

State Board of Elections Annual Report

(January 1, 2023 – December 31, 2023)

AUGUST 20, 2024

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 the State Board of Elections Annual Report to the Governor and the Virginia General Assembly. 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 2023 calendar year (January 1, 2023 – December 31, 2023), the Board met a total of 14 times, certifying 6 elections, approving 1 new regulation, adopting 4 amendments to existing regulations, and repealing 1 regulation in addition to addressing a variety of administrative matters.



Introduction

The Virginia State Board of Elections (the Board) was created in 1946 as a non-political 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, amending 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 2023, ELECT proposed approximately 62 memorandums to the Board summarized in the table below.

| Topic | Number of Memorandums |
|----------------------------|-----------------------|
| Regulations | 8 |
| Election Administration | 23 |
| Certification of Elections | 6 |
| Election Security | 7 |
| Risk-Limiting Audits (RLA) | 7 |
| Stand by Your Ad (SBYA) | 5 |
| Miscellaneous | 6 |
| Total | 62 |

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. Pursuant to §2.2-4002(B)(8) of the Code of Virginia, all regulations proposed during 2023 were exempt from the regulatory administrative process set forth in the Administrative Process Act.²

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

² See Code of Virginia [§§2.2-4000](#) and [2.2-4002\(B\)\(8\)](#).



Approving New Regulations

Material Omissions from Officer Removal Petitions and Petition Signature Qualifications (1VAC20-60-90)

Acts of Assembly Chapters 663 and 664 passed during the 2023 Session of the General Assembly and set out the procedures by which an elected officer, or officer who has been appointed to fill an elective office, may be removed from office.³ The regulation outlined what constitutes a material omission on a removal petition. Along with a petition for removal form, the Board unanimously approved 1VAC20-60-90 on May 30, 2023.

Amending Existing Regulations

Request for a risk-limiting audit for a contested race within a jurisdiction (1VAC20-60-80)

These amendments clarified the process set out by a local electoral board to request an RLA pursuant to §24.2-671.2(D).⁴ A contested race was defined as “a contested race wholly contained within the jurisdiction of the county or city for which an electoral board requesting a risk-limiting audit serves.”⁵ Clarification was provided regarding the application for multiple RLAs as well as the required majority vote of a local electoral board. The amendments also removed the requirements for the number of estimated ballots to be sampled to exceed 15% of the total number of ballots cast. These amendments were unanimously approved by the Board on March 7, 2023.

Material Omissions from Federal Write-In Absentee Ballots (1VAC20-45-40)

These amendments brought 1VAC20-45-40 into compliance with the 2023 Acts of Assembly Chapter 785 by removing language regarding witness signatures, dates of the witness signatures, and the address of the witness.⁶ The amendments also added the requirement for the applicant to provide the last four digits of their social security number or, if the applicant was not issued a social security number, the unique identifier assigned to the applicant in the voter registration system. These amendments were unanimously approved by the Board on May 30, 2023.

Material Omissions from Absentee Ballots (1VAC20-70-20)

These amendments brought 1VAC20-70-20 into compliance with the 2023 Acts of Assembly Chapter 785 by removing language regarding witness signatures, dates of the witness signatures, and the addresses of the witness.⁷ The amendments also added the requirement for the applicant to provide

³ See 2023 Acts of Assembly Chapter [663](#) and [664](#).

⁴ See Code of Virginia [§24.2-671.2](#).

⁵ See Virginia Admin. Code [1VAC20-60-80](#).

⁶ See 2023 Acts of Assembly [785](#).

⁷ *Id.*



the last four digits of their social security number or, if the applicant was not issued a social security number, the unique identifier assigned to the applicant in the voter registration system. These amendments were unanimously approved by the Board on May 30, 2023.

Definitions (1VAC20-100-10)

These amendments created new definitions and amended existing definitions for ranked choice voting regulations (1VAC20-100-10 through 1VAC20-100-80). The amendments included a distinction between tabulation on the voting system in the first-choice ranking tabulation round and tabulation on software for the ranked choice voting rounds, clarification of the determination of election thresholds for candidates to win, and the addition and amendment of terms related to ballot treatment in the tabulation. These amendments were unanimously approved by the Board on May 30, 2023.

