



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

# BOARD MEETING

---

Wednesday, February 26, 2014  
Washington Building  
Room B27  
9:00 AM

---

BOARD WORKING PAPERS  
Master Copy



**STATE BOARD OF ELECTIONS  
AGENDA**

*DATE: February 26, 2014  
LOCATION: Washington Building, Room B27  
TIME: 9:00 a.m.*

- I. CALL TO ORDER** *Charles E. Judd  
Chair*
- II. APPROVAL OF MINUTES** *SBE Board Members*  
January 8<sup>th</sup>, 10<sup>th</sup>, 24<sup>th</sup>, 30<sup>th</sup>, & February 5<sup>th</sup>, 2014
- III. SECRETARY'S REPORT** *Donald Palmer  
Secretary*
- IV. REPORT FROM LEGAL COUNSEL** *Kristina Perry Stoney  
SBE Legal Counsel*
- V. NEW BUSINESS**
- A. Ballot Drawing- May 6, 2014** *Matt Abell  
Elections Services Lead*  
General & Special Elections
- B. Board Certification- Special Election** *Matt Abell*  
House of Delegates 100
- C. Voter ID Implementation -Plan Update** *Susan Lee  
Elections Uniformity Manager*
- D. Voter ID – Proposed Form** *Myron McClees  
SBE Policy Analyst*
- E. Certification Requirements** *Gary Fox  
Voting Technology Specialist*
- F. Voter Systems Certification-Unisyn Voting System** *Gary Fox*
- G. Stand By Your Ad Complaints** *Chris Piper  
Election Services Manager*
- H. Revised Summaries of Campaign Finance Guidance-Approval** *Chris Piper*
- VI. OTHER BUSINESS & PUBLIC COMMENT**
- VII. GOOD OF THE ORDER**



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

---

# Call to Order

---

BOARD WORKING PAPERS



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

---

# **Approval of Minutes**

**January 8, 2014**

**January 10, 2014**

**January 24, 2014**

**January 30, 2014**

**February 5, 2014**

---

BOARD WORKING PAPERS  
SBE Board Members



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

---

# Approval of Minutes January 8, 2014

---

BOARD WORKING PAPERS

# MINUTES

1  
2  
3 The State Board of Elections Board Meeting was held on Wednesday, January 8,  
4 2014. The meeting was held in the General Assembly Building, House Room C in  
5 Richmond, Virginia. In attendance, representing the State Board of Elections (SBE) was  
6 Charles Judd, Chair; Donald Palmer, Secretary; Joshua Lief, Senior Assistant Attorney  
7 General and SBE Counsel; Justin Riemer, Deputy Secretary; Nikki Sheridan,  
8 Confidential Policy Advisor; Susan Lee, Election Uniformity Manager; Chris Piper,  
9 Election Services Manager and Rose Mansfield, Executive Assistant. Chairman Judd  
10 called the meeting to order at 10:00AM.

11 The first order of business was the approval of the Minutes from the State Board  
12 of Elections Board Meetings held on November 25, 2013 and December 2, 2013.  
13 Chairman Judd stated that each set of Board Meeting Minutes would be addressed  
14 separately. Chairman Judd asked if Board Members had any additions or corrections to  
15 the November 25, 2013 Board Minutes and there were none noted. Chairman Judd  
16 moved *that the November 25, 2013 Minutes be approved as submitted*. Secretary Palmer  
17 seconded the motion. Chairman Judd asked if there was any discussion and with none the  
18 Board unanimously approved the Minutes. Chairman Judd asked if Board Members had  
19 any additions or corrections to the December 2, 2013 Board Minutes and there were none  
20 noted. Chairman Judd moved *that the December 2, 2013 Minutes be approved as*  
21 *submitted*. Secretary Palmer seconded the motion. Chairman Judd asked if there was any  
22 discussion and with none the Board unanimously approved the Minutes.

23 The second order of business was the Secretary's Report delivered by Secretary  
24 Palmer. Secretary Palmer stated that the recount for the attorney general's race has been  
25 finalized. Secretary Palmer acknowledged the efforts of the SBE staff, general registrars,  
26 and volunteers across the commonwealth for their efforts. Secretary Palmer stated that  
27 the electoral community really shined during this process. Secretary Palmer stated that he  
28 wanted the community to know that every member of the SBE staff worked extremely  
29 long hours and in perspective it was like have Election Day for two weeks straight.  
30 Secretary Palmer stated that SBE moved through the process and it was successful.  
31 Secretary Palmer stated that SBE is working on the implementation of the ID Plan and  
32 the legislative session is opening with over 200 bills from SBE. Secretary Palmer stated

33 that two political appointees assigned to SBE would be leaving SBE this week. Secretary  
34 Palmer acknowledged Nikki Sheridan, Governor's Policy Advisor, who handled the  
35 media inquiries and as a small agency SBE, did not have the ability to handle the demand  
36 before Ms. Sheridan arrived and that Ms. Sheridan handled this tasking with a great deal  
37 of expertise. Secretary Palmer stated that Ms. Sheridan worked on the previous ID Plan  
38 flawlessly and Ms. Sheridan was the spearhead of the voter outreach plan. Secretary  
39 Palmer stated that Ms. Sheridan will be missed at SBE. Secretary Palmer acknowledged  
40 Deputy Secretary Justin Riemer, appointed by Governor McDonnell, and stated that he  
41 managed the SBE staff and the divisions within the agency. Deputy Riemer has been  
42 invaluable in managing legislation in sessions past and assisting localities to ensure that  
43 SBE performs election administration correctly and provided legal guidance to localities.  
44 Secretary Palmer stated that Deputy Riemer will be missed at SBE.

45 The next order of business was the Legal Report delivered by Josh Lief, SBE  
46 Counsel. Mr. Lief stated that he did not have a report to present at this Board Meeting.

47 The next order of business was the Voter Identification Plan presented by Susan  
48 Lee, Election Uniformity Manager. Ms. Lee stated that the Board was presented the final  
49 draft version of the ID Plan at the December 2013, Board Meeting. Ms. Lee stated that  
50 the Board Members comments and changes were incorporated into the plan as presented.  
51 Ms. Lee stated that SBE would continue to work with DMV to establish a workgroup.  
52 Secretary Palmer thanked the SBE staff and in particular the policy analysts for the  
53 efforts on the voter identification plan. Secretary Palmer noted that SBE has received  
54 input from stakeholders during Board Meetings and additional meetings held at SBE.  
55 Secretary Palmer moved *that the Board approve the proposed plan to implement recently*  
56 *enacted Voter Identification legislation-SB 1256(Obenshain)*. Chairman Judd seconded  
57 the motion. Chairman Judd asked if there were comments. Hope Amezquita, ACLU  
58 representative, approached the podium. Ms Amezquita stated that the ACLU would like  
59 to participate in any future activities involving the plan. Chairman Judd asked if there  
60 were additional comments. Carol Noggle, League of Women Voters of Virginia,  
61 approached the podium. Ms. Noggle stated that the plan did not reflect the requirements  
62 for receiving free voter identification. Ms. Noggle stated that the league would also like  
63 to be involved in any future activities involving the plan. Ms. Noggle asked if the  
64 approved plan would be on Regulatory Town Hall. Secretary Palmer stated that this

65 would be posted on Regulatory Town Hall and there will be a separate regulation to  
66 address individuals who wish to apply for free voter identification. Chairman Judd asked  
67 if there were additional comments and there were none and the Board unanimously  
68 approved the motion.

69 The next order of business was the Stand by Your Ad Violations presented by  
70 Chris Piper, Election Services Manager. Mr. Piper stated the first consideration was from  
71 the Alberts for Supervisor campaign. Mr. Piper submitted additional documents in the  
72 form of an email from Mr. Alberts to the Board Members. Mr. Piper stated that on  
73 October 27, 2013, staff received a complaint concerning a political advertisement  
74 appearing in a public right of way and allegedly paid for by Mark Alberts for Supervisor,  
75 but did not contain the disclosure statement required by § 24.2-956 of *Code of Virginia*.  
76 Mr. Piper stated that the campaign sign failed to display the proper discloser and that staff  
77 recommends that the political advertisement is in violation of the law and a penalty of  
78 \$100 should be assessed. Chairman Judd asked Mr. Piper to address the email that was  
79 presented to the Board Members. Mr. Piper stated that the email states that the candidate  
80 is aware that the banners did not have the proper disclosure and immediately corrected  
81 the situation. Chairman Judd stated that the interpretation of the email is that candidate  
82 was unaware of the banners that were displayed because several supporters conducted  
83 this activity independently of the campaign and the situation was corrected when the  
84 campaign became aware of the issue. Chairman Judd stated that he believed that the  
85 candidate has taken the correct steps and for that reason would make a motion that the  
86 penalty be waived. Chairman Judd moved *that the penalties assessed be waived for the*  
87 *Alberts for Supervisor campaign*. Secretary Palmer seconded the motion. Chairman Judd  
88 asked if there were any comments and there were none and the Board unanimously  
89 passed the motion.

90 The next order of business was the Stand by Your Ad Violation related to the  
91 Carroll County Republican Committee presented by Chris Piper. Mr. Piper stated that on  
92 October 16, 2013 SBE staff received a complaint concerning a political advertisement  
93 appearing in a local paper and paid for by the Carroll County Republican Committee that  
94 did not contain the disclosure statement required by § 24.2-956.1 in the *Code of Virginia*.  
95 Mr. Piper stated that the advertisement appearing in the newspaper meets the Board's  
96 standard for "express advocacy" as it clearly states, "I ask you to join me in supporting

97 Jeff Campbell...” The advertisement does state it was paid for by the Carroll County  
98 Republican Committee, but fails to state whether the candidate authorized the  
99 advertisement and therefore is not complaint with the disclosure required in §24.2-  
100 956.1(2) of the *Code of Virginia*. Mr. Piper stated that the committee has apologized for  
101 the error. Secretary Palmer moved *that the political party committee should be assessed*  
102 *civil penalties totaling \$50.00 representing a first violation*. Chairman Judd seconded the  
103 motion. Chairman Judd asked if there were any comments and there were none and the  
104 Board unanimously passed the motion.

105 The next order of business was the Stand by Your Ad Violation related to the  
106 Democratic Party of Virginia presented by Chris Piper. Mr. Piper stated that the counsel  
107 for the Democratic Party of Virginia has been in contact with SBE and requested that the  
108 Board consider this matter at the next Board Meeting. Chairman Judd deferred the matter  
109 to the next Board Meeting.

110 The next order of business was the Stand by Your Ad Violation related to the  
111 Engle for Delegate presented by Chris Piper. Mr. Piper stated that on November 4, 2013  
112 staff received a complaint concerning a political advertisement appearing in a public right  
113 of way allegedly paid for by Engle for Delegate that did not contain the disclosure  
114 statement required by § 24.2-956 of the *Code of Virginia*. Mr. Piper stated that the  
115 Boards’ guidance is unclear of what constitutes a “yard sign”. Mr. Piper stated that SBE  
116 staff could not provide guidance to the Board and staff recommendation is to not assess a  
117 penalty. Mr. Piper suggested that the matter be differed until guidance is provided on  
118 what constitutes a “yard sign” on private property. Chairman Judd agreed to move the  
119 matter to the next Board Meeting and stated that the code defines print media which  
120 includes billboards and outdoor advertizing. Chairman Judd asked: “Is the issue that the  
121 “yard sign” is on private property verse public property?” Mr. Piper replied: “Yes”.

122 The next order of business was the Stand by Your Ad Violation related to the  
123 Independence USA PAC presented by Chris Piper. Mr. Piper stated on October 28, 2013,  
124 staff received a complaint concerning a political advertisement appearing on television  
125 and paid for by Independence USA PAC, but did not contain a spoken disclosure  
126 statement as required by § 24.2-957.2 of the *Code of Virginia*. Mr. Piper stated that  
127 federal action committees are not required to contain a disclosure statement on their  
128 advertisements for state offices. Mr. Piper stated for that reason staff does not

129 recommend that a penalty be assessed. Chairman Judd moved *that the Board accept staff*  
130 *recommendations*. Secretary Palmer seconded the motion. Chairman Judd asked if there  
131 were any comments and there were none. The Board unanimously approved the motion.

