Commonwealth of Virginia
STATE BOARD OF ELECTIONS

1100 Bank Street, 1st Floor
Richmond, VA 23219-3642

12/6/13

Candidacy Requirements

For

House of Delegates

11th District

January 7, 2014

Special Election

VOICE: 804-864-8901
VOICE TOLL-FREE: 800-552-9745

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General Disclaimer

The information contained in this candidacy requirements bulletin is provided with the aim of providing an overview of Virginia electoral requirements. This document, and its contents, however, is not meant as legal advice or as a binding statement of official policy. Such laws are subject to change in content and interpretation. Candidates are responsible for verifying the status of current law and compliance with same.

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INTRODUCTION

This bulletin and all required forms are available on our web site:

http://www.sbe.virginia.gov/BecomeACandidate.html

Should you have questions relating to your candidacy, please do not hesitate to call our toll-free line (800)-552-9745. Within the Call Menu, press 2 for Campaign Finance and Ballot Access assistance. You also can reach us at 804-864-8901 or via email at info@sbe.virginia.gov.

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I. ADVERTISING AND CAMPAIGN MATERIALS

The Campaign Finance Disclosure Act imposes certain requirements relating to advertising and identification of campaign ads and materials, including sample ballots.

Refer to Chapter 14 in the *Candidate Campaign Committee Summary* published by the State Board of Elections for specific requirements. If you have questions relating to campaign finance, please call our toll-free number.

The following is provided for your additional information:

A. Sample Ballots

Any **sample** of a paper or voting equipment **ballot** must contain the words **SAMPLE BALLOT**, the appropriate authority statement required by the Campaign Finance Disclosure Act and, in addition, must:

(1) contain the words **SAMPLE BALLOT** in not less than 24 point type; and

(2) be printed on paper of a color **other than white** or **yellow (canary)**.

B. Posting

Contact your city manager to determine whether local ordinances prohibit or restrict the posting of campaign materials.

No locality shall have the authority to prohibit the display of political campaign signs on **private property** if the signs are in compliance with zoning and right of way restrictions applicable to temporary nonpolitical signs and if the signs have been posted with the permission of the owner of the property. [§15.2-109 of the *Code of Virginia*] Please note that some homeowner associations may prohibit the placement of political signs in yards.

C. Violations

If you believe that either any local ordinance or any election law has been violated and you have facts concerning the violation, you should report them in writing to the Commonwealth's Attorney in the county or city in which the violation happened.

Violations of state-owned right of way restrictions should be reported to your regional Virginia Department of Transportation office.

II. QUALIFICATIONS TO BE A CANDIDATE

A candidate must be:

- Qualified to vote for and hold the office sought;
- Twenty-one years of age by the time of the election;
- A resident of the Commonwealth for one year immediately preceding the election; and
- A resident, by the time of filing, of the House of Delegates district to be represented.

III. DISQUALIFICATION IF CFDA REPORTS NOT FILED FOR PRIOR ELECTION

Individuals who are seeking, and who during the preceding five years have campaigned for, the offices of Governor, Lieutenant Governor, Attorney General, the Virginia Senate or House of Delegates must have filed all required campaign contributions and expenditures reports for those past campaigns in order to qualify as a new candidate for the House of Delegates. This is required by § 24.2-948.3 of the *Code of Virginia* and is in addition to other requirements for candidacy.

IV. DOCUMENTS REQUIRED TO BE FILED

A candidate must file certain documents in order to qualify to appear on the ballot. Each form is described below. An explanation of who is required to file each item also is provided. Each document can be downloaded from our website:

http://www.sbe.virginia.gov/CandidateForms.html

A. Statement of Organization for a CANDIDATE

This document is prepared and distributed by the State Board of Elections. **All** candidates are required to file this form. Any individual serving as campaign treasurer must be a qualified voter of the Commonwealth. A candidate may serve as his own treasurer.

Virginia law requires the candidate to provide his/her full name, home mailing address, email address and daytime phone number. The treasurer, if applicable, must also provide his\her name, home mailing address, email address and daytime phone number.

IV. DOCUMENTS REQUIRED TO BE FILED (continued)

A. **Statement of Organization for a CANDIDATE** (continued)

A candidate must file a statement of organization and register as a candidate for campaign finance purposes within 10 days of meeting any of the requirements listed below.

