

State Board of Elections Annual Report

(January 1, 2022- December 31, 2022)

OCTOBER 1, 2023

Virginia Department of Elections



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Executive Summary

In accordance with the Code of Virginia §24.2-103(J) the State Board of Elections (the Board), through the Department of Elections (ELECT), is pleased to provide to the Governor and the Virginia General Assembly the State Board of Elections Annual Report. Pursuant to §24.2-103 of the Code of Virginia, the Board supervises, coordinates, and adopts regulations governing the work of local electoral boards, registrars, and officers of election to ensure secure, uniform, and trustworthy elections. During the 2022 calendar year (January 1, 2022 – December 31, 2022), the Board met a total of eleven times, certifying three elections, approving two new regulations, adopting one amendment to an existing regulation, assessing and addressing a variety of administrative matters, updating and ensuring election security, and defining penalties for Stand By Your Ad (SBYA) violations.



Introduction

The Virginia State Board of Elections (the Board) was created in 1946 as a nonpolitical agency responsible for ensuring fairness, accuracy, and uniformity in all elections in the Commonwealth of Virginia. The Board promotes the proper administration of election laws, campaign finance disclosure compliance, and voter registration processes in the state by promulgating rules, regulations, issuing instructions, and providing information to local electoral boards and general registrars. The Department of Elections (ELECT) was formed in 2014 to conduct the Board’s administrative operations and other duties consistent with its delegated authority. In 2022, ELECT proposed approximately 45 memorandums to the Board summarized in the table below.

Type	Number of Memorandum
New Regulations	2
Amended Regulations	1
Election Certification	3
Election Administration	16
Risk-Limiting Audit	7
Election Security	8
Stand By Your Ad	4
Miscellaneous	4
Total	45



Regulations

Pursuant to Virginia Code §24.2-103, the Board has the authority to make rules and regulations, issue instructions, and provide information consistent with election laws to the electoral boards and general registrars.¹ Electoral Boards and registrars must adhere to the rules and regulations of the Board, ensuring compliance with Virginia and federal laws.

New Regulations

Request for a Risk-Limiting Audit for a Contested Race within a Jurisdiction (1VAC20-60-80)

As per the Virginia Code §24.2-671.2(D), the Board must promulgate regulations for local electoral boards to submit a request to conduct a risk-limiting audit of a contested race within the local electoral board's jurisdiction.² This regulatory action establishes the process through which a local electoral board may request a risk-limiting audit of a contested race in its jurisdiction. The Board unanimously passed this regulation on August 16, 2022.

Required Training for Virginia Voter Registration System Users. (1VAC20-20-90)

As per the Virginia Code §24.2-410.2, the Board is required to “promulgate regulations and standards necessary” to ensure the security of the Virginia voter registration system (VERIS).³ This law also requires ELECT to limit access to VERIS to address and resolve security risks or enforce compliance with the Locality Election Security Standards. This regulatory action restricts access to VERIS to individuals who have enrolled and completed security awareness training approved or provided by ELECT. The Board unanimously passed this regulation on December 5, 2022.

Amendments to Existing Regulations

Alternative Processing Procedures for Absentee Ballots Returned before Election Day (1VAC20-70-40)

This regulatory action sought to formalize the pre-processing steps that localities took during the 2021 General Election. These processes resulted in the efficient and timely processing and reporting of absentee ballots. For the November 2021 General Election, ELECT issued instructions to the local general registrars with certain additional requirements for the pre-processing of absentee ballots. These additional requirements included mandating at least two pre-processing meetings in the seven

¹ See the Code of Virginia, [§24.2-103](#).

² See the Code of Virginia, [§24.2-671.2](#).

³ See the Code of Virginia, [§24.2-410.2](#).



days before Election Day and other requirements. The Board unanimously passed this amendment on April 13, 2022.

Election Administration

Election Administration encompasses the proper administration of election laws, campaign finance disclosure compliance, and voter registration processes in Virginia. This includes creating rules, issuing instructions, and providing information consistent with state and federal election laws to promote the proper administration of elections and to obtain uniformity in the practices of election officials. The Board reviewed proposals from ELECT regarding election administration during the 2022 calendar year. Below is a summarization of items proposed to the Board including revisions to documents, certification of elections, and the form of ballots used in elections throughout the Commonwealth.

