



Virginians for America First (VFAF)

Memorandum

To: All Members
From: Damian Ljungquist
CC:
Distribution: General

Subject: Virginia State Board of Elections Meeting August 3, 2021

Approved the minutes from the June 22 and June 30, 2021, meetings.

Stand By Your Ad

Fined several campaigns for sign violations for not having the “Paid for Candidate Committee” statement. Youngkin was fined since their shirts did not have the Paid for logo on each shirt that was made, displayed and distributed. They do now.

Amendment to 1VAC20-20-30

Quorum Definition – **Three** member of the board shall constitute a quorum instead of two. Change was required by passage of HB 236 that **increased** the membership of the board to **five** members.

Delegation of Authority

Chapter 1: from the State Board of Elections to the Department of Elections:

24.2-105 – **SBE** shall prescribe voting and elections materials in languages other than English and may make available voting and election material in any additional

languages other than those required by Subsection A of § 24.2-124 as it deems necessary and appropriate.

24.2-103 – Electoral boards and registrars shall provide information requested by the **State Board** and shall follow (a) the elections laws and (b) the rules and regulations of the State Board insofar as they do not conflict with Virginia or federal law.

24.2-103 B – The **SBE** through the Department of Elections, shall ensure that the members of the electoral boards are properly trained to carry out their duties by offering training annually, or more often, as it deems appropriate, and without charging any fees to the electoral boards for the training.

Delegation of Authority – to the State Board of Elections:

24.2-103 C – shall conduct a certification program for the general registrars and shall required each general registrar to receive certification within 12 months of their initial appointment or reappointment.

24.2-103 J – **SBE** shall submit an annual report to the Governor and General Assembly. See requirements in § 2.2-608.

24.2-106 D – Each member of the electoral board shall attend an annual training program during the first year of appointment or reappointment.

24.2-109 – Electoral board shall remove from office, on notice, any general registrar who fails to receive or maintain certification as required by the **SBE**.

24.2-128 – The **SBE** shall designate a county, city or town as a covered locality if it determines either (a) 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; (b) 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 (c) 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 and (ii) the illiteracy rate of the citizens of the language minority as a group is higher than the national illiteracy rate.

24.2-103 – **SBE** shall supervise and coordinate the work of the county and city electoral boards and of the registrars to obtain uniformity in their practices and proceedings and legality and purity in all elections. Its supervision shall ensure that major risks to election integrity are (i) identified and assessed and (ii) addressed as necessary to promote election uniformity, legality, and purity. It 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.

24.2-105 A – **SBE** shall prescribe appropriate forms and records for the registration of voters, conduct of elections, and implementation of this title, which shall be used throughout the Commonwealth.

Delegation of Authority

Chapter 4: from the State Board of Elections to the Department of Elections:

24.2-411.3 C – The Department of Motor Vehicles shall electronically transmit to the Department of Elections, in accordance with the standards set by the **State Board**, the information collected pursuant to subsection B for any person who (i) has indicated that he is a United States citizen, (ii) has indicated that he is 17 years of age or older, and (iii) at the time of such transaction did not decline to have his information transmitted to the Department of Elections for voter registration purposes.

Delegation of Authority – Chapter 5: There were Code sections language updates to § 24.2-506, § 24.2-521 and § 24.2-543.

Officer of Elections Training

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, in accordance with the Code of Virginia § 24.2-103(D). Amended SBE Policy 2021-002 Officers of Election Training Standards. Online Officers of Election Training Materials and Quizzes.

Training Materials to be developed by ELECT:

§ 24.2-103 – To ensure uniformity in elections, the Department of Elections shall maintain the current “What If” document and “Election Day Guide” and develop an appropriate training standard based upon them.

§§ 24.2-604, 606, 607 & 608 – The Department of Elections shall provide appropriate overview training for Chief and Assistant Chief officers on reacting to emergency situations. This shall cover basics, with specifics left to each locality. Basic situations include disorderly voter, power disruption, traffic issues, earthquake, terrorist attack, etc. This should be presented from the perspective of the Commonwealth, with the locality also providing specific information in its mandatory standards.

§§ 24.2-653 & 653.2 – ELECT shall provide appropriate training on procedures to be followed when a provisional ballot is cast and when the polling hours are extended by order of a court of competent jurisdiction.

§ 24.2-643(B) – ELECT shall provide appropriate training on voter ID requirements.

§ 24.2-626.1 – ELECT shall provide appropriate training on polling place accessibility and proper interaction with disabled voters.

Training Materials to be developed by EACH LOCALITY:

§ 24.2-103 – To ensure integrity and purity in elections, each electoral board and director of elections shall provide appropriate training as indicated below, on subjects that are specific to the locality. The training, when combined with Standards developed by the Department of Elections, shall be sufficient to produce an effective, errorfree election. The electoral board and director of elections shall review its training program at least every two years.