132 The next order of business was the Stand by Your Ad Violation related to the  
133 Lamont Kizzie presented by Chris Piper. Mr. Piper stated that on September 18, 2013,  
134 staff received a complaint concerning the campaign advertising disclosures allegedly paid  
135 for by Lamont Kizzie for Sheriff. The complaint alleges the campaign paid for an  
136 advertisement in the Richmond Voice in which the disclaimer required by § 24.2-956 in  
137 the *Code of Virginia* is not included. Mr. Piper stated that the staff recommendation is  
138 that the campaign be assessed civil penalties of \$1000.00 as this represents the fourth  
139 violation by this campaign. Chairman Judd stated that a pattern has been noted in that an  
140 individual by the name of Tony Pham writes letters and the Board addresses the issue and  
141 then the process starts all over again. Chairman Judd asked: “Who is Tony Pham?”  
142 Chairman Judd asked: “Has Lamont Kizzie paid the other fines?” Mr. Piper replied:  
143 “Yes.” Chairman Judd asked if Mr. Kizzie was present. Lamont Kizzie approached the  
144 podium. Mr. Kizzie explained the error and noted that a correction to the ad was  
145 immediately made once his campaign was notified of the error. Mr. Kizzie stated that Mr.  
146 Pham is the present sheriffs’ attorney. Secretary Palmer stated that he believed that there  
147 is a timing error in receiving the complaints. Secretary Palmer moved that *the Board not*  
148 *asses the penalties recommended by staff*. Chairman Judd seconded the motion.  
149 Chairman Judd asked if there were any other comments and there were none. The Board  
150 unanimously approved the motion.

151 The next order of business was the Stand by Your Ad Violation related to the  
152 Qarni for Delegate presented by Chris Piper. Mr. Piper stated that on October 26, 2013,  
153 staff received a complaint concerning a political advertisement appearing on the  
154 Facebook page of Qarni for Delegate that did not contain a spoken disclosure statement.  
155 Mr. Piper stated that the advertisement appears on the Internet and there is no evidence it  
156 appeared on television. Mr. Piper stated that the advertisement meets the definition of  
157 “print media” as defined in § 24.2-955.1 and is not subject to the spoken disclosure  
158 requirements found in § 24.2-955.1. Chairman moved *to table this complaint while*  
159 *consideration is being given to the status of this ad as a “video” or a television*

160 *advertisement*. Secretary Palmer seconded the motion. The Board unanimously approved  
161 the motion.

162 The next order of business was the Stand by Your Ad Violation related to the  
163 Slagle for Treasurer presented by Chris Piper. Mr. Piper stated that on October 15, 2013,  
164 staff received a complaint concerning a political advertisement mailed to constituents and  
165 allegedly paid for by Slagle for Treasurer that did not contain the disclosure statement  
166 required by § 24.2-956. Mr. Piper stated that the post card meets the Board's standard for  
167 "express advocacy" as it clearly advocates for the election of Joshua Slagle. Mr. Piper  
168 stated that staff recommends that the political advertisement is in violation of the law and  
169 a penalty should be assessed. Chairman Judd moved *that the Board accept staff*  
170 *recommendations and assess the civil penalty*. Secretary Palmer seconded the motion.  
171 Chairman Judd asked if there were any comments and there were none. The Board  
172 unanimously passed the motion.

173 The next order of business was the Campaign Finance Civil Penalty Waiver  
174 Requests presented by Chris Piper, Elections Services Manager. Mr. Piper stated that the  
175 first violation was for the Citizens for Daun Hester. Mr. Piper stated that the committee  
176 was penalized on June 4, 2013, for not filing their campaign finance report due June 3,  
177 2013, in a timely manner. The committee requests a waiver of the penalty due to a  
178 turnover in the committee's staff. Mr. Piper stated that the committee admits to its' late  
179 filing and that Board policy states that staff turnover does not constitute "good cause" for  
180 late filing. Mr. Piper stated that staff recommends upholding the civil penalty. Chairman  
181 Judd stated that as previously discussed in a Board Meeting, now that SBE files  
182 electronically, the 5:00PM deadline is outdated. Chairman Judd stated that in this  
183 particular situation the filing of the report occurred at 5:14PM. Chairman Judd suggested  
184 that the deadline be extended to midnight of the day the report is due. Mr. Piper stated  
185 that the Board can change this guidance and the elections community will be notified of  
186 the change. Secretary Palmer stated that the regulation is not specific about the time.  
187 Secretary Palmer stated that SBE would prefer an 11:59PM deadline on the day of the  
188 reports being due. Chairman Judd moved *that the Board not accept staff*  
189 *recommendations to assess the civil penalty*. Secretary Palmer seconded the motion.  
190 Chairman Judd asked if there were any comments. Virginia Delegate Daun Hester  
191 approached the podium. Delegate Hester stated that she was thankful for the manner in

192 which the Board Members handled this situation. Delegate Hester stated that she wanted  
193 to acknowledge all the efforts of SBE throughout the years and the dedication SBE Board  
194 Members have displayed to the elections community. Chairman Judd thanked Delegate  
195 Hester for her time and her comments. Delegate Hester stated that she was pleased to  
196 observe the proceedings of the Board Meeting. Chairman Judd asked if there were any  
197 comments and there were none. The Board unanimously passed the motion. Secretary  
198 Palmer moved that the Board move *that the deadline be changed to 11:59PM on the day*  
199 *that the report is due*. Chairman Judd seconded the motion. Chairman Judd asked if there  
200 were any comments and there were none. The Board unanimously passed the motion.

201 The next order of business was the Campaign Finance Civil Penalty Waiver  
202 Requests related to the Friends of Patrice Winter presented by Chris Piper. Mr. Piper  
203 stated the campaign has been in contact with SBE and wishes to remove this request from  
204 the agenda.

205 The next order of business was the Campaign Finance Civil Penalty Waiver  
206 Requests related to the Vuyyuru for Governor by Chris Piper. Mr. Piper stated that the  
207 committee was penalized on June 4, 2013 for not filing their campaign finance report due  
208 June 3, 2013 in a timely manner. The committee requests a waiver of the penalty due to  
209 lack of knowledge on how to prepare the reports. The report was filed late and the  
210 committee admits to its' late filing. Board policy states that, among other reasons, good  
211 cause allowing Board waiver of campaign finance civil penalties does not include lack of  
212 knowledge on how to file the required reports. The reason provided does not constitute  
213 "good cause" allowing the Board to waive the assessed penalty. Mr. Piper stated that staff  
214 recommendation is that the penalty should be upheld as the reason provided is in conflict  
215 with official Board policy. Mr. Vuyyuru approached the podium. Mr. Vuyyuru stated that  
216 he misunderstood that he needed a treasurer to file a report initially but, now understands  
217 that he does not need a treasurer and can file his own reports. Chairman Judd asked Mr.  
218 Piper to explain this situation in detail. Mr. Piper stated that Risé Miller, SBE Service  
219 Specialist, had assisted Mr. Vuyyuru in his efforts to file his reports. Ms. Miller has  
220 spoken with Mr. Vuyyuru on numerous occasions and Ms. Miller provides "incredibly  
221 accurate advice when it comes to the filing campaign finance reports." Chairman Judd  
222 stated: "I agree, I have only heard stellar comments about Ms. Miller but, do you know if  
223 it was communicated that Mr. Vuyyuru required a treasurer?" Mr. Piper replied: "I was

224 not present when the conversation occurred”. Secretary Palmer stated that this was the  
225 first filing deadline for Mr. Vuyyuru and he has filed subsequent filling on a timely basis.  
226 Chairman Judd moved *that the Board assess a penalty of \$50.00 instead of the \$100.00*  
227 *recommended by staff*. Secretary Palmer seconded the motion. Chairman Judd asked if  
228 there were any comments and there were none. The Board unanimously approved the  
229 motion.

230 Chairman Judd asked if there was any other business to come before the Board for  
231 the Good of the Order. Deputy Riemer stated: “Since this is my last meeting in my  
232 current capacity, I just wanted to thank Chairman Judd, Vice Chair Bowers, Secretary  
233 Palmer, and Josh Lief for all their support. Looking back I think we all can be proud of  
234 what SBE has achieved over the last three years. It has been a pleasure serving the Board.  
235 I want to thank you for being involved in the process”. Chairman Judd thanked Deputy  
236 Riemer and Nikki Sheridan for their service to the Board.

237 The next order of business was to ascertain the results of the special elections. Mr.  
238 Piper reported to the Board that the canvas for the special elections was in process and at  
239 this time were not available for certification. Chairman Judd moved to recess and  
240 reconvene at 2:00PM in the Washington Building, 1100 Bank Street, Richmond in Room  
241 B27. Secretary Palmer seconded the motion. The Board unanimously approved the  
242 motion.

243 At 2:00PM Chairman Judd moved to reconvene the SBE Board Meeting.  
244 Secretary Palmer seconded the motion and the Board unanimously approved the motion.  
245 Rose Mansfield, Executive Assistant performed the roll call and Chairman Judd and  
246 Secretary Palmer were present.

247 The first order of business was the Ascertainment of the January 7, 2014, Special  
248 Election. Matt Abell, Election Services Lead, explained the process. Chairman Judd and  
249 Secretary Palmer partnered to review the abstracts. Chairman Judd announced the S.  
250 “Sam” Rasoul received the greatest number of votes and was duly elected as the next  
251 representative to the Eleventh House of Delegates District. Mr. Abell informed the Board  
252 that the results from the Sixth Senate had not arrived at SBE. Chairman Judd moved *that*  
253 *the Board recess until January 10, 2014, at 2:00PM*. Secretary Palmer seconded the  
254 motion and the Board unanimously approved the motion.

255           The Board shall reconvene on January 10, 2014 at 2:00PM in the Washington  
256 Building, Room B27. The meeting was adjourned at approximately 2:10PM.

257

258

259

260

\_\_\_\_\_  
Secretary

261

262

263

264 Chair

265

266

267

268 Vice-Chair

269

270

271

DRAFT



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

---

# Approval of Minutes January 10, 2014

---

BOARD WORKING PAPERS

# MINUTES

1  
2  
3 The State Board of Elections Board Meeting was held on Friday, January 10,  
4 2014. The meeting was held in the Washington Building, Room B27 in Richmond,  
5 Virginia. In attendance, representing the State Board of Elections (SBE) was Charles  
6 Judd, Chair; Donald Palmer, Secretary; Justin Riemer, Deputy Secretary; Nikki Sheridan,  
7 Confidential Policy Advisor; Matt Abell, Election Services Lead; and Rose Mansfield,  
8 Executive Assistant. Chairman Judd called the meeting to order at 2:00PM.

9 The first order of business was the Ascertainment of the January 7, 2014 Special  
10 Election in Senate District 6. Matt Abell, Elections Services Lead, explained the process.  
11 Chairman Judd and Secretary Palmer partnered to review the abstracts of Senate District  
12 6. Chairman Judd announced that having examined the certified abstracts of the votes  
13 cast from the January 7, 2014, Special Election, the State Board of Elections determined  
14 that Lynwood W. Lewis, Jr., received the greatest number of votes in the Special  
15 Election, Sixth Senate of Virginia District. Chairman Judd announced that the  
16 ascertainment process was complete.

17 The next order of business was the ballot order for Chesterfield County Sheriff's  
18 Office Special Election on March 18, 2014. Matt Abell, Election Services Lead  
19 explained the process. Secretary Palmer drew the first position of the Democratic Party  
20 and Chairman Judd drew the second position of the Republican Party. Chairman Judd  
21 declared that the ballot order had been determined with the Democratic candidate listed  
22 first and the Republican candidate listed seconded.

23 Chairman Judd asked if there was any other business to come before the Board for  
24 the Good of the Order and with there being none Chairman Judd made a motion *to*  
25 *adjourn*. Secretary Palmer seconded the motion and the Board unanimously passed the  
26 motion. The Board shall reconvene on January 22, 2014 at 12:00 PM in the Washington  
27 Building, Room B27. The meeting was adjourned at approximately 2:10PM.

28  
29  
30 \_\_\_\_\_  
Secretary  
31  
32  
33 \_\_\_\_\_

34 Chair

35

36

37

38 Vice-Chair

---

39

40

41

DRAFT



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

---

# Approval of Minutes January 24, 2014

---

BOARD WORKING PAPERS

1 MINUTES

2

3 The State Board of Elections Board Meeting was held on Friday, January 24,  
4 2014. The meeting was held in the Washington Building, Room B27 in Richmond,  
5 Virginia. In attendance, representing the State Board of Elections (SBE) was Charles  
6 Judd, Chair; Kimberly Bowers, Vice Chair; Donald Palmer, Secretary; Kristina Stoney,  
7 Senior Assistant Attorney General and SBE Counsel; Matt Abell, Election Services Lead;  
8 and Rose Mansfield, Executive Assistant. Chairman Judd called the meeting to order at  
9 12:00PM.