- Acceptance of a contribution;
- Expenditure of any funds;
- The payment of a filing fee for any party nomination method;
- The filing of a candidate statement of qualification pursuant to § 24.2-501; or
- The appointment of a campaign treasurer, designation of a campaign committee, or designation of a campaign depository.

B. **Certificate of Candidate Qualification**

This document is prepared and distributed by the State Board of Elections. **All** candidates are required to file this form.

C. **Declaration of Candidacy**

This document is prepared and distributed by the State Board of Elections. It must be filed by independent (non-party) candidates. It must be filed **at the same time** as the petitions.

Candidates for political party nomination by a method **other than a primary** file the declaration and the petitions described below, only if so required by the rules of the political party. Contact your legislative district chair to determine if they are required.

D. **Petition of Qualified Voters**

This document is prepared and distributed by the State Board of Elections. Petitions containing at least the number of signatures required for the office sought must be filed **together with** the *Declaration of Candidacy*. Petitions must be filed by independent (non-party) candidates.

1. **Petition Circulator**

A candidate's petition may be circulated by any person who is a legal resident of the United States of America. Circulators may not be minors or felons whose voting rights have not been restored.

IV. DOCUMENTS REQUIRED TO BE FILED (continued)

D. **Petition of Qualified Voters** (continued)

1. **Petition Circulator** (continued)

Special Note: **Special Note**: The U.S. Supreme Court denied certification of the Libertarian Party of Virginia v. Judd et al. case. The decision leaves in place the U. S. 4th Circuit Court's directive that prohibits the State Board of Elections from enforcing the in-state residency requirement to circulate a candidate petition contained within §§ 24.2-506 and 24.2-521.

The person circulating the petition must affirm before a notary or other person authorized to administer oaths, that he **personally witnessed** the affixing of each signature. Falsely taking this affidavit is a felony under Virginia law. The circulator **NEVER** can leave the petition unattended, e.g., left on the counter at a grocery store, restaurant, etc.

2. **Number of Signatures Required**

Petitions for the House of Delegates must contain the signatures of at least **125** qualified voters of the House District in which the candidate is seeking election.

The State Board recommends that a candidate get at least 1½ times the number of signatures required to assure that enough signers are qualified voters. (For example: SBE recommends candidates for House of Delegates with a 125 signature requirement gather at least 200 signatures.)

3. **Regulation on Material Omissions on Candidate Petitions**

The State Board of Elections' Material Omission Regulation identifies what does and does not constitute a material omission on a candidate's petition and petition signatures for the purpose of allowing or disallowing both.

Special Note: The U. S. 4th Circuit Court's ruling permitting out of state petition circulators makes the in state residency reference in B 6 unenforceable.

1VAC20-50-20. Material omissions from candidate petitions.

A. Pursuant to the requirements of § 24.2-506, 24.2-521, and 24.2-543 of the Code of Virginia, a petition or a petition signature should not be rendered invalid if it contains an error or omission not material to its proper processing.

IV. DOCUMENTS REQUIRED TO BE FILED (continued)

D. **Petition of Qualified Voters** (continued)

3. **Regulation on Material Omissions on Candidate Petitions** (continued)

B. The following omissions are always material and any petition containing such omissions should be rendered invalid if:

1. The petition submitted is not the double-sided, or a [double sided] copy thereof, provided by the State Board of Elections;
2. The petition does not have the name, or some variation of the name, and address of the candidate on the front of the form;
3. The petition fails to identify the office sought on the front of the form;
4. The petition fails to identify the applicable election district in which the candidate is running for office;
5. The circulator has not signed the petition affidavit and provided his current address;
6. The circulator is [~~a legal resident of the Commonwealth~~], a minor, or a felon whose voting rights have not been restored;
7. The circulator has not signed the petition he circulated in the presence of a notary;
8. The circulator has not had a notary sign the affidavit for each petition submitted;
9. A person other than the circulator signed the petition affidavit;
10. The notary has not affixed a photographically reproducible seal;
11. The notary has not included his registration number and commission expiration date; or
12. Any combination of the scenarios of this subsection exists.