Repealing Regulations

Repeal of Absentee Ballot Witness Signatures During Qualifying State of Emergency (1VAC20-70-80)

Pursuant to 1VAC20-70-80, absentee voters were not required to have a witness signature during declared states of emergency or public health threats. 2023 Acts of Assembly Chapter 785 removed the requirement of a witness signature for absentee voters, whether or not a state of emergency or public health threat had been declared.⁸ As such, 1VAC20-70-80 was no longer compliant with the Code of Virginia, and ELECT recommended the repeal of the regulation. The Board unanimously approved the repeal of 1VAC20-70-80 on May 30, 2023.

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 2023 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.

⁸ *Id.*



Certification of Elections

During the 2023 Calendar year, the Board certified 6 elections. The Board certifies federal and state elections including but not limited to the Virginia General Assembly, the United States Congress, and Governor; local electoral boards certifies local elections including but not limited to city councils, boards of supervisors, and mayors.⁹These certifications included 51 nominees from the June 20, 2023, Primary Election and 185 winners from several special elections and the November 7, 2023, General Election.

- **January 18, 2023:** The Board certified the results of the January 10, 2023, Special Elections for House of Delegates District 35, Senate of Virginia District 7, and House of Delegates District 24 pursuant to Virginia Code §§24.2-679 and 24.2-680.¹⁰
- **March 7, 2023:** The Board certified the results of the February 21, 2023, Special Election for U.S. House of Representatives Congressional District 4. The winner was declared and would fill the office for the remainder of the term of that office.
- **April 11, 2023:** The Board certified the results of the March 28, 2023, Special Election for the Senate of Virginia District 9. The winner was declared and would fill the office for the remainder of the term of that office.
- **July 5, 2023:** The Board certified the results of the June 20, 2023, Primary Election. The 51 winners were declared the nominees for their respective parties for the offices to appear on the ballot for the November 7, 2023, General Election pursuant to Virginia Code §24.2-534.¹¹
- **September 12, 2023:** The Board certified the results of the August 29, 2023, Special Election for House of Delegates District 6. The winner was declared and would fill the office for the remainder of the term of that office.
- **December 4, 2023:** The Board certified the results of the November 7, 2023, General Election. The Board certified the results of all 40 Senate of Virginia districts, all 100 House of Delegates districts, and 39 shared constitutional offices, including Clerks of Court, Commonwealth's Attorneys, Sheriffs, Commissioners of Revenue, and Treasurers from various localities of the Commonwealth.

⁹ See Code of Virginia §§[24.2-676](#) and [24.2-679](#).

¹⁰ See Code of Virginia §§[24.2-679](#) and [24.2-680](#).

¹¹ See Code of Virginia [§24.2-534](#).



Ballot Order

If two or more candidates file simultaneously, the order of the filing is determined by the electoral board or the Board, pursuant to Virginia Code §24.2-529.¹² Additionally, the Board must determine by lot the order of political parties, pursuant to Virginia Code §24.2-613.¹³ On March 7, 2023, the Board certified the order of candidates on the ballot for all general and special elections to be held between April 1, 2023, and April 1, 2024.

On April 14, 2023, the Board certified the order of candidates on the ballot for primary elections to be held on June 20, 2023. On December 20, 2023, the Board certified the determinations by lot of the order of candidates on the ballot for the presidential primary election to be held on March 5, 2024.

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. 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.”¹⁴ 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 10 split precinct waivers for various counties and cities.

Candidate Filing Extensions

Pursuant to Va. Code § 24.2-503, the Board may grant an extension of the filing deadlines for the Certificate of Candidate Qualifications and a Statement of Economic Interests.¹⁵ Any extension granted may only be for 10 days following the time ELECT sends the notice of extension to the affected candidates. If the Board grants an extension, ELECT must notify all candidates who have failed to file one or both documents of the extension.

During the 2023 calendar year, 9 candidates requested extensions to qualify for ballot access for the June 2023 Primary, and the Board *unanimously approved* the extensions on April 11, 2023.

¹² See Code of Virginia [§24.2-529](#).

¹³ See Code of Virginia [§24.2-613](#).

¹⁴ See Code of Virginia [§24.2-307](#).

¹⁵ See Code of Virginia [§24.2-503](#).



Additionally, 8 candidates requested extensions to qualify for ballot access for the November 2023 General Election; on July 5, 2023, the Board took *no action* on the requests.

Updating the Voter Registration Application

2023 Acts of Assembly Chapters 801 and 802 amended the Virginia Code provisions regarding the personal information of retired judges and magistrates; specifically, §24.2-418 was amended by permitting any active or retired magistrate to register as a protected voter.¹⁶ As such, the Virginia Voter Registration Application needed to be revised.

