

State of Maryland   
State Board of Elections – July 25, 2019 Meeting

---

Attendees: Patrick J. Hogan, Vice Chair  
Michael R. Cogan, Member (later elected Chair)  
Kelly Howells, Member  
William Voelp, Member  
Linda Lamone, Administrator  
Nikki Charlson, Deputy Administrator  
Andrea Trento, Assistant Attorney General  
Erin Perrone, Director, Election Reform and Management  
Tracey Hartman, Director of Special Projects  
Shafiq Satterfield, Acting Voting Systems Director  
Mary Wagner, Director, Voter Registration  
Jared DeMarinis, Candidacy and Campaign Finance  
Shermaine Malcolm, HR Director

Also Present: Jessica Newby, Montgomery County Board of Elections  
Lois Neuman, Montgomery County Board of Elections  
Danielle Gaines, Maryland Matters  
Ralph Watkins, League of Women Voters – Maryland  
Lynn Garland, citizen

**DECLARATION OF QUORUM PRESENT**

Mr. Hogan called the meeting to order at 2:07 pm and stated that there was a quorum present, despite that Malcolm Funn, Board Member, was absent. Mr. Hogan stated that the meeting was being recorded.

**WELCOME OF NEW BOARD MEMBER**

Mr. Hogan welcomed Mr. Voelp to the Board, whose term began on July 1<sup>st</sup>. Mr. Voelp replaces David McManus, former Chairman of the State Board, whose term expired on June 30<sup>th</sup>. Mr. Hogan stated that Mr. Voelp may look familiar to many as he most recently served as President of the Anne Arundel County Board of Elections.

**SELECTION OF CHAIR AND VICE CHAIR**

Mr. Hogan stated that the first order of business was to select a new Chair and Vice Chair. Ms. Howells nominated Mr. Cogan for Chair, and Mr. Voelp seconded the motion. The motion passed unanimously. Mr. Hogan congratulated Mr. Cogan and passed the microphone to him to preside over the remainder of the meeting. Mr. Cogan then called for nominations for Vice Chair. Mr. Voelp made a motion to nominate Mr. Hogan, and Ms. Howells seconded the motion. The motion passed unanimously.

**RATIFICATION OF MINUTES FROM THE JUNE 2019 MEETING**

Mr. Cogan made a motion to ratify the approved minutes from the June 27, 2019, meeting, and Mr. Hogan seconded the motion. The motion passed unanimously.

**ADDITIONS TO THE AGENDA**

Mr. Cogan stated that there were no additions to the agenda at this time.

## **ADMINISTRATOR'S REPORT**

### **1. Announcements & Important Meetings**

#### National Association of State Election Directors (NASED)

From July 14<sup>th</sup> – 16<sup>th</sup>, Ms. Lamone attended NASED's summer meeting in Austin, Texas. During this meeting, election officials from around the country heard presentations about fighting misinformation, the impact of the possible withdrawal of the United States from the International Postal Union, and updates in election administration from various states. Ms. Lamone expressed her concern, and that of other election directors in attendance, at the possible impact of the United States withdrawing from the International Postal Union. She stated that the deadline from the United States to make a decision is in September of this year. .

#### Department of Homeland Security's (DHS) Government Coordinating Council for Election Infrastructure

On July 13<sup>th</sup>, the Election Infrastructure Coordinating Council meet in Austin. Much of the meeting discussed communication protocols for a cyber incident and additional DHS assessments.

### **2. Election Reform and Management**

#### Ballot Marking Device Policy

In response to the State Board's policy on usage of the ballot marking devices for the 2020 elections, we recommended that local boards begin taking to voter outreach events a ballot marking device. In addition, Cortnee Bryant is updating voter outreach documents and producing an informational video for voters to know there are two ways to mark a ballot. Ms. Perrone will be able to finalize the chapters of the Election Judges' Manual once the statement is finalized.

#### Voting in Maryland Brochure

Ms. Bryant updated the *Voting in Maryland* brochure to reflect changes for the 2020 elections. The local boards are now confirming their contact information is correct before sending the brochure to be printed. The brochure is also translated into Spanish for Montgomery County.

#### Federal Voting Assistance Program (FVAP) - Voting Assistance Guide

Each year, the FVAP publishes the *Voting Assistance Guide* that details the absentee process for military and overseas voters. Ms. Perrone distributed contact information for each local board to confirm its accuracy. The deadline to submit the information to the FVAP was July 12<sup>th</sup>. There will be one more opportunity to review the information before it is published.