Minority Language Requirements

In 2021 the General Assembly passed HB1890, which established minority language accessibility requirements for certain localities. Effective September 1, 2021, the State Board of Elections “shall designate a county, city or town as a covered locality...” A “covered locality”, as defined by Virginia Code §24.2-128, is a locality that has:⁴

- (i) More than five percent of the citizens of voting age of such county, city, or town are members of a single language minority and are unable to speak or understand English adequately enough to participate in the electoral process;
- (ii) More than 10,000 of the citizens of voting age of such county, city, or town are members of a single language minority and are unable to speak or understand English adequately enough to participate in the electoral process; or,
- (iii) In the case of a county, city, or town containing all or any part of an Indian reservation, more than five percent of the American Indian citizens of voting age within the Indian reservation are members of a single language minority and are unable to speak or understand English adequately enough to participate in the electoral process.

Any locality that is designated a covered locality pursuant to Virginia Code §24.2-128 will be required to translate into the applicable minority language any voting or election materials available in English. Below is a table showing the localities that were designated on January 18, 2022 by the Board as meeting the minority language criteria.

⁴ See the Code of Virginia, [§24.2-128](#).



Locality	Language Required
Manassas City	Spanish
Manassas Park City	Spanish
Prince William County	Spanish
Fairfax County	Spanish, Vietnamese

Split Precinct Waivers

Pursuant to Virginia Code §24.2-307, “If a governing body is unable to establish a precinct with the minimum number of registered voters without splitting the precinct between two or more congressional districts, Senate districts, House of Delegates districts, or local election districts, it shall apply to the State Board for a waiver to administer a split precinct.⁵ The State Board may grant the waiver or direct the governing body to establish a precinct with fewer than the minimum number of registered voters as permitted by § 24.2-309.” The minimum number of voters for a county precinct is 100, and the minimum for a city precinct is 500. Split precinct waivers must be renewed by the governing body each year. The Board granted 15 split precinct waivers for various counties and cities.

Certification of Elections

During the 2022 Calendar year, the Board certified 3 elections. On January 18, 2022, the Board certified the results of the January 5, 2021 Special Elections for House of Delegates District 89, pursuant to Virginia Code §§24.2-679 and 24.2-680.⁶

On July 5, 2022, the Board certified the results of the June 21, 2022 Democratic and Republican Primaries for United States House of Representatives Districts 2, 3, 6, 7, and 8. The winners of each primary were declared as that party's nominee for the November 8, 2022 election, pursuant to Virginia Code §24.2-534.⁷

Last, on December 5, 2022, the Board completed the certification of the November 8, 2022 General Election pursuant to Virginia Code § 24.2-679.⁸ The Board certified the election results for the 11 U.S. House of Representative Districts.

⁵ See the Code of Virginia, [§24.2-307](#).

⁶ See the Code of Virginia, [§§24.2-679](#) and [24.2-680](#).

⁷ See the Code of Virginia, [§24.2-534](#).

⁸ See the Code of Virginia, [§24.2-679](#).



Ballot Order

In the event that two or more candidates file simultaneously, the order of the filing is determined by the electoral board or the Board, pursuant to Virginia Code §24.2-529.⁹ Additionally, the Board must determine by lot the order of political parties, pursuant to Virginia Code §24.2-613.¹⁰

On April 13, 2022, the Board certified the determinations by lot of the order of candidates on the ballot for primary elections to be held on June 21, 2022. During the same meeting, the Board determined by lot and certified the ballot order for all general and special elections held between April 30, 2022 and January 31, 2023.

Party Abbreviations

Pursuant to Virginia Code §24.2-613(A), “[t]he ballots shall comply with...the standards prescribed by the Board.”¹¹ ELECT staff recommended on August 16, 2022 that the Board approve the recommended abbreviations for general and special elections being held through April 30, 2023. The memorandum included political parties, recognized political parties, and potential abbreviation options. The Board approved the party abbreviations by a unanimous vote.

Revisions to Virginia Absentee Ballot Application and Virginia Permanent Absentee Voter Change Form

ELECT and a workgroup of general registrars collaborated to revise the Virginia Absentee Ballot Application Form (SBE-701/703.1) and the Virginia Permanent Absentee Voter Single Election Change Form (SBE-703.1C). The revised forms simplified the process for voters by streamlining the questions, refining language for clarity, and addressing formatting issues. The Board unanimously approved the revisions on July 5, 2022.