Additionally, pursuant to 1VAC20-40-10, an alternative mailing address may be included on a voter registration application when “the residence address of the applicant cannot receive mail.”¹⁷ However, the language on the previous voter registration application stated an alternative mailing address could be used if a residence address is “not serviced by the U.S. Postal Service”. Feedback from the general registrars suggested confusion among voters. ELECT evaluated the form and suggested the voter registration application be amended to match existing statutory language.

The Board unanimously approved these changes on April 14, 2023. The effective date of the changes was set to July 1, 2023, when the law requiring the change would come into effect.

2024 Presidential Primary Candidate Forms

Virginia Code § 24.2-545 requires candidates in a party presidential primary to file petitions signed by at least 5,000 qualified voters (minimum of 200 from each Congressional district) to qualify to have their name printed on the ballot.¹⁸ Further, Virginia Code § 24.2-520 requires primary candidates for any office (including President) to file a Declaration of Candidacy.¹⁹ In the past, the Board has adopted a separate SBE-505/520 specifically for candidates for president. ELECT presented updated versions of these forms to the Board, and the Board unanimously approved them on May 30, 2023.

Additionally, ELECT presented two forms to the Board during the May 20, 2023, meeting: Party Certification of Presidential Primary Candidates and Statement of Petition Signatures for Presidential Candidate. Based on communications from past Presidential Primary Elections, parties and candidates asked about the best way and format to communicate the information in these forms; ELECT determined providing an optional form and format the candidates could use would assist both parties and candidates in providing the information required by law. Neither of these forms required

¹⁶ See 2023 Acts of Assembly Chapters [801](#) and [802](#).

¹⁷ See Virginia Admin. Code [1VAC20-40-10](#).

¹⁸ See Code of Virginia [§24.2-545](#).

¹⁹ See Code of Virginia [§24.2-520](#).



approval by the Board, but ELECT provided them to the Board for informational purposes and to provide the Board with a greater understanding and knowledge of the entire suite of Presidential Primary forms.

Updating the Hand-Counting Standards

§24.2-103(A) of the Virginia Code states that the Board “shall make rules and regulations and issue instructions and provide information consistent with the election laws to the electoral boards and registrars to promote the proper administration of election laws.”²⁰ To provide instructions and guidance for the process of manually counting votes, the Board approved Virginia’s Guide to Hand-Counting Ballots (hand-counting standards).

Due to the adoption and planned use of ranked choice voting in Virginia, revisions to the hand-counting standards were proposed to provide clarity on ballot treatment scenarios that arise in ranked choice elections. Like in traditional elections, the use of hand-counting will be used primarily in the event of a recount or when counting certain absentee ballots. The Board unanimously approved the updates to Virginia’s Guide to Hand-Counting Ballots on May 30, 2023.

Petition for Removal of an Officer

Acts of Assembly Chapters 663 and 664 passed during the 2023 Session of the General Assembly set out the procedures by which an elected officer, or officer who has been appointed to fill an elective office, may be removed from office.²¹ As it pertains to the Board and general registrars, these bills require that (i) the general registrar review a petition for removal on a form prescribed by the Board and determine its sufficiency; (ii) the general registrar certify the petition within 10 business days and promptly file such certification with the clerk of the circuit court; and (iii) the certification state the number of signatures required, the number of signatures on the petition, the number of valid signatures, along with any signatures found to be invalid and any material omissions from the petition.

As a result, ELECT presented a new form along with the aforementioned 1VAC20-60-90 regulation. The Board unanimously approved the form and regulation on May 30, 2023.

²⁰ See Code of Virginia [§24.2-103](#).

²¹ See 2023 Acts of Assembly Chapter [663](#) and [664](#).



Central Absentee Precinct Policy

Chapter 152 of the 2023 Acts of Assembly of the Commonwealth of Virginia directed the Board to adopt a policy regarding the counting and reporting of absentee ballots in central absentee precincts (CAP) in order to ensure that (i) the results of absentee ballots cast early in person are reported separately from mailed absentee ballots and are posted promptly on the State Board website and (ii) the results of all absentee ballots cast by voters are reported by precinct in accordance with the law and are posted on the State Board website no later than noon on the seventh calendar day following the election.²² The bill required such policy to be adopted no later than September 1, 2023, and the Chairmen of the House and Senate Committees on Privileges and Elections to be notified of this policy within seven days of its adoption. ELECT presented a policy fulfilling the requirements of Chapter 152, and the Board unanimously approved it on August 15, 2023. The policy was immediately transmitted to the Chairmen of the House and Senate Committees on Privileges and Elections and publicly posted on ELECT’s website.