10 Chairman Judd announced that the Board would reconvene in the General  
11 Assembly Building, House Room D at 2:00PM when the tabulation of the results for the  
12 Special Election in Senate District 33 was complete. Chairman Judd stated that the Board  
13 convened at the established time to satisfy the meeting posting. Chairman Judd made the  
14 formal introduction of Senior Assistant Attorney General and SBE Counsel, Kristina  
15 Stoney. Ms. Stoney thanked the Board for the warm welcome and introduced Anna  
16 Birkenheier, Assistant Attorney General in the Financial, Law, and Government Support  
17 Division and Alex Reidell, Intern with Attorney General's Office.

18 The first order of business was the Secretary's Report delivered by Secretary  
19 Palmer. Secretary Palmer reported that SBE will have a role in the Senate District 6  
20 recount and will be sending staff to the Virginia Beach General Registrars' Office.  
21 Secretary Palmer stated that the legislative session is very busy and SBE Staff is handling  
22 a large amount of bills parallel to larger agencies with dedicated teams for this legislative  
23 tasking. Secretary Palmer stated that the SBE Policy Team handles this tasking efficiently  
24 and as a small agency SBE is proud and appreciative of the work they produce. Secretary  
25 Palmer asked if there were any questions. Chairman Judd asked: "The recount in Virginia  
26 Beach, why is it being conducted at that location?" Secretary Palmer deferred to Matt  
27 Abell, Election Services Lead. Matt Abell added: "The Virginia Beach General  
28 Registrars' Office had experience with a recount of this size and this may have been a  
29 factor in the decision." Secretary Palmer stated that SBE will not certify the results of the  
30 recount as it is the responsibility of the Recount Court." Vice Chair Bowers asked: "How  
31 much involvement will SBE have in the recount?" Secretary Palmer replied: "The parties

32 are represented by counsel and the recount teams understand that there will be political  
33 observers and SBE will send four staff members. The process will be similar to the  
34 statewide recount that was conducted in Richmond.” Chairman Judd asked: “Who  
35 physically will be doing the count?” Secretary Palmer replied: “The recount tables will  
36 do the initial canvassing and that information then goes to the summary table where the  
37 numbers are recalculated and if there is any disputed ballots that the parties cannot agree  
38 on, then those ballots go to the court and the court will decide on the contested ballots.  
39 The SBE staff will do the recalculation with the assistance of the Virginia Beach General  
40 Registrars’ office and Clerk of Court staff.”

41 Chairman Judd moved that the Board go into recess and reconvene in the General  
42 Assembly Building at 2PM, House Room D. Vice Chair Bowers seconded the motion  
43 and the Board unanimously passed the motion.

44 Chairman Judd called the Board to reconvene at 2PM. The next order of business  
45 was the ascertainment of the January 21, 2014 Special Election in Senate District 33.  
46 Matt Abell, Elections Services Lead, explained the process. Chairman Judd announced  
47 that having examined the certified abstracts of the votes cast from the January 21, 2014,  
48 Special Election, the State Board determined on this 24th day of January, 2014, that  
49 Jennifer T. Wexton received the greatest number of votes (11,431) in said election and  
50 was duly elected as the next representative to the Thirty-third Senate of Virginia District.  
51 Chairman Judd announced that the ascertainment process was complete.

52 Chairman Judd asked if there was any other business or public comment to come  
53 before the Board. Theresa Martin, League of Women Voters, approached the podium.  
54 Ms. Martin stated that the comment previously made about the nature of being short in  
55 staff has been noticed as well as the result of that shortage during legislative session. Ms.  
56 Martin stated that the league is involved in voter advocacy and the improvement of  
57 election management. Ms. Martin stated that the league is always supportive of  
58 maintaining adequate resources for SBE to oversee election management and to assist the  
59 local electoral boards and general registrars. Secretary Palmer thanked Ms. Martin for her  
60 comments and noted that the Presidential Commission on Elections recently released a  
61 report, and the major recommendation is that there is a need to transition to new  
62 technology 10 years after the passage of the Help America Vote Act (HAVA). Secretary

63 Palmer stated that the commission outlined its recommendations and I encourage all  
64 individuals to read the report. Secretary Palmer stated that the authors of this report  
65 received and utilized input from local and state officials. Chairman Judd asked: “Will the  
66 report be on the SBE Website?” Secretary Palmer replied: “We could certainly post the  
67 report.” Chairman Judd asked if there were any other public comments and there were  
68 none.

69 Chairman Judd stated that SBE Board Members invited the Fairfax County  
70 General Registrar and Electoral Board Members to this Board Meeting. Chairman Judd  
71 stated that there has been comment during previous Board Meetings referencing concerns  
72 based on activity during the November 2013, General Election. Chairman Judd stated that  
73 it is appropriate to address those concerns in this public forum. Chairman Judd stated that  
74 he has read the 33 page report compiled by Fairfax County Electoral Board. Chairman  
75 Judd invited the Fairfax County Electoral Board to the podium to address the report. The  
76 three members of the Fairfax County Electoral Board; Seth Stark, Chairman; Stephen  
77 Hunt, Vice Chairman; and Brian Schoeneman, Secretary approached the podium. Mr.  
78 Schoeneman stated that the electoral board produced the report voluntarily regarding the  
79 issues of the November 5, 2013, General Election. Mr. Schoeneman stated that the  
80 electoral board tried to maintain transparency to ensure that the voters of Fairfax County  
81 and the commonwealth knew how we made our decisions and that they can have faith  
82 that the elections were administered fairly. Mr. Schoeneman stated that the report outlines  
83 the three major issues of concerns; (i) the provisional ballot, (ii) release of provisional  
84 voters’ information to the media, and (iii) our electoral board decision to extend the hours  
85 to allow the voters’ time to return with their identification. Mr. Schoeneman stated that  
86 the electoral board believed that they had followed SBE guidance. Mr. Stark stated:”The  
87 board stands by the report and the report summarizes how we acted and why we acted in  
88 the way that we did.” Mr. Schoeneman asked if the SBE Board Members had questions  
89 for the Fairfax County Electoral Board.

90 Chairman Judd stated: “From the outside looking in it appears that you were  
91 doing some cherry picking of the guidelines. The reason this Board exist is to have  
92 uniformity statewide. I am talking about processes and procedures and when a locality  
93 decides on those guidelines this raises some concerns on the part of this Board Member.

94 Your report was very inclusive but, what I see is that Fairfax County should be treated  
95 very different and that is not the case. The code says that we should have uniformity  
96 statewide and all the processes and procedures should be the same in every locality.” Mr.  
97 Stark asked: “Could you tell us which procedure we cherry picked?” Secretary Palmer  
98 stated: “We are colleagues before today and will be colleagues in the future, and my  
99 major concern is the uniformity of practices throughout the state. The code states that  
100 SBE supervises the work of the localities on these issues. In one example, the counting of  
101 provisional ballots, it is my understanding that a number of provisional ballots were  
102 counted without a signature. SBE guidance specifically stated that those ballots should  
103 not be counted. There may be disagreement with this but it is the reality that if Fairfax  
104 and let’s say 10 localities decide to count provisional ballots without signatures then we  
105 have a real problem in the commonwealth that will not withstand the glare of what  
106 happened in a close race and we will have the same non-uniform counting of ballots that  
107 caused a crisis in Florida in 2000. There would have been a right to an election contest by  
108 an aggrieved party because ballots would have been counted or not counted based on  
109 what county you lived in and whatever legal whim the local electoral boards would have  
110 exercised. There would have been equal protection problems and there are exact reasons  
111 SBE provides guidance on this particular issue. On October 23, 2013, memos were sent  
112 to the field from our office on this issue.” Mr. Schoeneman stated: “We believe that we  
113 that we followed SBE guidance and that we were not to reject any ballot simply because  
114 it did not have the proper identifying information on the ballot. The way the envelope  
115 reads is that by physically marking the envelope and putting the ballot inside the voter is  
116 testifying that everything on the envelope is true to the best of your knowledge. Our  
117 perspective is that when we received guidance on October 23<sup>rd</sup> that specifically said we  
118 should not reject any provisional ballot for lack of identifying information we understood  
119 this included the signature. Fairfax County had 14 ballots that did not have the signatures.  
120 We did receive an email from Mr. Riemer stating that we should not count those but it  
121 did not have a code citation or any other information.” Secretary Palmer replied: “I  
122 understand part of your argument but, the provisional envelope has to be filled out and  
123 signed by both the voter and the chief officer of election and laws of the commonwealth  
124 and our guidance was very specific in that requirement. We were asked by your office

125 for guidance and we responded to the entire election community of November 6, 2013,  
126 providing the citation that requires the voter to sign the provisional ballot envelope. The  
127 code specifically §24.2-103 states that the state board shall supervise and coordinate the  
128 work of the electoral boards and the general registrars to provide uniformity in practices  
129 and procedures in all elections. It shall make rules and regulations and issue instructions  
130 and provide information consistent with the election laws to promote proper  
131 administration of election laws. SBE provided the advice and instruction and then Fairfax  
132 County counts provisional ballots without signatures. The SBE memo was very clear and  
133 additionally addressed the issue of the social security number. Our responsibility is to  
134 ensure that the Board or the localities are not sued for violating the law. When there is an  
135 issue, which may result in litigation, we find the correct interpretation to the code and  
136 provide guidance. The state board or the attorney general's office does not have to  
137 represent a locality in litigation that does not follow the code or guidance. An additional  
138 concern is the lack of uniformity, and the lack of it may create a perception that one party  
139 had an advantage over another party in an election.”

140 Vice Chair Bowers stated: “There seems to be an overarching message coming  
141 from this Board and we pride ourselves in our message, that we want everyone to feel  
142 that they can come to us to include those individuals out in the election community  
143 regarding regulations and election related matters. I am concerned that an email went out  
144 that directly address the concern of signatures on provisional ballots. Then you still took  
145 action off of what you thought was best verses the guidance provided. We should not act  
146 independently of that guidance no matter our background or because of the locality we  
147 represent. To know that there is an uncounted vote because in some localities a procedure  
148 was or was not followed concerns me because and this is something that we have worked  
149 through during multiple elections to have prepared guidance. As a Board we do not  
150 always know the backstory on everything and your document of explanation was helpful  
151 to me to understand the logic behind your actions. It is very concerning that you did not  
152 follow the guidance of the Board and SBE Staff.” Chairman Judd asked if there were  
153 additional comments.

154 Mr. Schoeneman cited several lines from the memo and stated: “The Board has  
155 lost sight of what really is important here. We had a Marine return home that had mailed

156 his federal post card and then we sent an electronic absentee ballot, which he did not  
157 receive and he came to the polls on Election Day and this Marine was listed as voting  
158 absentee. This individual filled out his provisional ballot envelope and he forgot to sign  
159 it. That vote came to us and he was qualified to vote in the precinct for which he had cast  
160 his ballot. My staff should have caught this error before he left and you are telling me that  
161 his vote should not count. The guidance the Board issued, in Mr. Riemer's email was  
162 wrong. We took the information provided and the circumstances for which these votes  
163 were cast and we error on side of ensuring that the individual right to vote was not  
164 compromised. With the provisional ballot list we did our best to comply with what the  
165 Board told us. Fairfax County and the Board of Elections were sued in November, 2012,  
166 and I defended the electoral board. The only thing that Fairfax County did different is that  
167 we provided them with a type written copy of the information that they could have copied  
168 by hand. It was just the portion of the log that was available to the public. In a locality  
169 like ours that had 489 provisional ballots what did it matter that we provided the copy.  
170 The reason we allowed the extra time was because the Democratic Party had taken on the  
171 willingness to go out and tell people that they will represent the voter in the provisional  
172 ballot meeting if you sign a document and then we will take your information and  
173 represent you. I disagreed with this and this was in contradiction of what the Secretary  
174 previously stated. We needed to protect the voters who were told incorrect information,  
175 from the parties, and we gave them enough time to come down and present their  
176 information.”