Revision of State Board of Elections Ballot Standards

In the 2022 Session, the General Assembly passed and the Governor signed Senate Bill 3 and House Bill 927 requiring reporting of results from the Central Absentee Precinct by precinct. In conversations with general registrars and voting system vendors, it was determined that the best and easiest way to accomplish this legislative mandate is to produce a separate “ballot style” for each precinct. Previously, if all of the contests and questions for multiple precincts were the same, one “ballot style” could be created and used in all of the precincts. However, that does not permit for the separation

⁹ See the Code of Virginia, [§24.2-529](#).

¹⁰ See the Code of Virginia, [§24.2-613](#).

¹¹ *Id.*



and reporting of the results from the Central Absentee Precinct by precinct. By creating a separate “ballot style” for each precinct, the voting systems can more easily determine in which precinct the votes cast for a single ballot can be allocated. On August 16, 2022, ELECT proposed revisions, reflecting these conversations, of the State Board of Elections Ballot Standards, and the Board unanimously approved the revisions.

Revision of the Board Electronic Meeting Policy

Acts of Assembly Chapter 597 from the 2022 Session of the General Assembly changed the provisions of the Virginia Freedom of Information Act (FOIA) concerning electronic meetings. Prior to September 1, 2022, the provisions concerning electronic meetings were found in Virginia Code §2.2-3708.2.¹² As of September 1, 2022, the FOIA provisions concerning electronic meetings are found in §2.2-3708.2 and §2.2-3708.3.¹³ These two Code sections separate electronic meetings into two general categories:

1. Electronic meetings held other than during a declared state of emergency, which includes both remote participation by individual members and all-virtual public meetings, in §2.2-3708.3; and,
2. Electronic meetings held during a declared state of emergency, in §2.2-3708.2.

ELECT proposed revisions to reflect these changes, and the Board unanimously approved the revisions on September 27, 2022.

Election Security

The Board and ELECT consistently work to ensure the integrity and security of every election is upheld in the Commonwealth. Throughout the 2022 calendar year, the Board performed its role in election security by approving various updates related to pollbooks, voting systems, and voting system security. Additionally, the Board approved the performance of a risk-limiting audit after the general election in November 2022.

VRSS Recommendations Regarding Locality Election Security Standards

Pursuant to Virginia Code §24.2-410.2, the Board is required to update the Locality Election Security Standards by November 30 annually, after consultation with the Voter Registration System Security (VRSS) Advisory Group, a group consisting of ELECT staff, representatives of local government

¹² See the Code of Virginia, [§2.2-3708.2](#).

¹³ See the Code of Virginia, §§[2.2-3708.2](#) and [2.2-3708.3](#)



information technology professionals, and general registrars.¹⁴ The VRSS reviewed the 2022 Locality Election Security Standards (LESS) and made a concerted effort to streamline and clarify the election security standards for all localities regardless of size. On November 16, 2022, ELECT and VRSS presented revisions to the LESS, and the Board unanimously approved the revisions. Previously, the LESS requirements included 446 controls and 23 control families; following the Board's action, these requirements for localities were reduced to 163 controls and 14 control families.

Ballot On Demand Standards and Certification

Pursuant to Virginia Code §24.2-101, the definition of a voting system includes Ballot on Demand (BOD) systems.¹⁵ Due to this change, the Board must provide a set of standards for the approval and certification of BOD, pursuant to Virginia Code §24.2-629.¹⁶ ELECT staff developed certification standards to ensure that BOD systems meet all necessary statutory standards. ELECT proposed these standards, and the Board unanimously approved the new standards on August 16, 2022.

Based on the BOD Standards approved by the Board, 4 voting systems vendors submitted their systems for certification by the Board. On September 27, 2022, the Board unanimously approved and certified the following BOD systems for use in the Commonwealth: DemTech Ballot on Demand System Certification 1.0, KNOWiNK Ballot of Demand Poll Print System Certification 3.0.1, Elections Systems & Software Ballot on Demand Systems Balotar 3.0.5.1 and BOD Printing System 1.0, and Hart InterCivic Ballot on Demand Systems Verity Print 2.5 and Verity Build versions.