Officer of Election Training Standards

Pursuant to the Virginia Code §24.2-103(D), the Board is required to set the training standards for the officers of election and to develop standardized training programs to be conducted by the local electoral boards and the general registrars.²³ The Board is also required to provide standardized training materials for such training and an online course must be available on the ELECT website. The Board is required to review the standardized training materials and the content of the online training course every two years in the year immediately following a general election for federal office. ELECT presented the updated Officer of Election Training Standards and materials to the Board on August 15, 2023, and the Board unanimously approved them.

Recount Standards

Pursuant to 2023 Acts of Assembly Chapter 219, the Board must create additional standards and instructions for the conduct of recounts in elections for an office to which more than one candidate can be elected (“multi-winner race”).²⁴ ELECT provided revisions to the recount standards that satisfied the statutory requirements. Further, as the Code does not address recounts for ranked choice voting (RCV) based elections, ELECT proposed revisions to the recount standards to facilitate the recount of such elections. The Board unanimously approved the revisions on August 15, 2023.

²² See 2023 Acts of Assembly Chapter [152](#).

²³ See Code of Virginia [§24.2-103](#).

²⁴ See 2023 Acts of Assembly Chapter [219](#).



Election Security

The Board and ELECT consistently work to ensure the integrity and security of every election is upheld in the Commonwealth. Throughout the 2023 calendar year, the Board performed its role in election security by approving various updates related to pollbooks, voting systems, and voting system security.

Updating the Certification Process for Voting Systems and Electronic Pollbooks

Vendors requesting state certification for a voting system, software, firmware, hardware, or modification must follow a formal and organized process approved by the Board for their products to be used in the Commonwealth. As part of the Virginia Voting System Certification, ELECT utilizes the Voting System Test Laboratory (VSTL) to provide a third-party assessment of all voting systems and equipment; VSTLs are accredited by the US Election Assistance Commission (EAC), pursuant to section 231(b) of the Help America Vote Act (HAVA) of 2002, and are independent, non-federal laboratories qualified to test voting systems to Federal Standards.²⁵

The proposed changes allowed the VSTL to have enough time and hours to confirm the voting systems and EPBs meet both Virginia and Federal voting system standards, as well as write up the required test report. Additionally, ELECT would no longer supplement the cost of certifications as it did prior to 2019 since the fees were set higher than the actual VSTL invoices. Vendors would no longer be overcharged for testing and may receive refunds. The Board unanimously approved the amendments to the certification process on March 7, 2023.

Voting System Certification

Election Systems & Software 6.3.0.0 voting system

On March 7, 2023, ELECT requested the Board certify the use of the Election Systems & Software (ES&S) 6.3.0.0 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. ES&S provided the certification fee, and the testing/evaluation was conducted from January 9th through January 13, 2023, at the ELECT facilities in Virginia. In addition, the system was successfully tested in a Mock Election in Spotsylvania County on February 17, 2023. The ES&S voting system presented for certification under 6.3.0.0 completed the Virginia Voting

²⁵ See U.S. Elections Assistance Commission, [Voting System Test Laboratories](#).



Systems State Certification requirements. The Board motioned and approved the use of the updated system by a unanimous vote.

Dominion D-Suite 5.17

On September 12, 2023, ELECT requested the Board certify the use of the Dominion D-Suite 5.17 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. Dominion provided the certification fee, and the testing/evaluation was conducted from August 21st through August 24, 2023, at the ELECT facilities in Virginia. In addition, the system was successfully tested in a Mock Election in Amelia County on August 25, 2023. The Dominion voting system presented for certification under 5.17 completed the Virginia Voting Systems State Certification requirements. The Board motioned and approved the use of the updated system by a unanimous vote.

Electronic Pollbook Certification

Knowink Poll Pad Plus version 3.4

On April 14, 2023, ELECT requested the Board certify the use of the Knowink Poll Pad Plus version 3.4. 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 from February 27th through March 1, 2023, at the ELECT facilities in Virginia. In addition, the system was successfully tested in a Mock Election in Henrico County on March 2, 2023. The Knowink Poll Pad Plus presented for certification under version 3.4 completed the Virginia Electronic Pollbook State Certification requirements. The Board motioned and approved the use of the updated electronic pollbook by a unanimous vote.