#### Election Day Page Program

Regulations for the Election Day Page Program have been drafted and sent to the Assistant Attorney General for his review. Once his edits are submitted, the regulations will be presented to the State Board at its next meeting for approval.

#### Comprehensive Audit of 2018 Elections

Ms. Hartman continues work on the comprehensive audit of the 2018 Elections. As of the meeting date, 23 of the 24 local boards have responded to the preliminary reports issued in mid-June and more than 50% of final reports to local boards have been issued. All final reports are expected to be issued by the end of the month.

### **3. Voter Registration**

#### Automatic Voter Registration

Ms. Wagner reported that the Secure and Accessible Registration Act (SARA) went into effect July 1, 2019. The act designates the Motor Vehicle Administration, the Maryland Health Benefit Exchange, local departments of social services, and the Mobility Certification Office (Paratransit) as automatic voter registration agencies. Applicants of these agencies will be registered to vote or have his or her voter registration record updated unless the applicant declines to register or update his or her voter registration record.

#### Regional Training

Beginning next month, Janet Smith and Shekia Harding-Bey will begin regional trainings. The topics will be processing Electronic Registration Information Center (ERIC) reports and jury notices, National Voter Registration Act (NVRA) list maintenance, and absentee processing. The first training session will be at the Wicomico County Board of Elections.

#### MVA Transactions

During the month of June, MVA collected the following voter registration transactions:

New Registration - 11,194	Residential Address Changes - 9,423
Last name changes - 953	Political Party Changes - 2,471

#### Non-Citizens – May 2019 Information

Submitted to the Office of the State Prosecutor - 14
Removal of non-citizens - 14
Removal of non-citizens who voted - 4
Removal of non-citizens who voted multiple times - 0
Non-citizens reported by Immigration & Customs Enforcement - 0
Change in status from Office of the State Prosecutor - 0

### **4. Candidacy and Campaign Finance (CCF) Division**

#### Candidacy

Mr. DeMarinis reported that the 2020 candidate filing period opened in February 2019. Currently, 26 candidates have filed at SBE for the 2020 election cycle. SBE has filed 10 candidates for Baltimore City offices.

#### Campaign Finance

The CCF Audit sent out 3,570 deficiency notices to 1,954 political committees. A majority of amendments were due on July 22<sup>nd</sup>. The deficiency notices covered the 2018 Annual to 2019 Annual Reports, a total of eight campaign finance reports. The most common deficiencies were differences between bank and cash on hand balances and failure to include employer/occupation information. Overall, the committees were understanding of the audit findings and are using this to increase internal controls over their finances.

The City of Annapolis is interested in moving away from paper reports for campaign finance reporting to electronic filing. The CCF Division is offering advice and expertise to their endeavor.

The Citizens' Election Fund Commission, Howard County's public financing program, has formed and are developing the guidelines for the program. On August 20<sup>th</sup>, Mr. DeMarinis will present to the commission best practices and lessons learned.

### Enforcement Actions

On July 9, 2019, the CCF Division received from Friends of Sheldon Laskin a civil penalty of \$25.00 for a cash disbursement of greater than \$25.00.

In response to a question from Mr. Cogan asking if SBE ever sends campaigns a list of common candidacy and campaign finance mistakes, in order to help prevent them, Mr. DeMarinis stated that information of that sort is covered in treasurer training.

## **5. Project Management office (PMO)**

### Inventory Management

Ms. Charlson, speaking for Keith Ross who was absent, reported that the FY2019 Annual Inventory Audit for equipment and supplies ended at SBE and at the local boards on June 30th. Presently, 95.90% of equipment and supplies statewide have been inventoried. This includes all 24 local boards being at least 97.90% compliant and 18 local boards 100% compliant with their inventory audits.

August 15<sup>th</sup> and September 15<sup>th</sup> are the due dates for the Department of General Services (DGS) annual reports. Prior to those dates, SBE will be working with the local boards to reconcile any inventory issues.

The PMO went to at least 10 local boards to pick up equipment and supplies destined for disposal. The items were taken to SBE's warehouse for storage until the time the PMO initiates the disposal process with DGS. In addition, as part of the June clean-up, there were several items from SBE that were transferred to the warehouse.

Also in June and as part of the SBE's box-up efforts prior to the office painting and carpeting, SBE transferred nearly 100 boxes of documents and other materials to the warehouse for storage.