C. The following omissions related to individual petition signatures are always material and any petition signature containing such omission shall be rendered invalid if:

1. The signer is not qualified to cast a ballot for the office for which the petition was circulated;
2. The signer is also the circulator of the petition;
3. The signer provided an accompanying date that is subsequent to the date upon which the notary signed the petition;
4. The signer did not sign the petition; or

IV. DOCUMENTS REQUIRED TO BE FILED (continued)

D. **Petition of Qualified Voters** (continued)

3. Regulation on Material Omissions on Candidate Petitions (continued)

5. The signer provided an address that does not match the petition signer's address in the Virginia voter registration system, unless the signer provided an address that is within the same precinct where a voter is currently registered in the Virginia voter registration system and the signer can be reasonably identified as the same registered voter.

D. The following omissions shall be treated as nonmaterial provided the general registrar can independently and reasonably verify the validity of the petition signature:

1. An older version of the petition is used (provided that the information presented complies with current laws, regulations, and guidelines);
2. The "election information" including (i) county, city, or town in which the election will be held; (ii) election type; and (iii) date of election are omitted;
3. The name of the candidate and office sought are omitted from the back of the petition;
4. The circulator has not provided the last four digits of his social security number in the affidavit;
5. The signer omits his first name, provided he provides a combination of his first or middle initials or a middle name and last name and address that matches a qualified voter within the Virginia voter registration system;
6. The signer provided a derivative of his legal name as his first or middle name (e.g., "Bob" instead of "Robert");
7. The signer signs his name on the "Print" line and prints his name on the "Sign" line; or
8. The signer fails to provide the date but a period of time that qualifies can affirmatively be established with previous and subsequent dates provided by other signers upon the petition page.

E. A signature upon a petition shall be included in the count toward meeting the petition signature requirement only if;

1. The petition signer is a qualified voter who is maintained on the Virginia voter registration system either (i) with active status or (ii) with inactive status and qualified to vote for the office for which the petition was circulated;

IV. DOCUMENTS REQUIRED TO BE FILED (continued)

D. **Petition of Qualified Voters** (continued)

3. **Regulation on Material Omissions on Candidate Petitions** (continued)

2. The signer provides his name; and
3. The signer provides an address that matches the petition signer's address in the Virginia voter registration system, or the signer provided an address that is within the same precinct where a voter is currently registered in the Virginia voter registration system and the signer can be reasonably identified as the same registered voter.

4. **Frequently Asked Questions Regarding Petitions**

The following are frequently asked questions received regarding the petition process:

1. Do I have to print the petition double-sided or may I staple two separate pages together and circulate?

   Answer: A petition page is a double-sided document with both a front and back. You need to print out the petition double-sided. The front and back of the petition cannot be stapled together and circulated as one petition page.

2. What happens if I need additional time to gather the required number of signatures?

   Answer: Neither the general registrars nor SBE have authority to accept additional petitions after the applicable candidate filing deadline.

3. Who is responsible for ensuring my petition signers and circulators are eligible to sign and/or circulate my petition?

   Answer: **The candidate.** As a courtesy, general registrars have the option of verifying the number of qualified voters that have signed a candidate's petitions prior to the filing deadline for the purpose of alerting the candidate of deficiencies. However, it is the candidate's ultimate responsibility to ensure that he or she gathers the requisite number of signatures of qualified voters, utilize eligible circulators, and otherwise follow the procedures laid out in the law. Candidates for election or political party nomination to further his/her candidacy may purchase a list of registered voters for their election district. Purchasing the list may aide in petition signature proficiency.

IV. DOCUMENTS REQUIRED TO BE FILED (continued)

D. **Petition of Qualified Voters** (continued)

4. **Frequently Asked Questions Regarding Petitions** (continued)

4. Must I provide my driver's license number and state of issuance when completing the petition affidavit?

   Answer: **No.** The information is not required and does not invalidate the petition if left blank.

5. I see two versions of the Petition of Qualified Voters form available on SBE's website, which one should I use?

   Answer: Either the letter size (8 ½" x 11") or legal size (8 ½" x 14") petition may be used. The legal size version contains more signature lines than the letter size version. The letter size version fits more neatly on a clip board. Personal preference will prevail.

E. **Statement of Economic Interests**

This document is available from the Clerk of the House of Delegates and at the State Board of Elections website:

http://www.sbe.virginia.gov/CandidateForms.html

It is required to be filed by all candidates for this election.