177 Secretary Palmer stated: “I had heard about this situation and this is totally  
178 outside the requirements of the code. It has only been acceptable in the last two years that  
179 counsel for the voter was even allowed inside the provisional ballot meeting. The laws  
180 may not always seem fair or we may not agree with them but in this case, this is a  
181 procedure that is not facilitated by the code.” Chairman Judd asked: “How many  
182 provisional ballots did you count without signatures?” Mr. Schoeneman replied: “14”.  
183 Chairman Judd asked: “Did you apply the Marine story in all 14?” Mr. Schoeneman  
184 replied: “No, we are not exactly sure but, most were the result of the federal post card  
185 application which is good for two years.” Secretary Palmer stated: “It not to say that your  
186 heart was not in the right place but, our concern is the affirmation under oath the voter

187 says: "I am who I say I am and I am eligible to vote". The signature is very important  
188 because it is the only thing affirming the information provided." Chairman Judd stated:  
189 "You made a reference to lawyers disagreeing and I understand that your Board voted  
190 unanimously to disagree with guidance and our guidelines". Mr. Schoeneman stated:  
191 "That is incorrect; we had a 2 to 0 vote but, we still followed SBE guidelines. We  
192 followed the guidelines even though we disagreed with them." Chairman Judd asked:  
193 "Why did you think it was important to have a vote as a matter of record that you  
194 disagreed with the guidelines and yet you followed them?" Mr. Hunt replied: "Because, it  
195 seemed to us that it was being changed in midstream." Chairman Judd asked: "What did  
196 you do with that vote?" Mr. Schoeneman replied: "It is on the record." Chairman Judd  
197 asked Secretary Palmer to address "midstream". Secretary Palmer stated: "From our  
198 perspective there has never been in the commonwealth the allowance that an attorney  
199 could simply show up at the provisional ballot meeting without the voter and make  
200 assertions on their behalf. Until 2012, it was only the voter himself allowed in the  
201 meeting." Chairman Judd asked: "What changed "midstream"?" Secretary Palmer stated:  
202 "We (the SBE) heard what procedures was being considered in Fairfax and called and  
203 explained that our reading of the code does not allow this. There has not been a situation  
204 in the commonwealth like this regarding this issue since I came into office so it certainly  
205 was not a change; it was simply an affirmation of the guidelines." Chairman Judd asked:  
206 "What changed "midstream"?" Mr. Schoeneman replied: "In the November, 2012  
207 elections the electoral board did allow attorneys for the Obama campaign that had signed  
208 up voters to be present in the meeting when the discussion was held during the  
209 provisional ballot meeting. This then became the practice of our electoral board. Then we  
210 started our provisional ballot meeting and we were told that we needed to contact the  
211 voter and have them come back in person verses a lawyer representing them. What  
212 changed was what was told to our voters in Fairfax County. The guidance came down on  
213 Friday in midstream. The SBE guidance was correct and this is never going to happen  
214 again in Fairfax County." Chairman Judd stated: "In order to clarify a public statement; It  
215 changed midstream from the way you used to do it and you were told by the SBE that  
216 you were not following guidelines and then you voted that you disagree. Is what I just  
217 said right or wrong?" Mr. Schoeneman replied: "We voted because of the way the

218 guidelines came down and the guidelines.” Chairman Judd stated: “Ok, so you disagreed  
219 with the SBE guidelines because you were used to doing it your way.” Mr. Schoeneman  
220 replied: “No one told us that our way was wrong, then guidelines came down and we did  
221 it correctly but, we disagree with the guidelines.” Chairman Judd stated; “So, you  
222 disagreed with timing of the guidelines so if you would have received the guidelines on  
223 Monday verses Friday you would not have disagreed?” Mr. Schoeneman replied: “That is  
224 correct.” Secretary Palmer stated: “I know that I have talked about this issue a number of  
225 times. The October 23, 2013, memo has a paragraph regarding this issue and the roles of  
226 the authorized individual and from my perspective this is not a new issue as the Fairfax  
227 County Democratic Party had wanted to do this a number of times in the past. There were  
228 individuals in the electoral community that were upset at Fairfax County that your  
229 electoral board took a long time to complete the task of handling the provisional ballots.”  
230 Mr. Hunt replied: “I have a day job and I spent every day for over a week doing our job  
231 as an electoral board and you can pass this along to those individuals that never a day did  
232 we go golfing and I didn’t go back to work. Staff was working the whole time and this  
233 perception is absurd.” Mr. Schoeneman added: “I think people may believe this because  
234 I was posting updates on Facebook and twitter and they wrongly believed that I had time  
235 on my hands. The bottom line is that we had 489 provisional ballots and we did not stop  
236 until we got to the end. This is an unfair criticism from folks that do not have the  
237 population of 800,000 voters. We are very proud of how our staff handled this event.”  
238 Chairman Judd asked: “Would you do anything different if we were to do this again? Mr.  
239 Schoeneman replied: “Oh, absolutely we would have received clearance a head of time so  
240 when Election Day happens we would not have had questions. We would have pushed  
241 back a little bit harder in regard to the signatures. I would have done a better job of  
242 making sure that the press got it right the first time. I think the process will be better for  
243 us in the future.” Chairman Judd asked if there were any other comments.

244 Secretary Palmer asked: “On the provisional ballot information we had received  
245 information that some of the staff was allowing voters to fill in information after the fact.  
246 This situation is of concern and can you explain this to the Board?” Mr. Schoeneman  
247 replied: “I have been interviewed by the attorney generals’ office in regards to the  
248 situation and I will let you know. There were four individuals as I recall that had not

249 signed their provisional ballot envelope that had come in to present information on their  
250 behalf and at that time they were given the option to sign the provisional ballot envelope  
251 while they were in the provisional meeting. Their identification was checked by staff  
252 before this was done. This is before we made the final decision on Tuesday to accept the  
253 14 without signatures and as I understood the reasoning behind that was this had been  
254 allowed in the past. This is what was told to us at the time.” Chairman Judd asked: “Who  
255 told you that?” Mr. Schoeneman replied: “I believe you told me that and that the  
256 Democratic Party authorized representative told me that as well.”

257 Cameron Quinn, Fairfax County General Registrar, approached the podium. Ms.  
258 Quinn stated: “The 14 ballots that had no signatures included the 4 that were later signed.  
259 Included in that 14 were where ballots had hand-written a note from the voter explaining  
260 their information on Election Day and the election officials had put in with the  
261 provisional ballot envelope that they used with the precinct and the voter actually signed  
262 the envelope even though they actually had a signature from the voter on Election Day.”  
263 Secretary Palmer stated: “That concerned me greatly, Cameron I would asked you to go  
264 back to your staff and really tighten up these procedures.” Ms. Quinn replied: “To my  
265 knowledge that had never occurred before, that doesn’t mean that it didn’t, that means  
266 that it was something that I was not aware of before.” Secretary Palmer replied: “I  
267 understand but, part of the reason we are here is because of the scrutiny and spotlight of a  
268 very close election. This situation is very serious and I encourage you to go back and  
269 tighten up this procedure to keep this uniform within your office.” Mr. Schoeneman  
270 asked: “What is the cause of your concern?” Secretary Palmer replied: “It is often an  
271 issue whether a voter has spoiled their absentee ballot: Do you allow that voter to come in  
272 and correct the error and have that ballot counted? I think the same analysis takes place  
273 with provisional ballots; this is not something that is permitted within the Election Code.  
274 The larger issue is uniformity.” Mr. Schoeneman replied: “I understand that and it is a  
275 bad idea for us to be disenfranchising voters because of administrative error. There is a  
276 difference between a provisional and absentee ballot, the rules are different. The concerns  
277 about voter fraud and ensuring identity of voters on an absentee ballot then when you  
278 physically have a voter in your presence; both on Election Day and during the provisional  
279 ballot meeting.” Secretary Palmer stated: “The General Assembly did stress the

280 importance of the signature and the code does say subject to the penalties of making false  
281 statements. The General Assembly has stated that the provisional envelope needs to be  
282 filled out subject to the penalties of perjury.” Mr. Schoeneman replied: “I understand this  
283 and the General Assembly also directly required that a full social security number be  
284 included on that line. This Board has chosen to tell the electoral boards of the  
285 commonwealth that we do not have to follow that and I do not see the difference.”  
286 Secretary Palmer replied: “We are not making these decisions up out of thin air. With  
287 regards to the full social security number, the Assembly put in a requirement for full  
288 social security number however; federal law only requires the last four of the social  
289 security number unless the state is grandfathered. In consultation with the attorney  
290 generals’ office we decided that even though the General Assembly accidentally removed  
291 the requirement for the social security number in 2011 and then went back to require the  
292 full social security number. As a result, the commonwealth may have lost its  
293 grandfathered waiver and federal law appears to only allow the locality and SBE to ask  
294 for the last four (of the social security number). We had to read and interpret state and  
295 federal law together so SBE took a look at this issue and provided guidance in a uniform  
296 manner.” Vice Chair Bowers asked: “The code is clear on the signature of the officer of  
297 election; is that done following the signature of the voter?” Mr. Schoeneman replied: “It  
298 should but, it depends on what happens in the locality.” Vice Chair Bowers stated: “The  
299 instructions state that the officer of election is reading this and is stating that to the best of  
300 my knowledge “I am not disqualified from voting” and at that point is it in the voters  
301 hand to turn it into a box or is it left to the officer of election to submit this envelope. Is it  
302 the job of the officer to ensure that the voter has signed the envelope?” Mr. Schoeneman  
303 replied: “The Election Chief is supposed to confirm all the information is correct then  
304 place it into larger envelope. This is why we view the voter not signing the envelope as  
305 an administrative error on our part. I agree 100% with the social security number issue.  
306 When there is an administrative error you give the benefit of the doubt to the voter.” Vice  
307 Chair Bowers stated: “It would definitely be an administrative error if this fell on the  
308 responsibility of the officer of election.” Vice Chair Bowers asked Chairman Judd if  
309 consideration was given to the prospect of changing the code. Chairman Judd asked Mr.  
310 Schoeneman to explain upon the inquiry from the attorney general’s office. Mr.

311 Schoeneman replied: "I meet with the investigator last Monday, January 13, 2014."  
312 Chairman Judd stated that the attorney general office, as of last year, is equipped to open  
313 an investigation without SBE Board Members officially requesting an investigation.  
314 Chairman Judd asked Ms. Stoney, Senior Assistant Attorney General and SBE Counsel,  
315 to check with the office to see if an investigation was in place. Ms. Quinn stated that she  
316 had been in touch with the attorney generals' office and confirmed that there was an  
317 investigation in progress. Ms. Quinn stated: "This was an important discussion and one of  
318 things that is not well understood is while there is a requirement and legality in training  
319 the structure of the election system makes clear that local electoral boards are suppose to  
320 coordinate with the SBE. Members of electoral boards followed everything SBE said  
321 without question. The structure does allow the local electoral boards some discretion. It is  
322 important to find a way to have those discussions where there may be some areas of  
323 disagreement and to take in the consideration the small and large localities. There are  
324 times when uniformity is not required under due process and we need to figure out in  
325 those cases where it matters. I would encourage SBE to have those discussions with the  
326 entire electoral board community. I do not think any of these issues occurred intentionally  
327 but, I do know that SBE resources have gotten tighter over the last 10 years in the terms  
328 of general funding. The expectations in the entire election community have increased and  
329 there needs to be more resources and we would like to work with SBE to ensure that  
330 there are sufficient resources. I am willing to work on getting more resources for SBE."  
331 Chairman Judd thanked Ms. Quinn for the offer of locating more resources. Chairman  
332 Judd stated: "The tone of the letter explaining the action of the Fairfax County Board  
333 came across as "Well we are Fairfax County and we are different then all the rest of the  
334 localities". I understand the dynamics of a large locality and the difficulty of one size fits  
335 all. I take very seriously the whole thing about uniformity across the commonwealth and  
336 to me it is still a process and procedure issue. When SBE heard about these issues I stated  
337 that there are some questions that need to be answered. My point is that I do not intend to  
338 try to change to outcome of this election: I want to see what we can learn from this and  
339 go to the next election better equipped and educated on how we can make sure there is  
340 uniformity." Chairman Judd asked if there were any other comments. Secretary Palmer  
341 reminded the Fairfax delegation that: "Colleagues before, colleagues now and colleagues

342 in the future.” Chairman Judd asked if there were any other comments and there were  
343 none.