Locality Election Security Standards

The purpose of the Locality Election Security Standards (LESS) is to ensure that each county and city meets election security standards designed to maintain the security and integrity of the Virginia voter registration system and supporting technologies through appropriate security controls, policies, practices, and procedures. To help all localities work toward improving their cybersecurity stance, the Virginia Voter Registration System Security Advisory Group (VRSS) worked to make limited changes to the standards, instead focusing on tools and resources localities can use to meet baseline requirements. On November 15, 2023, ELECT and VRSS presented revisions to the LESS, and the Board unanimously approved the revisions.



Risk-Limiting Audits

Pursuant to Virginia Code §24.2-671.2(B), the Board must promulgate rules and procedures for the conduct of risk-limiting audits (RLA).²⁶ The Board adopted amendments to 1VAC20-60-80 on March 7, 2023, regarding requests for RLAs pursuant to §24.2-671.2(D). Additionally, the Board approved a new SBE-671.2(D) form for a local electoral board to use to request an RLA pursuant to §24.2-671.2(D); the revisions included the use of batch comparison for those RLAs specifically requested by a local electoral board.

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 May 30, 2023, and unanimously approved. The RLA Manual can be found on ELECT's website as Chapter 19 of the General Registrar and Electoral Board Handbook.²⁷

June 2023 Primary

Pursuant to §24.2-671.2(D), the State Board of Elections approved a request from the Loudoun County Electoral Board for a risk-limiting audit for the June 2023 Democratic Primary for House of Delegates District 26.²⁸ The RLA began on June 27, 2023, at 10:00 AM. A representative sample of 10 precincts was randomly chosen and hand-tallied. The RLA successfully confirmed the reported election results with the 10% risk limit being met in the first round of counting. A report can be found on ELECT's website.²⁹

November 2023 General Election

Pursuant to §24.2-671.2, the November 2023 Risk-Limiting Audit of the Virginia Senate District 20 began on Monday, November 27th at 9 A.M.³⁰ This included Norfolk City, Virginia Beach City, Northampton County, and Accomack County. The RLA for the Virginia Senate District 20 used the ballot polling method. The RLA successfully confirmed the reported election results with the 10% risk limit being met in the first round of counting. A report can be found on ELECT's website.³¹

Pursuant to §24.2-671.2(D), the State Board of Elections approved requests from Loudoun County for House of Delegates District 27, Arlington County for Virginia Senate District 40, and Orange County for Orange County Sheriff.³² These localities requested and were approved to use the batch

²⁶ See Code of Virginia [§24.2-671.2\(B\)](#).

²⁷ See ELECT, [Risk-Limiting Audits](#).

²⁸ See Code of Virginia [§24.2-671.2](#).

²⁹ See ELECT, [Risk-Limiting Audits](#).

³⁰ See Code of Virginia [§24.2-671.2](#).

³¹ See ELECT, [Risk-Limiting Audits](#).

³² See Code of Virginia [§24.2-671.2](#).



comparison method for their RLAs. The RLAs in Arlington and Orange counties successfully confirmed the reported election results with the 10% risk limit being met in the first round of counting. A second round, which constituted a full hand tally, was required in Loudoun County but likewise confirmed the reported election results. A report can be found on ELECT’s website.³³

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.³⁴ 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.³⁵

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, 2023

The Board held a public hearing to assess the violations of Virginia Code §24.2-955 for the November 2022 general election. The Board heard 12 cases, dismissing 4, finding 7 guilty, and taking no action on 1. The Board assessed a total of \$250 in civil penalties. The Board affirmed their findings on March 7, 2023, during a public meeting.

August 15, 2023

The Board held a public hearing to assess the violations of Virginia Code §24.2-955 for the June 2023 primary election. The Board heard 14 cases, dismissing 1, finding 12 guilty, and taking no action on 1. The Board assessed a total of \$1,950 in civil penalties. The Board affirmed their findings on September 14, 2023, during a public meeting.

³³ See ELECT, [Risk-Limiting Audits](#).

³⁴ See Code of Virginia [§24.2-955](#).

³⁵ See Code of Virginia [§24.2-955.3](#).