V. FILING DEADLINE AND WHERE TO FILE

For A Party Candidate Nominated By Method Other Than A Primary

Postmarks are acceptable **only** if these documents are mailed by registered or certified mail and a receipt showing date of mailing can be produced if demanded by the State Board of Elections.

REQUIRED FORMS		WHERE TO FILE	FILING DEADLINE
*1.	Certificate of Candidate Qualification	State Board of Elections	5:00 p.m. 12/11/2013
*2.	Statement of Economic Interests	Clerk of the House of Delegates	5:00 p.m. 12/11/2013
*3.	Statement of Organization for a Candidate **	Refer to Chapter 2, Section 2.2 in the *Candidate Campaign Committee Summary* published by the State Board of Elections	

Any person who fails to file all the required forms by the above deadline MAY NOT have his name printed on the Special Election ballot.

* Refer to Pages 2 through 8 herein for details.

** The failure to file the Statement of Organization for a Candidate is not cause for disqualification. However, you are subject to penalties required by the Campaign Finance Disclosure Act.

VI. FILING DEADLINE AND WHERE TO FILE

For An Independent (Non-Party) Candidate

Items 1 and 2 listed below **must be received** by the *General Registrar* by the filing deadline. Postmarks are acceptable **only** for *Items 3 and 4* and **only** if they are mailed by registered or certified mail and a receipt showing date of mailing can be produced if demanded by the State Board of Elections.

REQUIRED FORMS*	WHERE TO FILE	FILING DEADLINE
*1. Declaration of Candidacy *2. Petitions of Qualified Voters	General Registrar in the City of Roanoke	5:00 p.m. 12/11/2013
*3. Statement of Economic Interests	Clerk of the House of Delegates	5:00 p.m. 12/11/2013
*4. Certificate of Candidate Qualification	State Board of Elections	5:00 p.m. 12/11/2013
*5. Statement of Organization for a Candidate **	Refer to Chapter 2, Section 2.2 in the *Candidate Campaign Committee Summary* published by the State Board of Elections	

Any person who fails to file all the required forms by the above deadline MAY NOT have his name printed on the Special Election ballot.

* Refer to Pages 2 through 8 herein for details.

** The failure to file the Statement of Organization for a Candidate is not cause for disqualification. However, you are subject to penalties required by the Campaign Finance Disclosure Act.

VII. REQUIREMENTS FOR INDEPENDENT CANDIDATE TO USE PARTY ID ON THE BALLOT

The General Assembly enacted legislation permitting an Independent to be identified on the ballot as a member of a political party (other than the Democratic Party or the Republican Party). In order to do so, the State Chair of the group must provide certain documents to the State Board of Elections **no later than 5:00 PM on Wednesday, December 11, 2013.**

These documents are:

1. An affidavit signed by the State Chair of the group, under oath, stating that the group:

    a. Has been in existence for at least six months prior to the filing deadline (existed on or before June 11, 2013);

    b. Has a state central committee composed of registered voters from each of Virginia's 11 congressional districts;

    c. Has a party plan and bylaws; and

    d. Has a duly designated chairman and secretary.

2. A list of the names and resident addresses of the officers and members of the state central committee;

3. A copy of the party plan and bylaws; and

4. A letter signed by the State Chair of the group, certifying that the individual is the nominee of the party and, if his filing is adequate and he is determined to be qualified, is eligible to be identified as such on the January 7, 2014 ballot for the (provide office title) and in the (provide district number) for which he filed as an Independent candidate.

5. A letter signed by the nominee accepting the party's nomination.

NOTE:

The State Board of Elections recommends that the Independent candidate **immediately** provide this information to the State Chair of the political party if he wishes to be identified as a member of a specific group on the January 7th ballot to assure that deadline for providing this information is met.

VIII. NOTICE OF DEFICIENCIES IN DECLARATION OR PETITIONS

An independent [non-party] candidate may request notification of any problems with his filing that can be corrected **before** the filing deadline. This request **must be in writing** as required by § 24.2-505 of the *Code of Virginia*.

This letter must be addressed to the secretary of the electoral board of the candidate's city of residence. It must accompany the declaration of candidacy and petitions filed with the general registrar.

The written request **does not guarantee** timely response. Certain factors may affect the electoral board's ability to follow through, in this case, the extremely truncated filing window.