344 Chairman Judd asked if there was any other business to come before the Board for  
345 the Good of the Order and with there being none Chairman Judd made a motion *to*  
346 *adjourn*. Secretary Palmer seconded the motion and the Board unanimously passed the  
347 motion. The Board shall reconvene on February 26, 2014 at 10:00 AM in the Washington  
348 Building, Room B27. The meeting was adjourned at approximately 3:15PM.

349

350

351

---

352

Secretary

353

354

355

---

356

Chair

357

358

359

---

360

Vice-Chair

361

362

363



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

---

# Approval of Minutes January 30, 2014

---

BOARD WORKING PAPERS

# MINUTES

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

The State Board of Elections Board Meeting was held on Thursday, January 30, 2014. The meeting was held in the Washington Building, Room B27, in Richmond, Virginia. In attendance, representing the State Board of Elections (SBE) was Charles Judd, Chair; Donald Palmer, Secretary; Matt Abell, Election Services Lead; Rose Mansfield, Executive Assistant. Chairman Judd called the meeting to order at 2:00p.m.

The first order of business was the Ballot Position Drawing for the House District 100 Special Election on February 25, 2014. Matt Abell, Election Services Lead, explained the process. Secretary Palmer drew the first position of the Democratic Party and Chairman Judd drew the second position of Republican Party. Chairman Judd declared that the ballot order had been determined with the Democratic candidate listed first and the Republican candidate listed second.

Chairman Judd asked if there were any other comments and there were none. Chairman Judd moved *to adjourn*. Secretary Palmer seconded the motion and the Board approved the motion to adjourn. The meeting was adjourned at approximately 2:05 p.m.

The Board shall reconvene on February 26, 2014 at 10:00a.m. in the Washington Building 1100 Bank Street, Richmond, Virginia, Room B27.

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Vice-Chair



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

---

# Approval of Minutes February 5, 2014

---

BOARD WORKING PAPERS  
SBE Board Members

# MINUTES

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

The State Board of Elections Board Meeting was held on Wednesday, February 5, 2014. The meeting was held in the Washington Building, Room B27, in Richmond, Virginia. In attendance, representing the State Board of Elections (SBE) was Charles Judd, Chair; Donald Palmer, Secretary; Matt Abell, Election Services Lead; and Rose Mansfield, Executive Assistant. Chairman Judd called the meeting to order at 11:00a.m.

The first order of business was the Ballot Position Drawing for Arlington County Special Election set tentatively for April 8, 2014. Matt Abell, Election Services Lead, explained the process. Secretary Palmer drew the first position of the Democratic Party and Chairman Judd drew the second position of Republican Party. Mr. Abell stated that if multiple third party candidates achieve ballot access the second drawing for their order would need to be conducted. Secretary Palmer drew the third position of Libertarian Party and Chairman Judd drew the fourth position of Independent Green. Chairman Judd declared that the ballot order had been determined; (i) Democratic candidate, (ii) Republican, (iii) Libertarian Party, and (iv) Independent Green.

Chairman Judd asked if there were any other comments and there were none. Chairman Judd moved *to adjourn*. Secretary Palmer seconded the motion and the Board approved the motion to adjourn. The meeting was adjourned at approximately 11:05 a.m.

The Board shall reconvene on February 26, 2014 at 10:00a.m. in the Washington Building 1100 Bank Street, Richmond, Virginia, Room B27.

---

Secretary

---

Chair

---

31 Vice-Chair

32

33

34

DRAFT



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

---

# Secretary's Report

---

BOARD WORKING PAPERS  
Presented by Donald Palmer



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

---

# Report from Legal Counsel

---

BOARD WORKING PAPERS  
Presented by Josh Lief



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

---

# New Business

---

BOARD WORKING PAPERS



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

---

Ballot Position Drawing  
General & Special  
Election  
May 6, 2014

---

BOARD WORKING PAPERS  
Presented by Matt Abell  
Elections Services Lead



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

---

# Board Certification Special Election House of Delegates Seat 100

---

BOARD WORKING PAPERS  
Presented by Matt Abell  
Elections Services Lead



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

---

# Voter Identification Implementation Plan Update

---

BOARD WORKING PAPERS  
Presented by Susan Lee  
Elections Uniformity Manager



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

---

# Voter Identification Proposed Form

---

BOARD WORKING PAPERS  
Presented by Myron McClees  
SBE Policy Analyst



★VIRGINIA★  
STATE BOARD  
of ELECTIONS

## Memorandum

To: Members of the State Board of Elections

From: Myron McClees, Policy Analyst

Date: February 26, 2014

Re: Proposed Form for Acquiring a Voter Identification Card

---

### **Suggested motion for a Board member to make:**

I move that the Board seek public comment, for a period of 21 days, on the proposed form for persons applying to receive a photographic voter identification card.

**Applicable Code Sections:** §§ 24.2-404, 24.2-643

### **Attachments:**

Your Board materials include the following:

- Proposed wording for Voter Identification Card Application

### **Background:**

The General Assembly passed legislation in 2013 (SB 1256) that requires all individuals voting in-person to show a photo identification document prior to casting a regular ballot. Concomitant with this requirement was the duty of the State Board of Elections to assist general registrars in providing free photo identification to voters that do not possess one of the requisite forms of identification. The bill included a delayed implementation date of July 1, 2014.

The proposed form being presented before the board is offered in anticipation of the upcoming implementation date. A voter will be asked to fill out the application in its entirety, *inter alia*, prior to their being sent a voter identification card bearing their photograph.

For the proposed form, if the Board selects to move forward, staff proposes posting the form on SBE's website for 21 days and notifying interested individuals of the comment period through Town Hall. All comments received during this time period will be presented to the Board prior to final consideration on adopting use of the form.



Photo IDs will be mailed to the address on the applicant's Commonwealth of Virginia voter registration

**(All fields required unless noted - Please print)**

First Name: \_\_\_\_\_

Middle Name: \_\_\_\_\_ or check  I do not have a middle name

Last Name: \_\_\_\_\_

Suffix: \_\_\_\_\_ or check  I do not have a suffix

Social Security (last 4 required): \_\_\_\_\_ Date of Birth: \_\_\_\_\_

E-mail (optional): \_\_\_\_\_ Phone # (optional) \_\_\_\_\_

I swear/affirm, under felony penalty for making willfully false material statements or entries, that the information provided on this form is true, and that I do not have any acceptable form of identification required to vote in-person. I do not have:

- An unexpired Virginia Driver's license or
- DMV issued photo identification card or
- United States passport or
- Other government issued photo identification or
- College or university student photo identification card (issuer must be institution of higher education located in Virginia) or
- Employee photo identification

I understand that the photo identification card will be provided to me for the sole purpose of voting, after my voter registration record has been verified.

Signature

Date

***(For internal purposes only):***

Processed by: \_\_\_\_\_ Date: \_\_\_\_\_

Voter ID Number: \_\_\_\_\_



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

---

# Certification Requirements

---

BOARD WORKING PAPERS  
Presented by Gary Fox  
Voting Technology Specialist



★VIRGINIA★  
STATE BOARD  
of ELECTIONS

## Memorandum

To: Members of the State Board of Elections

From: Gary W. Fox, Voting Technology Specialist

Date: February 26, 2014

Re: Updates to State Certification

---

### **Suggested motion for a Board member to make:**

I move that the Board approve the changes to the *State Certification of Voting Systems: Requirements and Procedures*, as recommended by SBE staff.

**Applicable Code Sections:** §§ 24.2-628 & 629.

### **Attachments:**

Your Board materials include the following:

- A draft of *State Certification of Voting Systems: Requirements and Procedures* with recommended changes highlighted.
- A draft of *State Certification of Voting Systems: Requirements and Procedures* with recommended changes incorporated.

### **Background:**

In 2012, the State Board of Elections updated the state certification procedures for new voting equipment. The current changes recommended to the state certification procedures allow Virginia more flexibility in evaluating voting systems for use in the Commonwealth. In particular language regarding technology has been updated and a test election involving a recount has been added. The proposed changes clarify the certification requirements for vendors and ensure uniformity in the certification process. In addition changes reflecting the agency name change effective July 1, 2014 are included in the document.



## STATE CERTIFICATION OF VOTING SYSTEMS Requirements and Procedures

---

~~STATE BOARD OF ELECTIONS~~

Formatted: Strikethrough

~~Department of Election~~

Formatted: Not Strikethrough

1100 BANK STREET, 1ST FLOOR  
RICHMOND VA 23219

Revised: ~~April 2012~~ February 2014

Formatted: Strikethrough

## TABLE OF CONTENTS

<b>Part 1: Introduction</b> .....	<b>1</b>
1.1. Purpose of Procedures .....	1
1.2. Specific Requirements.....	1
1.3. Applicability.....	2
1.4. Decertification.....	3
<b>Part 2: Basis for Certification</b> .....	<b>4</b>
2.1. Federal Compliance Testing.....	4
2.1.1. Voting System Hardware Elements .....	5
2.1.2. Voting System Software Elements .....	5
2.1.3. Reciprocity.....	5
2.2. State Certification Testing.....	5
2.3. Acceptance Tests .....	6
<b>Part 3: Review and Approval Process</b> .....	<b>8</b>
3.1. Summary of Process.....	8
3.2. Procedure for Certification .....	8
3.3. Supporting Information.....	9
3.4. Audit and Validation of Certification.....	13
3.5. Time Frame.....	13
<b>Part 4: Appendix A - Glossary</b> .....	<b>15</b>
<b>Part 5: Appendix B - Contacts</b> .....	<b>16</b>

## Part 1: Introduction

### 1.1. Purpose of Procedures

These procedures have been developed and issued as part of a continuing effort to improve the administration of elections in the Commonwealth of Virginia. They provide a formal and organized process for vendors to follow when seeking state certification for a new voting system or an improvement or modification to an existing voting system currently certified for use. To this end the procedures are designed to:

1. Ensure conformity with state election laws relating to the acquisition and use of voting systems and equipment.
2. Provide an organized and consistent means of evaluating and certifying voting systems and equipment marketed by vendors for use in Virginia.
3. Provide an organized and consistent means of evaluating and certifying additional capabilities and changes in the method of operation for voting systems previously certified for use in Virginia.
4. Provide an organized and consistent means of decertifying voting systems and equipment.
5. Provide for the improvement of the electoral process by ensuring that all voting systems operate properly and are installed and tested in compliance with the State Board of Elections approved procedures.
6. Provide for the accurate reporting of all election results for any jurisdiction in which each certified system is used.

### 1.2. Specific Requirements

1. The voting system or equipment must meet the requirements contained in the most recent version or versions of the Voluntary Voting System Guidelines (VVSG) or Voting System Standards (VSS) currently accepted for testing and certification by the U.S. Election Assistance Commission (EAC). Compliance with the applicable VVSG/VSS may be substantiated through federal certification by the EAC, through certification by another state that requires compliance with the applicable VVSG/VSS, or through testing conducted by a federally certified voting system test laboratory (VSTL) to the standards contained in the applicable VVSG/VSS. Meeting the requirements contained in the VVSG or VSS will substantiate

compliance with the voting system requirements contained in Section 301 of the Help America Vote Act of 2002 (HAVA).

2. A modification to a voting system previously certified by SBE will be tested in a manner necessary to ensure that all changes meet applicable standards and that the modified system (as a whole) will function properly and reliably. If the system being modified has been tested or certified to a previous VVSG/VSS version, SBE may allow testing of modifications to the prior standards or require testing of the modification to the most current standards, at its discretion.
3. The voting system or equipment must comply with the provisions in the *Code of Virginia* relating to voting equipment (Article 3, Chapter 6 of Title 24.2).
4. The voting system or equipment must comply with any applicable regulations or policies issued by the State Board of Elections.
5. The vendor must ensure that the equipment and software can accommodate interactive visual and non-visual presentation of information to voters and alternative languages when required. (See HAVA, 42 USC 15481(a)(3), (4), §203 of the Voting Rights Act (42 USC 1973aa-1a) and Virginia Code Section 24.2-626.1)

### 1.3. Applicability

1. The procedures outlined in this document are applicable to all voting systems first used on or after the effective date of this document.
2. These procedures are intended to assist local jurisdictions in identifying voting systems that meet all federal and state requirements and are available for purchase based on individual locality requirements.
3. The requirements of these procedures are waived for any voting system or equipment previously certified for and in use in the Commonwealth of Virginia on or before June 28, 2005. The State Board of Elections reserves the right to require re-certification of these systems or equipment at a future date.
4. Any modification to the hardware, firmware, or software of an existing system which has been certified by the State Board of Elections in accordance with these procedures will, in general, invalidate the certification unless it can be determined by the State Board of Elections that the change does not affect the accuracy, reliability, security, usability or accessibility of the system.
5. The intent of these procedures is to ensure that voting system hardware and software have been shown to be reliable, accurate, usable, accessible and capable of secure operation before they are certified for use in the Commonwealth. Hardware and software products with performance proven in commercial applications may be deemed acceptable, provided that they are shown to be compatible with the operational and administrative requirements of the voting environment. Typically, the vendor will be required to provide documentation of a product's proven performance, such as test reports to comparable standards. Products not in wide

commercial use, regardless of their performance histories, will require qualification, certification, and acceptance tests before they can be used. This requirement applies to the operating systems and monitors as well as to the application programs which control and do the work of ballot processing.

