryland. I am so very honored that I was entrusted to do something with my life that matters to American democracy.

Behind each election official are family and friends that support them and allow them to do this difficult and time consuming work. For me, that person was my husband, Rudy. He was my faithful supporter and biggest cheerleader, and for that, I will always be grateful."

Mr. Voelp offered condolences to Ms. Lamone on the passing of her husband and thanked Ms. Lamone for her many years of dedication to elections in Maryland. Mr. Williams, Miller, and Summers echoed Mr. Voelp's sentiment.

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

There were no campaign contributions.

SCHEDULE NEXT MEETING

The next meeting is scheduled for Thursday, May 4, 2023 at 2 p.m.

CLOSED SESSION – PERSONNEL & LEGAL ADVICE

Mr. Voelp requested a motion to close the board meeting under §3-305(b)(1) of the General Provisions Article, which permits closing a meeting to discuss compensation of officials over whom the State Board has jurisdiction. Mr. Miller made a motion to convene in closed session under General Provisions Article, §3-305(b)(1), and Mr. Williams seconded the motion. The motion passed unanimously.

The motion having passed, the Board met in closed session in accordance with exemption defined in (b)(1) of Section 3-305 of the Open Meetings Act to discuss compensation of officials over whom the State Board has jurisdiction. The closed session began at 2:45 pm. Mr. Voelp, Mr.

Miller, Mr. Summers, and Mr. Williams attended the closed meeting. In addition to the board members, Ms. Lamone, Mr. Kobrin, Ms. Charlson, and Ms. Malcolm attended the meeting.

Ms. Malcolm presented compensation requests submitted by two local boards of elections and Ms. Lamone's recommendations on both requests. Mr. Miller made a motion to approve the State Administrator's recommendation for one request, and Mr. Summers seconded the motion. The motion was approved unanimously. Mr. Miller made a motion to approve the State Administrator's recommendation for the second request, and Mr. Williams seconded the motion. The motion was approved unanimously.

Mr. Miller made a motion to adjourn the closed meeting, and Mr. Summers seconded the motion. The motion passed unanimously. The closed meeting adjourned at 2:57 pm.

ADJOURNMENT

The open meeting adjourned at 2:37 pm.