IX. APPEAL TO DEFICIENCY IN PETITION SIGNATURES

At its 2013 Session, the General Assembly passed legislation granting a nonparty candidate the right to appeal the State Board of Election's determination of deficiencies with his/her petition signatures (§ 24.2-506). The State Board's regulation articulating the appeal process is provided below.

1VAC20-50-30. Appeals of petition signature insufficiency

A. Pursuant to the requirements of §§ 24.2-506 and 24.2-543 of the Code of Virginia, a candidate for office, other than a party nominee, may appeal a determination that the candidate has failed to provide the required number of valid petition signatures necessary to qualify to appear on the ballot.

B. Any communication or notice required in this section shall be made in writing and delivered by mail or, unless otherwise prohibited by the Code of Virginia, electronically by electronic mail or facsimile. Notice of appeal from candidates must bear a photographically reproducible notary seal and be received by the deadlines established within this section.

C. A candidate for a county, city, or town office shall file his appeal with the local electoral board. A candidate for any other office shall file his appeal with the State Board of Elections.

D. A candidate for an office other than President of the United States must file his appeal within five (5) calendar days of the issuance of the notice of disqualification.

E. A candidate for President must file his appeal within seven (7) calendar days of the issuance of the notice of disqualification.

XIV. APPEAL TO DEFICIENCY IN PETITION SIGNATURES

1VAC20-50-30. Appeals of petition signature insufficiency (continued)

F. The proper body to which the appeal notice was given shall establish the time and place where the appeal will be heard and convey this information immediately to the candidate. Electronic mail will be the preferred method of notifying the candidate if such address has been provided by the candidate, otherwise, notice shall be sent by first-class mail.

G. The candidate bears the burden of proof in establishing that a sufficient number of signatures from qualified voters were timely provided.

1. The candidate must submit a list containing the rejected signatures to be reviewed and the specific reason for each signature's reconsideration at least two (2) business days prior to the date on which the appeal will be heard. If the candidate submits no list, or submits a list that contains an insufficient number of names and reconsideration reasons to make up the number of signatures by which the candidate was deemed deficient, no appeal shall be held and the initial determination that the candidate did not qualify for the ballot will be final.

2. The candidate may submit documents clarifying the status of persons whose signatures were rejected for lacking proper registration status or residence.

3. The candidate may submit documents establishing the age of majority for any signer who was listed as ineligible due to status of being a legal minor.

4. The candidate may submit affidavits from persons whose signatures were rejected due to illegibility that attest to their identity. If possible, the affidavits should state the person's name, residence address, and a reasonable description of the location where approached by the circulator to sign the petition.

5. The candidate may not submit documents establishing that a petition signer became registered or updated their voter registration status to the address provided upon the petition after the established candidate filing deadline for the office sought.

XIV. APPEAL TO DEFICIENCY IN PETITION SIGNATURES

1VAC20-50-30. Appeals of petition signature insufficiency (continued)

H. Individual signatures reconsidered during the appeal will only count towards the candidate's requisite number if a majority of board members agree that sufficient evidence exists for their inclusion.

I. All determinations of the board before which the appeal is being heard shall be considered final and not subject to further appeal.

X. OTHER REQUIRED REPORTS

All candidates must file *pre-election* and *post-election* reports of campaign contributions and expenditures. These reports are filed with the State Board of Elections **and**, if reports are filed in paper form, with the electoral board of the candidate's city of residence. For more information on when reports are due, visit our website:

http://www.sbe.virginia.gov/CampaignFinanceDisclosure.html

The State Board of Elections will ascertain the January 7th election results either on **Wednesday, January 8th or Friday, January 10, 2014**. A certificate of election will be prepared by the Board at the meeting. This certificate of election cannot be issued to any person elected until all required reports are filed. Any successful candidate may file the post-election report so that it is received by the State Board and, if reports are filed in paper form, the local Electoral Board, no later than January 8th or 10th, 2014. It must include activity through election day.

No certificate of election can be issued to any successful candidate who fails to file the required reports.

XI. ORDER OF NAMES ON BALLOTS

In **Special Elections**

As a result of the drawing performed by the State Board of Elections at its 12/3/13 meeting, the Republican Party candidate will appear first on the ballot in this special election. The Democratic candidate will appear second. Candidates representing any other recognized political party (see Item VII of page 11 herein), if any, appear next on the ballot in the order determined by a second drawing conducted by the State Board of Elections. Independent (non-party) candidates are listed in alphabetical order after the aforementioned political party candidates.