#### 1.4. Decertification

The State Board of Elections reserves the right to reexamine and reevaluate any previously certified voting system for any reason, at any time. Any voting system that does not pass certification testing will be decertified. A voting system that has been decertified by SBE may not be used for elections held in the Commonwealth and may not be purchased by localities to conduct elections.

## Part 2: Basis for Certification

There are three distinct levels of testing that a voting system must successfully complete before a voting system can be used in the Commonwealth of Virginia. These levels are **Federal Compliance Testing, State Certification Testing, and Acceptance Testing.**

Federal Compliance Testing demonstrates that a voting system complies with the requirements of the most recent version or versions of the VVSG/VSS currently accepted for testing and certification by the EAC. Primary evidence of compliance with these requirements is certification of the system by the EAC. However, federal compliance may also be demonstrated through certification by another state electoral authority that requires compliance with the applicable VVSG/VSS or through testing conducted by a federally certified VSTL to the applicable VVSG/VSS.

State Certification Testing is intended to assure that a voting system complies with the requirements of the Commonwealth of Virginia. State Certification further examines the readiness of a voting system for use under the election management procedures currently in use or proposed for use with the system. State Certification Testing is more specific than Federal Compliance Testing and examines the fit between the voting system and the specific requirements and practices of the Commonwealth.

Acceptance Testing assures that the system delivered is identical to that which was certified and is in good working condition.

### 2.1. Federal Compliance Testing

Federal Compliance Testing is performed to demonstrate compliance with the most recent version or versions of the VVSG/VSS currently accepted for testing and certification by the EAC. While EAC certification serves as prima facie evidence of compliance, federal compliance may also be demonstrated through certification by another state electoral authority that requires compliance with the applicable VVSG/VSS or through testing conducted by a federally certified VSTL to the applicable VVSG/VSS. SBE will make the final decision on compliance based on all available information. If there is evidence of a material non-compliance, the Commonwealth will work with the vendor to resolve the issue.

To support a review of Federal Compliance Testing, the following documents shall be provided to SBE:

1. A full copy of the Technical Data Package (TDP);
2. A copy of the Test Plan, Test Report and all Test Procedures and Test Cases used by the Voting System Test Lab (VSTL) in performing EAC certification testing or results of testing conducted by a VSTL to the applicable VVSG/VSS outside of the federal certification process;
3. A release to the VSTL to respond to any requests for information from the Commonwealth of Virginia;
4. A release to other states which have certified the system or prior versions of the system to respond to any requests for information from the Commonwealth of Virginia; and

5. Any additional information the State Board of Elections believes is necessary to determine compliance with the applicable Voluntary Voting System Guidelines or Voting System Standards.

### **2.1.1. Voting System Hardware Elements**

All equipment used in a voting system shall be examined to determine its suitability for election use according to the appropriate procedures contained in this document. Equipment to be tested shall be identical in form and function with production units. Engineering or development prototypes are not acceptable.

Modifications to existing hardware that has been previously certified by SBE will invalidate the results of the prior certification unless it can be determined by the State Board of Elections that the change does not affect the accuracy, reliability, security, usability or accessibility of the system.

### **2.1.2. Voting System Software Elements**

Voting system software shall be examined and tested to ensure that it adheres to the performance standards specified in the most recent version or versions of the VVSG/VSS currently accepted for testing and certification by the EAC.

Modifications to existing software that has been previously certified by SBE will invalidate the results of the prior certification unless it can be determined by the State Board of Elections that the change does not affect the accuracy, reliability, security, usability or accessibility of the system.

### **2.1.3. Reciprocity**

The State Board of Elections may accept the qualification tests of the hardware and/or software of a voting system conducted by another state electoral authority that requires compliance with the applicable VVSG/VSS or through testing conducted by a federally certified VSTL to the applicable VVSG/VSS. Any such tests that are accepted may be used to support certification approval in conjunction with, or in lieu of, EAC or State Board of Elections testing. The procedure for transferring qualification tests results from another state or a VSTL is contained in the following sections (see Supporting Information in Part 3). This reciprocity does not, of course, extend to the “Compliance with the *Code of Virginia*” and the “Acceptance Tests” described below since these items are considered unique to Virginia.

## **2.2. State Certification Testing**

State certification testing is intended to verify that the design and performance of the voting system seeking certification complies with all applicable requirements of the *Code of Virginia* and SBE regulations and policies.

The certification test is not intended to result in exhaustive tests of system hardware and software attributes; these are evaluated during federal compliance testing. However, all system functions, which are essential to the conduct of an election, will be evaluated.

An important focus of State Certification Testing is a review of experience with the current and prior versions of the system and the results of other state certification examinations. Any testing and or experiences of other states using the system may be considered. This review requires making inquiries of other users of the system. State certification reports and other evaluations of the system are read and analyzed for insight into the suitability of the system for use in Virginia.

The recommended use procedures are examined along with the voting system to determine how well the system will integrate into Virginia election law and management practices.

Testing is performed to evaluate the system with respect to the specific practices of Virginia. Testing will evaluate all system operations and procedures which:

- a. Define ballot formats for a primary election, ~~and a general election, and a recount~~ including all voting options defined by the *Code of Virginia*,
- b. Install application programs and election-specific programs and data in the ballot counting device,
- c. Verify system readiness for operation,
- d. Count ballots,
- e. Perform status tests,
- f. Obtain voting data and audit data reports,
- g. Support recount or election audits, and
- h. Address compliance with physical and language accessibility requirements

Formatted: Strikethrough

The test environment will include the preparation and operation of election and voting databases, and the validation, consolidation, and reporting of administrative and voting data as required by law.

The state may perform hash testing of applications software to verify that the versions provided by the vendor are identical to the versions that have undergone federal compliance testing.

Certification testing will be complete after a successful test use of the equipment in an actual election (*Code of Virginia* §24.2-629 (E)) in one or more local jurisdictions, which have consented to conduct such a test. Successful completion of a test election shall include a post-election audit.

### 2.3. Acceptance Tests

Acceptance Tests will be conducted by the local jurisdiction, with the assistance of state officials or consultants. Acceptance testing will be performed as part of the procurement process for the voting system.

The local jurisdiction will conduct tests to confirm that the purchased or leased system to be installed is identical to the certified system and that the installed equipment and/or software are fully functional and capable of satisfying the administrative and statutory requirements of the jurisdiction. The state may require localities to perform hash testing of applications software for this purpose. SBE will request that upon acquiring equipment, the locality forwards a letter to SBE confirming that the versions of all software and model(s) of equipment received are identical to the certified system that was ordered.

Typically, the acceptance test will demonstrate the system's ability to execute its designed functionality as advertised and tested, including but not limited to:

- a. Process simulated ballots for each precinct or polling place in the jurisdiction.
- b. Reject overvotes and votes not in valid ballot positions.
- c. Handle write-in votes.

Formatted: Strikethrough

- d. Produce an input to or generate a final report of the election, and interim reports as required.
- e. Generate system status and error messages.
- f. Comply with and enable voter and operator compliance with all applicable procedural, regulatory, and statutory requirements.
- g. Produce an audit log.

## Part 3: Review and Approval Process

### 3.1. Summary of Process

These procedures are limited to those systems and equipment that have passed the prototype stage and are in full production and available for immediate installation and use. A total of six (6) steps have been established to carry out this process. These steps are designed so that the State Board of Elections can, at any point, make a determination to continue the evaluation.

### 3.2. Procedure for Certification

The evaluation of the voting system will proceed in the following steps:

#### Step 1: Letter of Request for Certification and Certification Fee

The certification evaluation procedure shall be initiated by a letter from the vendor of the voting system to the Secretary of the State Board of Elections requesting certification for either a specific voting system or for a software, firmware, or hardware modification to a certified voting system. A response letter will be sent to the vendor requesting the certification fee if SBE finds no reason to deny the request for certification based on a preliminary review of the request.

Vendors must pay an initial fee of \$10,000 for new voting system certification requests and ~~\$5,000~~ other fees as required for requests for modifications to a previously certified voting system. If SBE's actual costs for reviewing the vendor's submission exceed the amount of the initial fee, the vendor agrees to reimburse SBE for all additional costs incurred. All fees must be collected before certification will be granted.

Formatted: Strikethrough

The Agency Head of the Department of Elections, ~~Secretary of the State Board of Elections~~ or the Board's representative will notify the vendor of the earliest date after which the requested certification evaluation can begin.

Formatted: Strikethrough

#### Step 2: Technical Data Package and Corporate Information

The vendor shall submit the Technical Data Package, Corporate Information, and other material described in the next section of this document to an evaluation agent selected by the Commonwealth. The vendor will be supplied with the contact information of the evaluation agent.

The evaluation agent will review the Technical Data Package, Corporate Information, and other materials provided and notify the vendor of any deficiencies. Certification of the voting system will not proceed beyond this step until the Technical Data Package and Corporate Information are complete.

#### Step 3: Preliminary Review

The evaluation agent will conduct a preliminary analysis of the Technical Data Package, Corporate Information, and other materials provided and prepare an Evaluation Proposal containing the following information:

Formatted: Strikethrough

Revised: ~~April 2012~~ February 2014

1. Components of the voting system requiring evaluation.
2. Identification of any additional materials needed to ascertain financial stability and capabilities of the vendor to maintain support of the voting system.
3. Description of the activities required to complete the portion of the evaluation performed by the evaluation agent.
4. Estimate of time required to complete the portion of the evaluation performed by the evaluation agent.

#### Step 4: Authorization to Proceed

The vendor will review the Evaluation Proposal and notify the Secretary of the State Board of Elections, in writing, of the desire to continue or terminate the evaluation process. A copy of this notification will be sent to the evaluation agent.

#### Step 5: Evaluation

The vendor will arrange for any “Non-operating, Environmental” testing if required and submit the results of these tests to the evaluation agent. After any required “Non-operating, Environmental” tests have been successfully completed, the evaluation agent will conduct the evaluation described in the Evaluation Proposal and submit a report of the findings to the State Board of Elections.

#### Step 6: Test Election

The State Board of Elections will supervise a test use of the system in an actual election with the vendor present prior to final certification.

#### Step 7: Certification

Based on the information contained in the report from the evaluation agent, the test election, and any other information in their possession, the State Board of Elections will determine whether the proposed voting system will be certified for use in the Commonwealth of Virginia and notify the vendor of the decision.

### **3.3. Supporting Information**

#### Request for Certification

The request to begin the certification process for a voting system shall be a letter addressed to:

~~Secretary of the State Board~~ Department of Elections  
1100 Bank Street, 1st Floor  
Richmond, Virginia 23219

Formatted: Strikethrough

This request shall be signed by a company officer and contain the following information:

1. Identification of the specific voting system to be evaluated for certification. Each different voting system or version of a voting system requires a separate request for certification. Each component of the hardware, firmware, and software must be identified by version number.

Formatted: Strikethrough

Revised: ~~April 2012~~ February 2014

2. Copies of documents substantiating completion of federal compliance testing, including whether the proposed voting system has been certified under the most recent version or versions of the VVSG/VSS currently accepted for testing and certification by the EAC in another state or by a VSTL.
3. Whether the proposed voting system has ever been denied certification or had certification withdrawn in any state or by the EAC.
4. A brief overview description of the voting system. Typical marketing brochures are usually sufficient for this description (8 copies).
5. Whether the proposed voting system or a version of the proposed voting system is currently used in Virginia or elsewhere. (List all locations where the system is used.)
6. A check or money order for the non-refundable certification fee must be included with this request before any certification work begins.