### Additional Space and Painting and Carpeting Projects

The PMO continued its coordination, logistics, and scheduling of work with DGS and the landlord for the additional office space. The construction of the new space is complete with the one major task remaining – the delivery and installation of the cubicle system – and the delivery of furniture ordered from the Maryland Correctional Enterprises. The painting and carpeting project started this month, and two of the fourteen areas are complete.

### Procurements

The PMO continues to work on several procurements that included additional precinct voting booths, privacy sleeves, and black carts.

## **6. Voting System**

### Electronic Pollbooks

Mr. Satterfield reported that SBE continues to work with ES&S on the software update for the implementation of same day registration on election day and finalized and approved the specifications. We expect to have a testable version of the updated software in late summer or early fall. ES&S provided an intermediate release last Friday, July 19<sup>th</sup>, which demonstrates the updated user interface. This release will be used by SBE to update the screenshots for election judges' documentation.

At the July 24<sup>th</sup> meeting of the Board of Public Works, we presented for approval an ES&S contract related to the pollbooks. The contract included additional pollbooks for the local boards of elections, software licenses through the 2020 elections, and software and hardware support for the pollbooks. The Board of Public Works approved, without discussion, the contract.

#### Voting System Upgrade

SBE continues the planning process for a possible software and firmware upgrade that will include all components of the voting system. SBE received an updated beta version which includes additional features on June 28, 2019. The beta version is currently being reviewed by SBE. The Voting System Testing Laboratory continues to test the voting system software. ES&S continues to report that certification is expected by October 31, 2019.

### **7. Information Technology**

#### Memorandum of Understanding (MOU) Renewal with State Archives

Ms. Charlson, again reporting for Mr. Ross, stated that SBE recently renewed the MOU agreement with the Maryland State Archives for Internet services, co-location services, and disaster recovery site services. The MOU period began on July 1, 2019, and lasts through June 30, 2020.

#### Secure Disposal of Hard Disk Drives and Media Tapes

372 hard drives and 8 media tapes were recently securely retrieved from SBE and destroyed by a 3<sup>rd</sup> party. The company has since provided SBE with a Certificate of Destruction with serialized reporting listing the destroyed hard disk drives and media. This is a requirement of the State's Office of Legislative Audit and State Department of Information Technology and complies with DGS guidelines for disposal of such sensitive items.

### **ASSISTANT ATTORNEY GENERAL'S REPORT**

Mr. Trento provided the following report and noted that the *Benisek v. Lamone* case is no longer listed as it was decided in our favor by the United States Supreme Court on the day of the last State Board meeting.

1. *Fusaro v. Davitt et al.*, No: 1:17-cv-03582 (U.S. District Court, D. Md.). 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 Fourth Circuit concluded that Mr. Fusaro had pled a cognizable claim under the First Amendment, but that the State would be entitled to a relaxed level of scrutiny as to whether the limitations violate Mr. Fusaro's rights on remand.
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. *Barber v. Maryland Board of Elections*, No. C-02-CV-17-001691 (Cir. Ct. Anne Arundel Cnty.) No change from the last update. On January 25, Ms. Barber appealed from the Circuit Court's January 11 dismissal of her complaint. Ms. Barber sought damages and judicial review of, among other things, the State Board's decision not to issue a declaratory ruling permitting her to use campaign funds to pay for litigation costs she incurred in her unsuccessful attempt to retain her position as an administrative law judge in the District of Columbia. Ms. Barber was ruled ineligible for that position due to her candidacy in 2016 for Judge of the Circuit Court for Prince George's County, Maryland. The appeal is fully briefed, and on December 18, 2018 the Court of Special Appeals ordered that the appeal would be adjudicated without oral argument.
4. *Judicial Watch v. Lamone*, No. 1:17-cv-02006-ELH (U.S. District Court, D. Md.). No change from the last update. This case involves the denial of access to Maryland's voter registration database. Under Maryland law, access to the voter registration list is limited to Maryland registered voters and only for non-commercial, election-related uses. Judicial Watch—an elections watchdog group located in Tennessee—requested Maryland's voter registration "database" and was denied because it was not a Maryland registered voter. Judicial Watch filed suit, arguing that the database was required to be disclosed under the federal National Voter Registration Act. On April 24, 2019, Judicial Watch filed a reply in support of its motion for summary judgment. On May 8, 2019, the defendants filed a reply in support of their cross-motion for summary judgment. The motions for summary judgment are now fully briefed.
5. *The Washington Post, et al. v. McManus, et al.*, No. 1:18-cv-02527 (U.S. District Court, D. Md.). This case presents a First Amendment challenge by a coalition of newspaper publishers that maintain an online presence to certain provisions of the recently-passed Online Electioneering Transparency and Accountability Act (the "Act"). On January 4, 2019, the district court granted the plaintiffs' motion for preliminary injunction on the ground that the plaintiffs' "as applied" constitutional challenge to the statute was likely to succeed. On February 2, 2019, the defendants appealed that ruling to the Fourth Circuit. On April 12, 2019, the defendants filed their opening appellate brief. On April 19, 2019, the Campaign Legal Center and Brennan Center for Justice filed *amicus curiae* briefs in support of the appellants. On May 31, 2019, the plaintiffs filed their response brief. On June 7, 2019, *amicus curiae* briefs in support of the plaintiffs were filed by the Institute for Free Speech, the National Association of Broadcasters and NCTA – The Internet & Television Association, and the News Media Alliance together with 16 other media organizations. On July 3, 2019, the defendants filed their reply brief. The Court has indicated that it will hear argument on the appeal, but has not scheduled a date for the argument.
6. *Segal v. Maryland State Board of Elections*, No. 1:18-cv-2731 (U.S. District Court, D. Md.). On September 5, 2018, Jerome Segal filed a complaint seeking a preliminary and permanent injunction requiring the State Board of Elections to accept the petition filed in support of the creation of the Bread and Roses party, and to include plaintiff's name on the general election ballot as the Bread and Roses Party's nominee for the U.S. Senate contest. On September 18, 2018, the court denied plaintiff's requested preliminary injunction, on October 11, 2018 the court of appeals affirmed that ruling, and on November 14, 2018, the court of appeals denied plaintiff's request for *en banc* review. On January 4, 2019, the district court ordered plaintiff to submit a status report by January 18, 2019, indicating if the case can be dismissed as moot.