§§ 24.2-115.2 & 24.2-645-668 – Each electoral board and director of elections shall ensure that all chief officers and assistant chief officers receive training prior to each election, in those procedures associated with determining and properly securing the results of the election, with concentration on those laws and procedures that are new.

§§ 24.2-625-642 – Each electoral board and director of elections shall ensure that all officers of election are properly trained on the use of the voting equipment utilized in the locality, including the vote counter(s) and the handicap-accessible voting assistance machine.

§§ 24.2-611, 643 & 651-653 – Each electoral board and director of elections shall ensure that all officers of election are properly trained on the use of the electronic (or paper) pollbook utilized in their locality.

§§ 24.2-707-712 – Each electoral board and director of elections shall ensure that the officers of election working in a Central Absentee Precinct are properly trained in the requirements and processes associated with absentee ballots.

§§ 24.2-604, 606-608 – Each electoral board and director of elections shall ensure training for Chief and Assistant Chief officers on reacting to emergency situations. This shall cover specifics, including contact with local jurisdiction’s police or sheriff’s department, and department of emergency services or public safety, to deal with disorderly voter, power disruption, traffic issues, earthquake, terrorist attack, etc.

§ 24.2-103(D) – Each electoral board and director of elections shall certify before the November general election to the Department of Elections that Officers of Election have been trained according to Department standards.

Training Material Topics and their associated Quizzes:

Introduction to Elections in Virginia

Officer of Election Basics

Who is allowed in the Polling Place on Election Day?

Checking in Voters

Introduction to Provisional Ballots

Emergency Preparation and Response

Accessibility and Etiquette

Prohibited Area and Activities

Understanding Acceptable ID Rules When Checking in Voters

Chief and Assistant Chief Officers of Election Duties

NB: The training material gives definitions for Classes of People Allowed. Listed below are the classes. I have included the detailed definitions for two classes as they were discussed during the VFAF Zoom meeting on August 2, 2021.

- Voters
- Election Officials

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- **Voting Equipment Custodians**
 - **Observers** – This class includes authorized party and candidate representatives, neutral observers, and the media. Observers cannot delay the voting process, in any way try to influence a voter, be in a position to see marked ballots, otherwise impede the election, assist voters, or wear anything indicating they can assist voters.
 - **Authorized Representatives**
 - **Neutral Observer** – The electoral board or general registrar can authorize if and how many neutral observers can be present. Authorization must be in writing.
 - **Media**
 - **Candidates**

NB: To reiterate why we need Officers of Election vs. Poll Watchers (Observers) – **“Observers cannot delay the voting process”**.

Electronic Meeting Policy

As now permitted by § 2.2-3708.2 of the Code of Virginia, public bodies may hold meetings where one or more members may participate by electronic communication means as long as the meetings comply with the heightened procedural requirements set out in § 2.2-3708.2. What does this mean? A new SBE Policy 2021-003. The policy states:

SEC. 2: MEETING REQUIREMENTS:

- Any member who is unable to attend the meeting due to reasons stated in subsections (a) or (b) of Virginia Code § 2.2-3708.2(A)(1) notifies the Chair of the Board of their inability to attend the meeting;
- A quorum of three (3) members of the Board shall be physically assembled at one (1) primary or central meeting location;
- Members of the public shall be provided a substantially equivalent electronic communication means through which to observe the meeting;
- Members of the public shall be provided the opportunity to comment when public comment is customarily received;
- Notice of the meeting shall be given at least three (3) working days in advance of the date scheduled for the electronic meeting, except in the case of an emergency meeting for which public notice shall be given contemporaneously with the notice provided to members of the Board;

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- Notice of the meeting shall include the date, time, place, and purpose for the meeting and a telephone number that may be used to notify the primary or central meeting location of any interruption in the telephonic or video broadcast of the meeting;
 - If a member of the Board participates in the meeting via means of electronic communication, the Board shall record in its minutes the remote location from which the member participated, including:
 - If participation is approved pursuant to Virginia Code § 2.2-3708.2(A)(1)(a), the fact that the member participated through electronic communication means due to (i) a temporary or permanent disability or other medical condition that prevented the member's physical attendance or (ii) a family member's medical condition that required the member to provide care for such family member, thereby preventing the member's physical attendance; or
 - If participation is approved pursuant to Virginia Code § 2.2-3708.2(A)(1)(b), the specific nature of the personal matter cited by the member;
 - A copy of the proposed agenda, agenda packets, and, unless exempt, all materials that will be distributed to members of the Board for the meeting shall be made available for public inspection at the same time such documents are furnished to the members of the Board;
 - If an interruption in either the audio or visual broadcast of the meeting occurs, the meeting shall be suspended until repairs are made and public access is restored; and
 - Votes taken during the electronic meeting shall be recorded by name in roll-call fashion and included in the minutes of the meeting.