SBYA Hearing Policy Revision

On December 20, 2023, ELECT proposed several changes to the SBYA Hearing Policy to the Board. The changes included clarifying that a determination of whether a communication constitutes an advertisement covered by SBYA is based upon the scope and definitions outlined in the Virginia Code, increasing the notice provided to respondents from 10 days to 21 days, requiring a continuance upon subpoena request if deemed necessary by the Chair, and requiring that the SBE meet twice per year for SBYA hearings but while removing specific January and August dates. The Board unanimously approved the revisions.

Miscellaneous

Advisory Review Workgroup

The Board established the Advisory Review Workgroup (“the Workgroup”) by resolution on October 29, 2019. The resolution expired on February 1, 2023. The Workgroup was 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 representative of the Virginia Municipal League, and five citizen members. A citizen member chaired the Workgroup. The assignment the Board gave to the Workgroup was to “develop benchmarks to measure the success of elections in Virginia.” The Workgroup submitted the final phase of their report on March 7, 2023. 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 March 7, 2023, at the Virginia Regulatory Town Hall website.³⁶

Delegations of Authority

During the 2023 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 July 5, 2023, the Board approved the retention of some aspects of authority while delegating some to ELECT. The Board retained 5 authorities regarding the removal of local election officials and elected or appointed officials and 1 authority regarding recounts; the Board delegated 2 authorities to ELECT regarding campaign finance. The document containing all delegations of authority from the Board to ELECT can be found on the Virginia Regulatory Town Hall website.³⁷

³⁶ See Virginia Department of Planning and Budget, [Virginia Regulatory Town Hall](#).

³⁷ See ELECT, [State Board of Elections Delegations of Authority](#).



Petition for Rulemaking: List of Unqualified Persons Provided to General Registrars

Under Virginia Code §2.2-4007 and 1VAC20-10-50, any person may petition an agency to adopt a new regulation or amend an existing regulation.³⁸ The petition shall state (i) the substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections, and (ii) reference to the agency’s legal authority to take the action requested.

ELECT received a petition for rulemaking for the Board regarding the use of juror questionnaires for voter list maintenance. The petition requested that the Board “establish a process that allows jury commissioners to relay, from lists of registered voters obtained from the Department of Elections under § 24.2-405, the information obtained from those persons not qualified to serve as jurors as a result of (i) not being a citizen of the United States, (ii) no longer being a resident of the Commonwealth, (iii) being a resident of another county or city in the Commonwealth, (iv) having been convicted of a felony and not having had voting rights restored, or (v) having been adjudicated incapacitated and disqualified to vote and not having had voting rights restored.” The petition was posted on Town Hall on May 26, 2023, and the public comment period ended on July 10, 2023. ELECT received a total of 323 comments in support of the petition and no comments in opposition.

On September 12, 2023, ELECT recommended the SBE take no action on the petition. While ELECT supports diverse list maintenance practices that strengthen and revitalize list maintenance in Virginia, the Board does not have the statutory authority to mandate the requested practice. The Board took no action on this matter.

Request to Remove a Local Electoral Board Member

Pursuant to Virginia Code §24.2-234.1, “Any member of a local electoral board may be removed from office by the circuit court in whose jurisdiction he resides upon a petition signed by a majority of the members of the State Board as provided in § 24.2-103. The circuit court shall proceed with such removal in accordance with the provisions of § 24.2-235.”³⁹ The Board may petition a circuit court for the removal of a member of a local electoral board who fails to discharge the duties of his office in accordance with law.⁴⁰ On December 20, 2023, ELECT presented to the Board a request to remove Rene Rice from the Brunswick County Electoral Board. The Board reviewed the materials presented and unanimously moved to petition the Circuit Court of Brunswick County for the removal of Rene Rice from the Brunswick County Electoral Board.

³⁸ See Code of Virginia [§2.2-4007](#). See Virginia Admin. Code [1VAC20-10-50](#).

³⁹ See Code of Virginia [§24.2-234.1](#).

⁴⁰ See Code of Virginia [§24.2-103](#).



Conclusion

A wide variety of regulations, amendments, administrative policies and procedures, and election security updates were approved by the Board in 2023. 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 multiple primary, general, and special elections. The State Board of Elections, through the Department of Elections, will continue to supervise and coordinate the work of elections administrators in every locality in order to promote and support accurate, fair, open, and secure elections for the citizens of the Commonwealth.