The court reissued the order on April 9, 2019. Mr. Trento was happy to report that just earlier in the day he had received word that the Plaintiff's case had been dismissed.

7. *Johnston, et al., v. Lamone*, No. 18-cv-3988-ADC (D. Md.). No change from the last update. On December 28, 2018, the Libertarian Party of Maryland (the "Party") and its Chairman, Robert Johnston, filed a lawsuit alleging that the statutory scheme governing the official recognition of minor parties in Maryland, as applied to the Party, was unconstitutional in at least two ways. They alleged that the scheme violates their First Amendment speech and association rights by requiring the Party to undertake the petition process to re-obtain formal recognition under State law, when there are already over 22,000 Maryland voters currently registered as Libertarians. They also alleged that the standard by which Maryland verifies petition signatures is unconstitutionally strict, in that it requires the rejection of signatures of known Maryland voters due to technical noncompliance with the statutory standard. Plaintiffs moved for a preliminary injunction, which was denied at a hearing on January 31, 2019. Subsequently, the defendant filed a motion to dismiss. On July 11, 2019, the district court granted the motion to dismiss, concluding that the requirement that the Libertarian Party re-petition for recognition did not violate the party's or its members' constitutional rights, and that the challenge to Maryland's signature standard was not ripe in the absence of a filed petition. On July 24, 2019, the plaintiffs filed a notice of appeal.
8. *Phukan v. Maryland State Board of Elections*, No. C-2-CV-19-000192 (Cir. Ct. Anne Arundel Cnty.). On January 23, 2019, Anjali Reed Phukan, who was the Republican nominee for Comptroller in the 2018 election, filed a lawsuit against the State Board of Elections seeking a writ of mandamus directing the State Board of Elections to decertify Comptroller Peter Franchot's campaign committee, an injunction requiring Mr. Franchot and his campaign committee to file corrected campaign finance reports, a declaratory judgment that Ms. Phukan is entitled to examine the documentation supporting any corrected campaign finance reports that Mr. Franchot or his committee files, and a declaratory judgment that Ms. Phukan be issued the oath of office as Comptroller and be awarded back pay and the costs of suit, should Mr. Franchot or his committee fail to file corrected campaign finance reports. On April 15, 2019, the court granted the defendant's motion to dismiss and dismissed the complaint with prejudice. On May 22, 2019, the court denied the plaintiff's motion to vacate the judgment and motion for a new trial. On May 29, 2019, the plaintiff filed a notice for in banc review by the circuit court, and filed her memorandum for in banc review on June 21, 2019. The defendant filed its response memorandum on July 19, 2019.