SEC. 3: PHYSICAL ATTENDANCE REQUIREMENT:

- If the Board holds a meeting through electronic communication means, it shall also hold at least one meeting annually where members in attendance at the meeting are physically assembled at one location and where no members participate by electronic communication means.
- A member of the Board is permitted to attend a meeting of the Board electronically if, on or before the day of a meeting, the member notifies the Chair of the Board that she is unable to attend the meeting due to—
 - a temporary or permanent disability or other medical condition that prevents her physical attendance; or
 - a family member's medical condition that requires her to provide care for such family member, thereby preventing her physical attendance.

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- A member of the Board is permitted to attend a meeting of the Board electronically if the member notifies the chair of the public body that she is unable to attend the meeting due to a personal matter and identifies with specificity the nature of the personal matter.
 - Electronic participation per member on the basis of personal matters is limited each calendar year to 2 meetings or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater.
 - If a member's participation from a remote location pursuant to Virginia Code § 2.2-3708.2(A)(1)(b) is disapproved, such disapproval shall be recorded in the minutes with specificity.

SEC. 4: ANNUAL REPORTING REQUIREMENT

If the Board meets by electronic means pursuant to the requirements under Virginia Code § 2.2- 3708.2, it shall make a written report of the following to the Virginia Freedom of Information Advisory Council on or before December 15 of each year. There are eleven housekeeping items that must be maintained.

SEC. 5: PUBLIC COMMENT FORM

At each meeting held under this policy, the Board shall make available a form prepared by the Virginia Freedom of Information Advisory Council to allow for public comment regarding the process of conducting a meeting through electronic communication means.

NB: As a side note, this might be good as it appears that the SBE wants very little involvement with the public, as I received a short answer and was cutoff from asking a follow up question and additional questions in today's meeting.

SEC. 6: DECLARED EMERGENCIES

The Board may meet by electronic communication means without a quorum physically assembled at one location when the Governor has declared a state of emergency pursuant to Virginia Code § 44-146.17 or when the locality in which the Board is located has declared a local state of emergency pursuant to Virginia Code § 44-146.21, provided:

- The catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location; and

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- The purpose of the meeting is to provide for the continuity of operations of the Board or the discharge of its lawful purposes, duties, and responsibilities.

Political Party Abbreviations

Used for General and Special Elections Ballots:

Political Parties: Democratic – D and Republican – R.

Recognized Political Parties: Libertarian – L and Liberation – LP.

Other options were not accepted. Motion was made and approved for the above designators on ballots.

Advisory Workgroup

What constitutes an election and what constitutes success? See attachment for a copy of the slide presentation. 21-08-03_Advisory_WG_Slides.pdf

Closed Session

Pending litigation update – started at ~1455 hours.

Adjournment

Meeting was quickly closed out at 1532 hours.

Additional Information

ELECT will begin receiving request for proposals to replace the 2007 Voter Registration Election Information System (VERIS) on Friday, April 2, 2021.

General Registrar Certification Program – 133 will be certified shortly.

SB Bill 740 passed in 2020 – Goal is to eliminate split precincts in 2021. They expect that there will be multiple requests for waivers, and these will be approved.

Certification of Voting Equipment and Electronic Pollbook – VA has over 7,000 voting equipment units supported by 4 voting system vendors and over 8,000 electronic

pollbooks supported by 5 vendors. ELECT has upgraded all localities to the latest versions of voting equipment and electronic pollbooks.

Voting Systems Certification of Manufacturers:

- Election Systems & Software – version 6.1.1.0
- Unisyn Voting Solutions – version 2.1.1
- Hart InterCivic Verity Voting system – version 2.5.1
- Dominion – version 5.5-C
- Robis Elections electronic pollbooks – version 3.4.139.0

The Commissioner of ELECT will be administering a Voter Education Campaign on how ELECT will process ballots and count ballots. He was also elected to be the new Vice Chairman of ERIC.

Statewide Voter Registration System (SVRS) – Request for Proposal is on the street. Negotiations to begin after the lead negotiator is fully trained. OAG will review before final approval.

The Board approved publication for public comment the Department's proposal for *Ranked Choice Voting Regulations and Ballot Standards*.

The Board approved the Department's proposed regulation regarding *Third Parties Assembling and Mailing Absentee Ballots*.

Drawing for Party Order on the Ballot for the period of July 1, 2021 through April 30, 2022:

1. Republican
2. Democratic

Effective July 1, 2021, there is a revised *Virginia Absentee Ballot Application form and the Virginia Permanent Absentee Voter Single Election Change form*.

Update on the Absentee Ballot Work Group – How can the Commonwealth report absentee votes by precinct as opposed to reporting them separate from votes cast at Election Day polling locations. There are two potential options for how absentee ballots can be counted by precinct: hand counting or marking each ballot with a unique precinct-specific code. Hand counting was quickly dismissed as an impractical use of time and money. The second approach was discussed more extensively and requires further research.

Witness Signature Alternatives – the General Assembly wants to find an alternative to witness signatures previously required on all absentee ballots. There are three options: voters signing an affidavit; sending in a copy of a valid ID with their ballot; and Virginia changing to a signature matching system. This issue requires further research.

This is the synopsis of the 197 pages for today’s meeting.