Locality Extensions

In the Commonwealth, localities have over 8,000 electronic pollbooks (EPBs), which are supported by five vendors. In 2020, Electronic PollBook Certification Standards were approved by the State Board of Elections with an emphasis on providing secure connectivity for use in satellite locations. At the March 1, 2021 State Board of Elections meeting, a recommendation of a timeline for localities to upgrade was provided, with all systems to be upgraded by July 21, 2021. The fiscal impact had been difficult on localities purchasing upgraded EPBs. Some localities were not prepared to purchase the pollbooks in time for the upcoming November election. These localities only used EPBs on Election Day. ELECT worked with the localities and vendors to have the necessary upgrades ready by December 31, 2022, determining that there would be no impact on the security or connectivity of the old EPBs for the November election. ELECT proposed an extension to the upgraded timeline for the following localities: Accomack County, Bland County, Caroline County, Cumberland County, Giles

¹⁴ See the Code of Virginia, [§24.2-410.2](#).

¹⁵ See the Code of Virginia, [§24.2-101](#).

¹⁶ See the Code of Virginia, [§24.2-629](#).



County, Lancaster County, Nelson County, Northampton County, Poquoson City, Portsmouth City, Radford City, Roanoke City, Spotsylvania County, and Warren County. The Board unanimously approved the extension for these localities on September 27, 2022.

Unisyn Voting Solutions Version 2.2 Certification

On March 1, 2022, ELECT requested the Board certify the use of the Unisyn Voting Solutions 2.2 voting system. During the preliminary review, the state-designated evaluation agent conducted a preliminary analysis of the Technical Data Package and other materials provided and prepared test assertions. Unisyn provided the certification fee and the testing/evaluation was conducted on February 8 through February 10, 2022 at the ELECT facilities in Virginia. In addition, the system was successfully tested in a Mock Election in Loudoun County on February 11, 2022. The Unisyn voting system presented for certification under 2.2 successfully completed Virginia Voting Systems State Certification requirements. The Board motioned and approved the use of the updated system by a unanimous vote.

KNOWiNK Poll Pad 2.58 and 3.0.1 Certification

On April 13, 2022, ELECT requested the Board certify the use of the KNOWiNK Poll Pad 2.58 and 3.0.1. During the preliminary review, the state-designated evaluation agent conducted a preliminary analysis of the Technical Data Package and other materials provided and prepared test assertions. KNOWiNK provided the certification fee and the testing/evaluation was conducted on March 23 and 24, 2022 at the ELECT facilities in Virginia. In addition, the system was successfully tested in a Mock Election in Fairfax County on March 25, 2022. The KNOWiNK EPBs presented for certification under 2.5.8 and 3.0.1 successfully completed Virginia Electronic Pollbook State Certification requirements. The Board motioned and approved the use of the updated system by a unanimous vote.

Elections System & Software ExpressPoll 7.2.4.0 Certification

On May 24, 2022, ELECT requested the Board certify the use of Elections System & Software(ES&S) EPB ExpressPoll 7.2.4.0. SLI Compliance, an independent testing authority, determined that the ES&S ExpressPoll met the requirements of the Election Assistance Commission (EAC) Voluntary Voting System Guidelines (VVSG). During the preliminary review, the state-designated evaluation agent conducted a preliminary analysis of the Technical Data Package and other materials provided and prepared test assertions. ES&S provided the certification fee and testing was conducted on May 9-11, 2022 at ELECT facilities in the Commonwealth. In addition, the system was successfully tested in a Mock Election in Richmond County on May 13, 2022. The ES&S ExpressPoll presented for certification under 7.2.4.0 successfully completed Virginia Electronic Pollbook State Certification requirements. The Board motioned and approved the use of the updated system by a unanimous vote.



Risk-Limiting Audit

Pursuant to Virginia Code §24.2-671.2(B), the Board must promulgate rules and procedures for the conduct of risk-limiting audits (RLA).¹⁷ ELECT staff developed an RLA Manual that encompassed all rules and procedures to conduct RLAs in the Commonwealth. This Manual was presented to the Board on September 27, 2022 and unanimously approved. The RLA Manual can be found on ELECT's website as Chapter 19 of the General Registrar and Electoral Board Handbook.¹⁸

Pursuant to Virginia Code §24.2-671.2(C), ELECT is required to conduct an RLA on certain races after each general election. For the November 2022 general election, an RLA of a U.S. House of Representatives race was statutorily required. On November 16, 2022, the Board met electronically to select the U.S. House of Representatives race, set the risk limit, and generate the random seed number. The Commissioner mixed a bowl of film canisters, each containing a U.S. House of Representatives race, and the Chairman of the Board selected a film canister. District 9 of the U.S. House of Representatives was chosen. The risk limit for the RLA was set by the Board to 10%.