#### **APPROVAL OF REQUESTS FOR WAIVERS OF CAMPAIGN FINANCE LATE FEES**

Mr. DeMarinis presented requests from eight campaign committees to waive late fees incurred by the committees. No campaign committees were denied the requested waivers of late fees. The committees requesting a waiver of late filing fees are listed below:

1. Amankwah, John Friends of
2. Daras, Mike Friends of (Michael Daras}
3. Martinez, Alirio Citizens for
4. Oatis, Pamela Friends of
5. Rucker, Antoinette (Netty} Friends of
6. Skarlupka, Carmen Friends of
7. Thompson, Sherone E. for Board of Education, Friends for
8. Wardlow, Larry Jr. Friends of

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

Mr. Hogan referenced a letter in the board meeting folder congratulating and commending the Candidacy and Campaign Finance Division. The constituent stated that she had called SBE many times with various questions regarding candidate reports, and that each time the CCF staff was “helpful, patient and very knowledgeable.”

**APPROVAL OF REGULATIONS – FINAL APPROVAL: SUBTITLE 13 (CAMPAIGN FINANCE)**

Mr. DeMarinis presented for final approval the proposed changes to COMAR 33.13.10. He explained that these regulations were approved at the October 2018 State Board meeting, and published in the Maryland Register on March 1, 2019. No public comments were received.

Mr. DeMarinis briefly explained the purpose of proposed changes and referenced his memoranda dated July 11, 2019 and September 27, 2018. In reference to a question from Mr. Voelp, Mr. DeMarinis explained that payment for campaign expenses can only be made in those forms that are defined in the Election Law Article, namely, by check. In response to a second question from Mr. Voelp, Mr. DeMarinis explained that, prior to being submitted to the members of the State Board for initial approval, all proposed regulations are approved by SBE’s Assistant Attorney General for any conflicts.

Mr. Hogan made a motion to adopt as final the amendments to COMAR 33.13.10.03, as published in the March 1, 2019 issue of the Maryland Register. Ms. Howells seconded the motion, and it passed unanimously.

**APPROVAL OF PROPOSED REGULATIONS FOR ADOPTION: SUBTITLE 11 (ABSENTEE VOTING)**

Ms. Perrone presented proposed regulations to COMAR 33.11 – Absentee Ballots. During the 2019 Legislative Session, a bill was introduced to allow absentee voters to put their voted absentee ballots into a ballot “mailbox” at a designated location. It was determined that allowing absentee voters to submit their voted absentee ballots at an early voting center or a polling place could be written into the regulations that govern absentee ballots. In collaboration with the Election Judge Workgroup, which is composed of several local boards of elections’ directors, deputy directors, and staff members, the process for election judges and voters was determined.

The proposed amendments to COMAR 33.11 are as follows:

**1. *Absentee Ballots – Definitions; General Provisions (33.11.01.01(8))***

This new regulation defines the absentee ballot bag that will be used by each local board at early voting centers and polling places. The bag will be similar to the provisional ballot bag that is currently used, except it will be a different color. A bag is easier for local board staff and election judges to transport back to the local board of elections instead of a type of “mailbox.”

**2. *Absentee Ballots – Issuance and Return (33.11.03.06E)***

These new regulations outline the process that an absentee voter and an election judge should follow at an early voting center or a polling place. This process was considered by comparing an absentee voter putting the voted absentee ballot into a “mailbox” and is similar to the provisional voting process.

3. ***Absentee Ballots – Issuance and Return (33.11.03.08)***

This new regulation further defines timely absentee ballots to include absentee ballots that were submitted by 8 pm on election day. When discussing the process with the Election Judge Workgroup, they preferred that the cutoff for voters submit an absentee ballot in-person be at 8 pm. The voted ballot that absentee voters return their ballot via the USPS must be postmarked by 8 pm on election night to be considered timely. In addition, if a voter drops off an absentee ballot at the local election office, it has to be dropped off by 8 pm. The plan is that an election judge will ask anyone standing in line at 8 pm if they have a voted absentee ballot they want to drop off. After that, no more absentee ballots will be accepted. Absentee ballots submitted during early voting are also included in this regulation since early voting occurs prior to election day.

In response to a question from Mr. Cogan regarding how to track what voters drop off an absentee ballot, Ms. Perrone stated that the working group discussed this and determined that each drop off location will have a sign-in sheet. Ms. Perrone also commented that sign-in procedures are already included in the instructions for election judges, and that these instructions can be applied to absentee ballots. The sign-in sheets can also be audited after the election as part of the comprehensive audit.