XII. THE SUCCESSFUL CANDIDATE

The successful candidate must file as a condition to assuming office, after the election and before taking office, with the Clerk of the House of Delegates, a **second** Statement of Economic Interests as required by §§ 30-110 and 30-111 of the *Code of Virginia.* The form is prescribed by, and available from the Clerk of the House of Delegates, PO Box 406, Richmond 23218. It is also available in the candidate forms section of the State Board's website (http://www.sbe.virginia.gov/CandidateForms.html). Failure to so qualify creates a vacancy in the office.

XIII. FREQUENTLY ASKED QUESTIONS

Listed below are the most commonly asked questions. If you need further details, please call us on our toll-free number.

A. Who may circulate a candidate's petitions?

A candidate's petition may be circulated by any person who is a legal resident of the United States of America. Circulators may not be minors or felons whose voting rights have not been restored.

Special Note: The U.S. Supreme Court denied certification of the Libertarian Party of Virginia v. Judd et al. case. The decision leaves in place the U. S. 4th Circuit Court's directive that prohibits the State Board of Elections from enforcing the in-state residency requirement to circulate a candidate petition contained within §§ 24.2-506 and 24.2-521.

The circulator must affirm before a notary or other person authorized to administer oaths, that he **personally witnessed** the affixing of each signature. Falsely taking this affidavit is a felony under Virginia law. The circulator can **NEVER** leave the petition unattended, e. g., left on the counter at a grocery store, restaurant, etc.

B. I am circulating a petition for a candidate. May I also sign as a qualified voter the petition that I am circulating?

I am a Notary circulating petitions for a candidate. May I notarize the petition pages I circulate?

NO TO BOTH. The person circulating the petition must swear, under oath, that he **personally witnessed** the affixing of each signature on the petition and no person can witness his own signature.

XIII. FREQUENTLY ASKED QUESTIONS (continued)

C. I am a candidate and a Notary. May I notarize the petition pages circulated by other persons?

NO. § 47.1-30 of the *Code of Virginia* prohibits a notary from performing a notarial act on any document in which the notary or his spouse is a party, **or** in which either of them has a direct beneficial interest.

Any Notary who violates these provisions is considered guilty of official misconduct, may be removed from office and may be subject to other penalties.

D. I work for the federal government. Can I be a candidate?

Generally, **NO** since the election is partisan.

Employees of the federal government are prohibited from being candidates in partisan elections by the federal law commonly known as the Hatch Act. Most employees of the legislative branch of the federal government are exempt from the Hatch Act. However, they may be affected by other rules and regulations.

Neither a federal government employee nor a person holding any office or post of profit or emolument under the United States government may hold this office. If any person so employed or holding an office of profit or emolument is elected, he would have to resign from the federal government before taking office.

E. I work for the state or a local government. Can I be a candidate?

Some state and local government employees **are prohibited** from being candidates. You may be so prohibited if your Agency receives federal funds. **Contact the personnel officer where you work**. If necessary, present the facts of your case in writing, including the office you wish to seek, to the Hatch Act Unit, **U.S. Office of the Special Counsel**, 1730 M Street NW, Suite 218, Washington, D. C. 20036-4505. The Unit can also be reached by phone at 800-854-2824, 202-254-3650 or by email through hatchact@osc.gov. The Unit will determine if you are affected by the Hatch Act. Their web address is http://www.osc.gov.

Most state and local government employees are not prohibited by law from being a candidate. However, you may be affected by the rules and regulations of the agency or ordinances of the government for which you work. **Contact your personnel officer**.

Further, if you are a salaried officer of the Commonwealth of Virginia, you must resign from the position you hold prior to taking office.

XIII. FREQUENTLY ASKED QUESTIONS (continued)

F. What activities are permitted at the polls on election day?

Please refer to the Do's and Don'ts for Campaigners and Authorized Representatives published by the State Board of Elections. We suggest that you provide this information to any person who will either serve as your representative inside the polls or work for you outside the polls on election day.

http://townhall.virginia.gov/L/GetFile.cfm?File=C:\TownHall\docroot\GuidanceDocs\132\GDoc_SBE_5329_v1.pdf

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