ELECT utilizes an RLA software called Arlo to conduct RLAs. Arlo is an open-source software hosted by the non-profit organization VotingWorks. Arlo selected a representative sample of ballots cast in the election at random. These ballots were reviewed by hand to verify the accuracy of machine counts. The results from the RLA indicated that there was a .0000004864% chance that the audit of the U.S. House of Representatives 9th District contest was inaccurate, providing election officials with strong evidence and confidence in the reported outcome of the election. The audit result fell significantly below the 10 percent risk limit, confirming the result for the District 9 race accurately portrayed the winner of the election. A full report can be found on ELECT's website.¹⁹

Stand by Your Ad

Stand by Your Ad (SBYA) is a provision of the 2002 Bipartisan Campaign Reform Act, which requires any candidate running for federal political office to identify themselves on and approve any political advertisement. Virginia Code §24.2-955 states that any sponsor of print media, radio, television, or online platform advertising is required to disclose their sponsorship on said advertisement.²⁰ If a violation of Political Campaign Advertisement occurs, §24.2-955.3 states the penalties and in what manner the Board must handle the assessment of the violation.²¹

¹⁷ See the Code of Virginia, [§24.2-671.2\(B\)](#).

¹⁸ See ELECT, [RLA Manual](#).

¹⁹ See ELECT, [Risk-limiting Audits](#).

²⁰ See the Code of Virginia, [§24.2-955](#).

²¹ See the Code of Virginia, [§24.2-955.3](#).



SBYA Citations

For statewide or General Assembly offices, ELECT recommends a \$100 penalty for a first-time violation and \$300 thereafter, doubling the value if the violation is within 14 days of the election. For local or constitutional offices, ELECT recommends a \$50 penalty for a first-time violation, and \$100 thereafter, again doubling the penalty within 14 days of an election. If the Board unanimously agrees that the consequences of the ad are low, the Board may address a \$25 violation so long as the perpetrator is a first-time offender.

January 18, 2022

The Board held a public hearing to assess the violations of Virginia Code §24.2-955 for the November 2021 general election. The Board heard 17 cases, dismissing 1 and finding 16 guilty, assessing a total of \$3,100 in civil penalties. The Board affirmed their findings on March 1, 2022 during a public meeting.

August 16, 2022

The Board held a public hearing to assess the violations of Virginia Code §24.2-955 for the June 2022 primary election. The Board heard 2 cases, finding both guilty, and assessed a total of \$75 in civil penalties. The Board affirmed their findings on September 27, 2022 during a public meeting.

Miscellaneous

Delegations of Authority

During the 2022 calendar year, the Board also reviewed the Delegations of Authority. The Delegations specified the roles and responsibilities of ELECT as delegated by the Board. On March 1, 2022, the Board approved retaining the power to approve split precinct waivers. On December 5, 2022, the Board approved the retention of some aspects of authority while delegating some to ELECT; the document containing all delegations of authority from the Board to ELECT can be found on Virginia Regulatory Town Hall.²²

Advisory Review Workgroup

The Board established the Advisory Review Workgroup (“the Workgroup”) by resolution on October 29, 2019. The resolution expires February 1, 2023. The Workgroup is comprised of three representatives from the Virginia Registrars Association, three representatives of the Virginia Electoral Board Association, one representative of the Virginia Association of Counties, one

²² See ELECT, [State Board of Elections Delegations of Authority](#).



representative of the Virginia Municipal League, and five citizen members. A citizen member chairs the Workgroup. The first assignment the Board gave to the Workgroup was to “develop benchmarks to measure the success of elections in Virginia.” The Workgroup submitted the first phase of their report on April 25, 2022. The report identifies the key 5 elements of a well-run election: Accessibility, Efficiency, Transparency, Security, and Accuracy. The full report can be found in the Board’s agenda for May 24, 2022 on Virginia Regulatory Town Hall.²³

Conclusion

A wide variety of regulations, amendments, administrative policies and procedures, and election security updates were approved by the Board in 2022. The Board-certified new voting systems and electronic pollbooks in accordance with the state certification process. Furthermore, the Board accurately certified the election results of the 2022 primary and general elections as well as the special election for House of Delegates District 89. The elections community will continue to promote and support accurate, fair, open, and secure elections for the citizens of the Commonwealth.

²³ See Virginia Department of Planning and Budget, [Virginia Regulatory Town Hall](#).