There was discussion regarding the 8 pm drop off time, as stated in COMAR 33.11.03.08. Mr. Voelp voiced his support for the spirit of the proposed amendments but was concerned about the voter who is in line to drop of an absentee ballot at 8 pm, but because of a long line, cannot make it into the drop off location until after 8 pm. Ms. Perrone stated that, in a scenario like Mr. Voelp mentioned, the same rules would apply to the absentee ballot drop-off voters as would in-person voters, and therefore someone in line at 8 pm would be able to drop off their absentee ballot so long they were in line by 8 pm. After further discussion regarding other possible scenarios and the legality of absentee ballots received after 8 pm, Ms. Perrone made a suggestion of changing certain language in the proposed amendment to COMAR 33.11.08(B)(2) to accommodate the concerns of the board members. The board members verbally agreed to the change. Mr. Cogan tabled voting on the proposed amendments until the August meeting, when Ms. Perrone will present the proposed regulations with the updated language.

**APPROVAL OF PROPOSED REGULATIONS FOR ADOPTION: SUBTITLE 19 (SAME DAY REGISTRATION AND ADDRESS CHANGE)**

Ms. Hartman presented proposed regulations to update COMAR 33.19 – Same Day Registration and Address Change. As enacted in Chapter 755 of the 2019 Laws of Maryland, Election Law Article, §3-306 allows for an individual to register to vote on election day and defines the documents required used by an election judges to confirm that the applicant has established proof of residency. Section 3-306 of the Election Law Article also states that the State Board shall take appropriate measures to notify potential registrants of their correct polling place and that the State Board shall adopt regulations and procedures in accordance with §3-306 for the administration of voter registration on election day. Ms. Hartman explained that the proposed amendments bring the regulations in line with the law that will go into effect on October 1, 2019.

1. ***Same Day Registration and Address Changes – Definitions; General Provisions (33.19.01.01(A))***

Deletion of the words “*and address changes are*” and adds the words “*and election day*” to the listed regularly scheduled elections.

**2. *Same Day Registration and Address Changes – Definitions; General Provisions (33.19.01.01(B))***

This new section specifies that same day address change is available during early voting for the listed regularly scheduled elections. Same day address change was removed from 33.19.01.01(A), as same day address changes are only allowed during early voting.

**3. *Same Day Registration and Address Changes – Definitions; General Provisions (33.19.01.02)***

Addition of “*or on election day*” to same day party affiliation changes, which are prohibited.

**4. *Same Day Registration and Address Changes – Public Notice (33.19.02.01(A))***

This proposed amendment increases the minimum requirements for public notice from SBE, stating that the pre-election mailing for each pre-qualified voter shall include the correct polling place for the pre-qualified voter’s address.

**5. *Same Day Registration and Address Changes – Election Judges (33.19.03.01(A))***

Addition of the words “*Early Voting. For each early voting center...*” clarifies that this subsection refers only to early voting and early voting centers.

**6. *Same Day Registration and Address Changes – Election Judges (33.19.03.01(B))***

Like Section A, Section B of Chapter 3 specifies the number of election judges required on election day at each polling place who will be responsible for same day registration, including one primary and one backup election judge, as is the same for early voting. However, because adding two additional election judges at each polling place may cause an undue burden to the local boards, 33.19.03.01(B)(2) specifies that the a local board may assign the same day registration duties an election judge already assigned to that precinct, or to an election judge or judges whose sole duties are same day registration.

**7. *Same Day Registration and Address Changes – Processing New Registrants and Address Changes (33.19.04.01(A) and 33.19.04.01(B))***

Addition of the words “*Early Voting*” and “*at and early voting center*” in the Section heading specify that these instructions regarding the issuance of regular or provisional ballot apply only to early voting.

**8. *Same Day Registration and Address Changes – Processing New Registrants and Address Changes (33.19.04.01(B)(2))***

Addition of the words “*Is a pre-qualified voter but cannot*” to the remainder of the Subsection clarifies that a voter who is prequalified but cannot provide proof of residency in the county in which the individual is attempting to register must receive a provisional ballot.

**9. *Same Day Registration and Address Changes – Processing New Registrants and Address Changes (33.19.04.01(C) and 33.19.04.01(D))***

Like Sections A and B , Sections C and D of Chapter 4 specifies, for individuals registering to vote on election day, who should receive a regular ballot and who should receive a provisional ballot. Section C specifies the requirements for a regular ballot: that the individual be pre-qualified and that they provide proof of residency in the precinct in which they are registering. Section D specifies that anyone who wants to register to vote on election day but is not pre-qualified, or is pre-qualified but cannot provided proof of

residency in the precinct where the individual is attempting to register will receive a provisional ballot.