Technical Data Package

Before evaluation can begin, the vendor must submit to the evaluation agent a Technical Data Package. Each item in the package must be clearly identified; if the TDP is incomplete or the items in the package are not clearly identified, the entire package may be returned to the vendor and the evaluation of the voting system rescheduled.

The *Technical Data Package* must contain the following items, if they were not included in the TDP submitted to the VSTL:

1. *Hardware Schematic Diagrams*. Schematic diagrams of all hardware.
2. *Hardware Theory of Operations*. Documentation describing the theory of operation of the hardware.
3. *Customer Maintenance Documentation*. Documentation describing any maintenance that the vendor recommends can be performed by a customer with minimal knowledge of the system.
4. *Operations Manual*. Operations documentation that is normally supplied to the customer for use by the person(s) who will operate the equipment.
5. *Recommended Use Procedures*. Specific election administration procedures recommended for use with the system.
- ~~5-6.~~ 6. *Definition of Marked Oval*. Define the system thresholds used to declare a readable mark in an oval to be read by the scanner.
- ~~6-7.~~ 7. *Software License Agreement*. The software license agreement must be perpetual. An annual renewable support fee may be included as an option.

Formatted: Font: Italic

Formatted: List Paragraph, No bullets or numbering

Formatted: Font: Not Italic

Formatted: Font: Not Italic

Formatted: Strikethrough

~~7-8.~~ *Software Source Code.* Source code of the software and firmware is not required if it was submitted pursuant to federal certification. SBE may, at its discretion, request copies of the source code if the system has not been certified by the EAC. *{If source code is required to be submitted, it shall be supplied in the form of a listing and in a machine-readable form on media that is readable by the voting system. If there is any chance of ambiguity, the required compiler must be specified.}*

~~8-9.~~ *Software System Design.* Documentation describing the logical design of the software. This documentation should clearly indicate the various modules of the software, their functions, and their interrelationships with each other. The minimum acceptable documentation is a system flowchart.

~~9-10.~~ *Customer Documentation.* A complete set of all documentation which is available to the purchaser/user of the voting system. Clearly identify the documentation which is included in the cost of the system and the documentation which is available for an additional charge.

~~10-11.~~ *Standard Contract.* Statement of deliverables to include: verification statement that equipment purchased is identical to equipment certified by the State Board of Elections, software licenses, warranties, support services provided, etc. and associated cost of each.

~~11-12.~~ *Warranty.* The period and extent of the warranty and the method of repair/replacement for all hardware items; the circumstances under which equipment is replaced rather than repaired and the method by which a user requests such replacement; additional warranties that are available over and above the standard warranty, what these warranties cover, and their costs; the period and extent of warranty and the method of correction or replacement for all software provided as part of the voting system; and the technical documentation provided with all hardware and software that is used to certify that the individual component will perform in the manner and for the specified time.

~~12-13.~~ *Test Data/Software (Optional).* Any available test data, ballot decks, and/or software that can be used to demonstrate the various functions of the voting system or verify that the version of the applications submitted are identical to the versions that have undergone federal compliance testing (i.e. hash testing tools). Although optional, these items can significantly reduce the effort, and hence the time and cost, involved in the evaluation of the system.

~~13-14.~~ *Recommended Security Practices.* Documentation of the practices recommended by the vendor to ensure the optimum security and functionality of the system.

If the voting system is certified, the State Board of Elections will retain the Technical Data Package as long as the voting system is marketed or used in the Commonwealth of Virginia.

#### Transfer of Certification (Reciprocity)

Revised: ~~April 2012~~ February 2014

If the voting system has successfully completed qualification testing by the EAC or another state, the State Board of Elections may accept the results of those tests. In this case, the Technical Data Package shall contain the following item in addition to the items described above:

*Qualification Test Report.* A certified copy of the results of the evaluation of the voting system under the most recent version or versions of the VVSG/VSS currently accepted for testing and certification by the EAC. This report must clearly identify the system evaluated, specifying the version numbers of all components of the hardware, firmware, and software. The evaluation report or an accompanying letter shall identify the state for which the evaluation was performed, the responsible state official, the organization conducting the evaluation, and the individual responsible for the evaluation. This report must be sent to the State Board of Elections directly from the organization which conducted the evaluation. This report will not prohibit the state from evaluating the voting system and testing all components of hardware, firmware and software to ensure it complies with the Code of Virginia.

#### Corporate Information

Before evaluation can begin, the vendor must submit to the evaluation agent the Corporate Information as detailed below with each item clearly identified. If the Corporate Information is incomplete or the items in the package are not clearly identified, the entire package may be returned to the vendor and evaluation of the voting system rescheduled.

The Corporate Information shall contain the following items:

1. History and description of the business including year established, products and services offered, areas served, branch offices and subsidiary and/or parent companies.
2. Management and staff organization, number of full time employees by category, number of part-time employees by category, resumes of key employees who will assist Virginia localities in acquiring the system if it is authorized for use.
3. Audited Report of the business' most current fiscal year. Multiple reports may need to be submitted depending on the business' fiscal calendar and the length of time to complete the certification process. Certification can take as long as a year.
4. Comfort letter from the business' primary bank. If the business uses more than one, multiple comfort letters must be submitted.
5. Financial history of the business including a financial statement for the past three (3) fiscal years. If the vendor is not the manufacturer of the equipment for which application is made, include a financial statement for the manufacturer for the past three (3) fiscal years.
6. Gross sales in voting products and services for the past three (3) years and the percent that is representative of the total sales of the business and its subsidiaries.

7. The location and manufacturing capability of each manufacturing facility that is used to fabricate and assemble all or any component part of the voting and/or tabulating system being submitted for certification.
8. The location and servicing capability of each service facility that will be used to service the voting and/or counting system for certification and the service limitation of the facility.
9. If publicly traded, indexes rating the business debt.
10. Quality assurance process used in the manufacturing of the voting system.
11. Configuration management process used with the voting system.

If the voting system is certified, the State Board of Elections will retain the Corporate Information as long as the voting system is marketed or used in Virginia. The Department of Elections will sign a statement of confidentiality for corporate information only.

#### Proprietary Information

The vendor must clearly mark any information it requests be treated as confidential and proprietary before providing it to Virginia representatives for evaluation. It is not sufficient to simply state that everything is proprietary. Every page of documentation that contains information the vendor considers proprietary information must be clearly marked. The State Board of Elections cannot guarantee the extent to which any material provided will be exempt from disclosure in litigation or otherwise.

### **3.4. Audit and Validation of Certification**

*It is the responsibility of both the vendor and the local jurisdiction to ensure that a voting system that is supplied or purchased for use in the Commonwealth of Virginia has been certified by the State Board of Elections. It is the responsibility of the vendor to submit any modifications to a previously certified voting system to the State Board of Elections for review.*

If any question arises involving the certification of a voting system in use in Virginia, the hardware and software system verification tools will be used to verify that the voting system in use is in fact identical to the voting system that was submitted for certification. Any unauthorized modifications to a certified system may result in decertification of the system by SBE or bar a voting system vendor from receiving certification of voting systems in the future.

### **3.5. Time Frame**

The State Board of Elections reserves the right to terminate the certification process at any time if the vendor fails to proceed in a timely manner. In particular, if a period of three months expires between any request for information by the Board or its evaluation agent and the vendor's response to that request, the Board will terminate the certification process. If the certification process is terminated under this provision, the vendor will forfeit any fees received by SBE. Any certification process terminated under this provision must be re-initiated from Step 1, Section 3.2: Procedure for Certification.

The certification process is also terminated when:

- a. SBE issues a determination regarding certification;
- b. The Vendor withdraws from the process; or

c. The system fails the certification test. ~~Or~~

~~e.d. The vendor cannot conduct the certification testing with the equipment on-hand.~~

The process can only be re-initiated from Step 1, Section 3.2: Procedure for Certification, if the process is terminated under conditions b. ~~or c. or d.~~

Formatted: Strikethrough

Formatted: List Paragraph, No bullets or numbering, Tab stops: Not at 2"

Formatted: Strikethrough

Formatted: Strikethrough

## Part 4: Appendix A - Glossary

The following terms are defined in SBE Policy 2009-001, Voting Equipment Security.

**Acceptance Testing** - The purpose of acceptance testing is to demonstrate and confirm to the greatest extent possible that the voting systems purchased or leased by a local jurisdiction are identical to the voting systems certified by the State Board of Elections and that the voting systems equipment and software are fully functional and capable of satisfying the administrative and statutory requirements of the local jurisdiction. Acceptance testing is conducted when voting systems are initially received by the local electoral board from a vendor or other outside source (e.g., another local jurisdiction).

**Certification Testing** - The purpose of certification testing is to verify that the design and performance of the voting system being tested comply with all of the requirements of the *Code of Virginia*. Certification testing is not intended to exhaustively test all of the voting system hardware and software attributes; these are evaluated during qualification testing by an approved VSTL. However, all voting system functions, that are essential to the conduct of an election and a recount, are evaluated.

**Evaluation Agent** – An independent outside consultant selected by the State Board of Elections to conduct certification testing of voting systems.

**Qualification Testing** - The purpose of qualification testing is to demonstrate that the voting system complies with the requirements of its own design specifications. This testing encompasses selective in-depth examination of software; inspection and evaluation of voting system documentation; tests of hardware under conditions simulating the intended storage, operation, transportation, and maintenance environments; and tests to verify system performance and function under normal and abnormal operating conditions. Qualification testing is normally conducted by a Voting System Test Laboratory (VSTL).

**Voting System** - The term “voting system” refers to the total combination of mechanical, electro-mechanical, ~~and~~ and digital equipment (including the software, firmware, and documentation required to program, control, and support the equipment) that is used to: define ballots; verify voter registration; cast and count votes; report or display election results; recount votes or produce audit records or support election recounts or audits; and to maintain and produce any review trail information; and the practices and associated documentation used to: identify voting system components and versions of such components; test the system during its development and maintenance; maintain records of system errors and defects; to determine specific system changes to be made a system after the initial qualification of the system; and make available any materials to the voter (such as notices, instructions, forms, or paper ballots).

**Voting System Test Laboratory (VSTL):** Test laboratory accredited by the National Voluntary Laboratory Accreditation Program (NVLAP) to be competent to test voting systems. When NVLAP has completed its evaluation of a test lab, the Director of NIST will forward a recommendation to the EAC for the completion of the accreditation process.

Formatted: Strikethrough

Formatted: Strikethrough

## Part 5: Appendix B - Contacts

### The State Board of Elections

Gary Fox, Voting Technology Coordinator

Telephone: (804) 864-~~8917~~ 8919

Email: ~~gary.fox@sbe.virginia.gov~~

Formatted: Strikethrough

Susan Lee, Manager of Election Uniformity

Telephone: (804) 864-8928

Email: ~~susan.lee@sbe.virginia.gov~~

Address: 1100 Bank Street, 1st Floor  
Richmond, Virginia 23219-3497

Revised: ~~April 2012~~ February 2014

Formatted: Strikethrough



**STATE CERTIFICATION OF VOTING SYSTEMS**

---

**Requirements and Procedures**

DEPARTMENT OF ELECTIONS  
1100 BANK STREET, 1ST FLOOR  
RICHMOND VA 23219

*Revised February 2014*

# TABLE OF CONTENTS

<b>Part 1: Introduction</b> .....	<b>1</b>
<b>1.1. Purpose of Procedures</b> .....	<b>1</b>
<b>1.2. Specific Requirements</b> .....	<b>1</b>
<b>1.3. Applicability</b> .....	<b>2</b>
<b>1.4. Decertification</b> .....	<b>3</b>
<b>Part 2: Basis for Certification</b> .....	<b>4</b>
<b>2.1. Federal Compliance Testing</b> .....	<b>4</b>
2.1.1. Voting System Hardware Elements .....	5
2.1.2. Voting System Software Elements .....	5
2.1.3. Reciprocity .....	5
<b>2.2. State Certification Testing</b> .....	<b>5</b>
<b>2.3. Acceptance Tests</b> .....	<b>6</b>
<b>Part 3: Review and Approval Process</b> .....	<b>8</b>
<b>3.1. Summary of Process</b> .....	<b>8</b>
<b>3.2. Procedure for Certification</b> .....	<b>8</b>
<b>3.3. Supporting Information</b> .....	<b>9</b>
<b>3.4. Audit and Validation of Certification</b> .....	<b>13</b>
<b>3.5. Time Frame</b> .....	<b>13</b>
<b>Part 4: Appendix A - Glossary</b> .....	<b>15</b>
<b>Part 5: Appendix B - Contacts</b> .....	<b>16</b>

## **Part 1: Introduction**

### **1.1. Purpose of Procedures**

These procedures have been developed and issued as part of a continuing effort to improve the administration of elections in the Commonwealth of Virginia. They provide a formal and organized process for vendors to follow when seeking state certification for a new voting system or an improvement or modification to an existing voting system currently certified for use. To this end the procedures are designed to:

1. Ensure conformity with state election laws relating to the acquisition and use of voting systems and equipment.
2. Provide an organized and consistent means of evaluating and certifying voting systems and equipment marketed by vendors for use in Virginia.
3. Provide an organized and consistent means of evaluating and certifying additional capabilities and changes in the method of operation for voting systems previously certified for use in Virginia.
4. Provide an organized and consistent means of decertifying voting systems and equipment.
5. Provide for the improvement of the electoral process by ensuring that all voting systems operate properly and are installed and tested in compliance with the State Board of Elections approved procedures.
6. Provide for the accurate reporting of all election results for any jurisdiction in which each certified system is used.