**10. Same Day Registration and Address Changes – Processing New Registrants and Address Changes (33.19.04.02(A) and 33.19.04.02(B))**

Addition of the words “*During early voting*” in Sections A and B clarifies that the circumstances described in which an election judge should issue a regular or provisional ballot apply only to early voting.

**11. Same Day Registration and Address Changes – Processing New Registrants and Address Changes (33.19.04.02(C))**

This new section specifies that address changes are not permitted on election day.

In response to a question from Mr. Cogan, Ms. Hartman clarified that the pre-election mailing referenced in COMAR 33.19.02 is only sent to pre-qualified voters and is different than the sample ballot sent to registered voters.

Mr. Hogan made a motion to approve the submission of these regulations for publication and public comment, and Mr. Voelp seconded the motion. The motion passed unanimously.

**DETERMINE USE OF BALLOT MARKING DEVICES IN 2020 ELECTIONS**

At the June State Board meeting, a motion was passed with the goal of revising the State Board’s policy regarding the usage of ballot marking devices (BMDs) in future elections. One provision of the motion was an increase in the required minimum number of voters per precinct who use the ballot marking device, and to that end, the final provision of the motion stated that SBE was to update the statement given by election judges to notify voters of the option to use the BMDs.

Ms. Perrone presented the results of a survey of the local boards of elections. In this survey, the election directors were given three options of an updated statement given by election judges to notify voters of the option to use the BMDs. The local boards overwhelmingly preferred the third option – “You have two ways to mark your ballot –either by hand or with the electronic device. Which do you prefer?” Forty-five percent of the local boards preferred this option, with the other two options (“Do you want to mark you ballot by hand or do you want to mark you ballot by machine?” and “Do you want to mark you ballot by hand or do you want to mark you ballot electronically?”) both receiving 13.6% as the preferred choice and 45.5% and 59.1%, respectively as the not preferred choice.

In response to a question from Mr. Voelp, Ms. Perrone clarified that this statement would be said at the ballot issuance table. In response to a question from Mr. Cogan regarding the obligation to tell voters with disabilities about the BMDs, Ms. Lamone stated that previous experience has shown that using the word “accessible” may have deterred voters without disabilities from using BMDs, potentially leading to an assumption that the BMDs are only for those who need an accessible way to vote.

Ms. Howells made a motion to approve statement #3 – “You have two ways to mark your ballot- either by hand or with the electronic device. Which do you prefer?” – as the statement to be used by election judges to notify voters of the options available to mark their ballot. Mr. Hogan seconded, and the motion passed unanimously. The members of the Board agreed to have the statement reviewed by language experts at the University of Baltimore, and that if necessary, they would revisit the statement if the circumstances warrant.

At this point in the meeting, Mr. Cogan moved Agenda item #11 – Proposed Change to *Voter Registration Application (VRA)* – to Item #16, as the last item discussed prior to the closed meeting.

### **APPROVAL OF BYLAWS OF LOCAL BOARDS OF ELECTION**

Ms. Hartman referenced the model bylaws for 2019-2023 term of the local boards of elections and a document outlining the differences in duties between local board members and local board staff. Ms. Hartman noted that these were the same model bylaws she presented at the June meeting, but as Ms. Howells was absent and Mr. Voelp was not a Board member yet, that it would be helpful see the model bylaws again.

Ms. Hartman presented the bylaws for Allegany County and Kent County Boards of Elections for adoption. She stated that the bylaws as presented by each local board were identical to the model bylaws except for filling in the name of the local board, removing references to substitute members, and deciding, in Section 4.2, the level of political activity each member is allowed.

Mr. Voelp made a motion to accept the bylaws of Allegany County and Kent County Boards of Elections as adopted by the local board, and Mr. Hogan seconded. The motion passed unanimously.

### **QUARTERLY SECURITY BRIEFING**

Ms. Charlson gave the quarterly security briefing to the Board. She reported that at the April 2018 State Board meeting, the Board was thoroughly briefed on how we protect, monitor, and restore our security systems, and that during subsequent quarterly briefings, the Board has been provided updates. This quarterly briefing is an update since the May 2019 briefing, which included information current through April 2019.

#### Protect – Generally

1. Ongoing Cyber & Information Security Activities- Ms. Charlson reported that SBE continues to perform regular software updates and perform monthly computer assessments on computers accessing State systems.
2. Cybersecurity Training- Ms. Charlson reported that SBE continues to participate in the State Department of Information Technology's online security training program.
3. Information Sharing- Ms. Charlson reported that SBE continues to receive information from the Multi-State Information Sharing Analysis Center (MS-ISAC) and the Election Infrastructure ISAC.
4. Procurement- Ms. Charlson stated that SBE is in the final stages of procurement for an election security team to support our information security efforts.

#### Monitor – Generally

1. Ms. Charlson reported that DHS' weekly cyber hygiene scans of the SBE website continues.
2. SBE continues to perform various system scans.
3. DHS' Albert sensor monitors network traffic and we receive monthly reports. To date, there have been no incidents reported.

#### Recover – Generally

1. Ms. Charlson stated that she is continuing to reorganize and update SBE's disaster recovery plan.
2. Ms. Charlson reported that DHS will conduct for SBE staff a cyber table top exercise in fall 2019.

3. Finally, in response to the table top exercises conducted by SBE in August 2018 and May 2019, Ms. Charlson continues to work with the local boards to develop their own responses to various scenarios. Several meetings are planned to work on this effort and review locally developed responses.

## **OLD BUSINESS**

### **Ballot Stubs**

Ms. Howells asked about information that she had previously requested regarding ballot stubs. Ms. Perrone stated that she recently received a letter from the Maryland Association of Election Officials (MAEO) State Regulation and Review Committee. She was not able to review the letter and brief the board members in time for this meeting, but that the topic could be on the agenda for the August State Board of Elections meeting. In response to a question from Ms. Howells regarding the letter, Ms. Perrone stated that the committee is seeking a way to keep ballot stubs for those local boards of elections who want to keep using them, and eliminate with ballot stubs for those who do not want to keep using them.

Ms. Howells also asked for county-level data on the number of absentee ballots delivered by the online ballot delivery system and returned for counting. Ms. Charlson stated that she believed that the requested information had already been sent to her but would send it to Ms. Howells again.

## **NEW BUSINESS**

There was no new business to discuss.

## **DISCLOSURE OF CAMPAIGN CONTRIBUTIONS**

There were no campaign contributions to disclose.

## **PROPOSED CHANGE TO THE VOTER REGISTRATION APPLICATION**

Mr. Cogan suggested that the proposed change to voter registration application be discussed in the closed meeting.

## **CLOSED MEETING: QUARTERLY SECURITY BRIEFING and PROPOSED CHANGE TO THE VOTER REGISTRATION APPLICATION**

Mr. Cogan requested a motion to close the board meeting under General Provisions Article §3-305(b)(7), which permits closing a meeting to consult with counsel to obtain legal advice, specifically regarding changing the name of a field on the VRA. Mr. Hogan made a motion to convene in closed session, and Mr. Voelp seconded the motion. The motion passed unanimously.

Mr. Cogan requested a motion to close the board meeting under General Provisions Article §3-305(b)(15), which permits closing a meeting to discuss cybersecurity, if the public body determines that public discussion would constitute a risk to: (i) security assessments or deployments relating to information resources technology; (ii) network security information . . . or (iii) deployments or implementation of security personnel, critical infrastructure, or security devices. Mr. Hogan made a motion to convene in closed session, and Mr. Voelp seconded the motion. The motion passed unanimously.

The closed session began at 3:46 pm. In addition to the board members present when the closed meeting convened, Ms. Lamone, Mr. Trento, and Ms. Charlson, attended the closed meeting. Ms. Perrone and Ms. Wagner attended the part of the closed meeting related to receiving advice

about changing the name of a field on the voter registration application, and Mr. Omenka attended the part of the closed meeting related to cybersecurity.

*Consult with Counsel about Proposed Change to the VRA*

Mr. Trento gave his advice on making any changes to the voter registration application. No action was taken.

*Security Briefing*

Ms. Charlson and Mr. Omenka provided updates to how the critical election systems are protected, monitored, and restored. The election systems discussed were the statewide voter registration, candidacy and election management system; the voting system; the online campaign finance and business contribution filing system; the online voter registration system; voter look-up; and polling place locator. Mr. Omenka also shared the results of a recent assessment by the U.S. Department of Homeland Security. No action was taken.

The closed meeting adjourned at 4:19 pm.

**SCHEDULE NEXT MEETING**

The next meeting is scheduled for Thursday, August 22, 2019, at 2:00 pm.

**ADJOURNMENT**

Mr. Hogan made a motion to adjourn the meeting, and Ms. Howells seconded the motion. The motion passed unanimously. Mr. Cogan adjourned the meeting at 4:23 pm.