### **1.2. Specific Requirements**

1. The voting system or equipment must meet the requirements contained in the most recent version or versions of the Voluntary Voting System Guidelines (VVSG) or Voting System Standards (VSS) currently accepted for testing and certification by the U.S. Election Assistance Commission (EAC). Compliance with the applicable VVSG/VSS may be substantiated through federal certification by the EAC, through certification by another state that requires compliance with the applicable VVSG/VSS, or through testing conducted by a federally certified voting system test laboratory (VSTL) to the standards contained in the applicable VVSG/VSS. Meeting the requirements contained in the VVSG or VSS will substantiate

compliance with the voting system requirements contained in Section 301 of the Help America Vote Act of 2002 (HAVA).

2. A modification to a voting system previously certified by SBE will be tested in a manner necessary to ensure that all changes meet applicable standards and that the modified system (as a whole) will function properly and reliably. If the system being modified has been tested or certified to a previous VVSG/VSS version, SBE may allow testing of modifications to the prior standards or require testing of the modification to the most current standards, at its discretion.
3. The voting system or equipment must comply with the provisions in the *Code of Virginia* relating to voting equipment (Article 3, Chapter 6 of Title 24.2).
4. The voting system or equipment must comply with any applicable regulations or policies issued by the State Board of Elections.
5. The vendor must ensure that the equipment and software can accommodate interactive visual and non-visual presentation of information to voters and alternative languages when required. (See HAVA, 42 USC 15481(a)(3), (4), §203 of the Voting Rights Act (42 USC 1973aa-1a) and Virginia Code Section 24.2-626.1)

### **1.3. Applicability**

1. The procedures outlined in this document are applicable to all voting systems first used on or after the effective date of this document.
2. These procedures are intended to assist local jurisdictions in identifying voting systems that meet all federal and state requirements and are available for purchase based on individual locality requirements.
3. The requirements of these procedures are waived for any voting system or equipment previously certified for and in use in the Commonwealth of Virginia on or before June 28, 2005. The State Board of Elections reserves the right to require re-certification of these systems or equipment at a future date.
4. Any modification to the hardware, firmware, or software of an existing system which has been certified by the State Board of Elections in accordance with these procedures will, in general, invalidate the certification unless it can be determined by the State Board of Elections that the change does not affect the accuracy, reliability, security, usability or accessibility of the system.
5. The intent of these procedures is to ensure that voting system hardware and software have been shown to be reliable, accurate, usable, accessible and capable of secure operation before they are certified for use in the Commonwealth. Hardware and software products with performance proven in commercial applications may be deemed acceptable, provided that they are shown to be compatible with the operational and administrative requirements of the voting environment. Typically, the vendor will be required to provide documentation of a product's proven performance, such as test reports to comparable standards. Products not in wide

commercial use, regardless of their performance histories, will require qualification, certification, and acceptance tests before they can be used. This requirement applies to the operating systems and monitors as well as to the application programs which control and do the work of ballot processing.

#### **1.4. Decertification**

The State Board of Elections reserves the right to reexamine and reevaluate any previously certified voting system for any reason, at any time. Any voting system that does not pass certification testing will be decertified. A voting system that has been decertified by SBE may not be used for elections held in the Commonwealth and may not be purchased by localities to conduct elections.

## **Part 2: Basis for Certification**

There are three distinct levels of testing that a voting system must successfully complete before a voting system can be used in the Commonwealth of Virginia. These levels are **Federal Compliance Testing, State Certification Testing, and Acceptance Testing.**

Federal Compliance Testing demonstrates that a voting system complies with the requirements of the most recent version or versions of the VVSG/VSS currently accepted for testing and certification by the EAC. Primary evidence of compliance with these requirements is certification of the system by the EAC. However, federal compliance may also be demonstrated through certification by another state electoral authority that requires compliance with the applicable VVSG/VSS or through testing conducted by a federally certified VSTL to the applicable VVSG/VSS.

State Certification Testing is intended to assure that a voting system complies with the requirements of the Commonwealth of Virginia. State Certification further examines the readiness of a voting system for use under the election management procedures currently in use or proposed for use with the system. State Certification Testing is more specific than Federal Compliance Testing and examines the fit between the voting system and the specific requirements and practices of the Commonwealth.

Acceptance Testing assures that the system delivered is identical to that which was certified and is in good working condition.

### **2.1. Federal Compliance Testing**

Federal Compliance Testing is performed to demonstrate compliance with the most recent version or versions of the VVSG/VSS currently accepted for testing and certification by the EAC. While EAC certification serves as prima facie evidence of compliance, federal compliance may also be demonstrated through certification by another state electoral authority that requires compliance with the applicable VVSG/VSS or through testing conducted by a federally certified VSTL to the applicable VVSG/VSS. SBE will make the final decision on compliance based on all available information. If there is evidence of a material non-compliance, the Commonwealth will work with the vendor to resolve the issue.

To support a review of Federal Compliance Testing, the following documents shall be provided to SBE:

1. A full copy of the Technical Data Package (TDP);
2. A copy of the Test Plan, Test Report and all Test Procedures and Test Cases used by the Voting System Test Lab (VSTL) in performing EAC certification testing or results of testing conducted by a VSTL to the applicable VVSG/VSS outside of the federal certification process;
3. A release to the VSTL to respond to any requests for information from the Commonwealth of Virginia;
4. A release to other states which have certified the system or prior versions of the system to respond to any requests for information from the Commonwealth of Virginia; and

5. Any additional information the State Board of Elections believes is necessary to determine compliance with the applicable Voluntary Voting System Guidelines or Voting System Standards.

### **2.1.1. Voting System Hardware Elements**

All equipment used in a voting system shall be examined to determine its suitability for election use according to the appropriate procedures contained in this document. Equipment to be tested shall be identical in form and function with production units. Engineering or development prototypes are not acceptable.

Modifications to existing hardware that has been previously certified by SBE will invalidate the results of the prior certification unless it can be determined by the State Board of Elections that the change does not affect the accuracy, reliability, security, usability or accessibility of the system.

### **2.1.2. Voting System Software Elements**

Voting system software shall be examined and tested to ensure that it adheres to the performance standards specified in the most recent version or versions of the VVSG/VSS currently accepted for testing and certification by the EAC.

Modifications to existing software that has been previously certified by SBE will invalidate the results of the prior certification unless it can be determined by the State Board of Elections that the change does not affect the accuracy, reliability, security, usability or accessibility of the system.

### **2.1.3. Reciprocity**

The State Board of Elections may accept the qualification tests of the hardware and/or software of a voting system conducted by another state electoral authority that requires compliance with the applicable VVSG/VSS or through testing conducted by a federally certified VSTL to the applicable VVSG/VSS. Any such tests that are accepted may be used to support certification approval in conjunction with, or in lieu of, EAC or State Board of Elections testing. The procedure for transferring qualification tests results from another state or a VSTL is contained in the following sections (see Supporting Information in Part 3). This reciprocity does not, of course, extend to the “Compliance with the *Code of Virginia*” and the “Acceptance Tests” described below since these items are considered unique to Virginia.

## **2.2. State Certification Testing**

State certification testing is intended to verify that the design and performance of the voting system seeking certification complies with all applicable requirements of the *Code of Virginia* and SBE regulations and policies.

The certification test is not intended to result in exhaustive tests of system hardware and software attributes; these are evaluated during federal compliance testing. However, all system functions, which are essential to the conduct of an election, will be evaluated.

An important focus of State Certification Testing is a review of experience with the current and prior versions of the system and the results of other state certification examinations. Any testing and or experiences of other states using the system may be considered. This review requires making inquiries of other users of the system. State certification reports and other evaluations of the system are read and analyzed for insight into the suitability of the system for use in Virginia.

The recommended use procedures are examined along with the voting system to determine how well the system will integrate into Virginia election law and management practices.

Testing is performed to evaluate the system with respect to the specific practices of Virginia.

Testing will evaluate all system operations and procedures which:

- a. Define ballot formats for a primary election, a general election, and a recount including all voting options defined by the *Code of Virginia*,
- b. Install application programs and election-specific programs and data in the ballot counting device,
- c. Verify system readiness for operation,
- d. Count ballots,
- e. Perform status tests,
- f. Obtain voting data and audit data reports,
- g. Support recount or election audits, and
- h. Address compliance with physical and language accessibility requirements

The test environment will include the preparation and operation of election and voting databases, and the validation, consolidation, and reporting of administrative and voting data as required by law.

The state may perform hash testing of applications software to verify that the versions provided by the vendor are identical to the versions that have undergone federal compliance testing.

Certification testing will be complete after a successful test use of the equipment in an actual election (*Code of Virginia* §24.2-629 (E)) in one or more local jurisdictions, which have consented to conduct such a test. Successful completion of a test election shall include a post-election audit.

### **2.3. Acceptance Tests**

Acceptance Tests will be conducted by the local jurisdiction, with the assistance of state officials or consultants. Acceptance testing will be performed as part of the procurement process for the voting system.

The local jurisdiction will conduct tests to confirm that the purchased or leased system to be installed is identical to the certified system and that the installed equipment and/or software are fully functional and capable of satisfying the administrative and statutory requirements of the jurisdiction. The state may require localities to perform hash testing of applications software for this purpose. SBE will request that upon acquiring equipment, the locality forwards a letter to SBE confirming that the versions of all software and model(s) of equipment received are identical to the certified system that was ordered.

Typically, the acceptance test will demonstrate the system's ability to execute its designed functionality as advertised and tested, including but not limited to:

- a. Process simulated ballots for each precinct or polling place in the jurisdiction.
- b. Reject overvotes and votes not in valid ballot positions.
- c. Handle write-in votes.

- d. Produce an input to or generate a final report of the election, and interim reports as required.
- e. Generate system status and error messages.
- f. Comply with and enable voter and operator compliance with all applicable procedural, regulatory, and statutory requirements.
- g. Produce an audit log.

## **Part 3: Review and Approval Process**

### **3.1. Summary of Process**

These procedures are limited to those systems and equipment that have passed the prototype stage and are in full production and available for immediate installation and use. A total of six (6) steps have been established to carry out this process. These steps are designed so that the State Board of Elections can, at any point, make a determination to continue the evaluation.

### **3.2. Procedure for Certification**

The evaluation of the voting system will proceed in the following steps:

#### Step 1: Letter of Request for Certification and Certification Fee

The certification evaluation procedure shall be initiated by a letter from the vendor of the voting system to the Secretary of the State Board of Elections requesting certification for either a specific voting system or for a software, firmware, or hardware modification to a certified voting system. A response letter will be sent to the vendor requesting the certification fee if SBE finds no reason to deny the request for certification based on a preliminary review of the request.

Vendors must pay an initial fee of \$10,000 for new voting system certification requests and other fees as required for requests for modifications to a previously certified voting system. If SBE's actual costs for reviewing the vendor's submission exceed the amount of the initial fee, the vendor agrees to reimburse SBE for all additional costs incurred. All fees must be collected before certification will be granted.

The Agency Head of the Department of Elections or the Board's representative will notify the vendor of the earliest date after which the requested certification evaluation can begin.

#### Step 2: Technical Data Package and Corporate Information

The vendor shall submit the Technical Data Package, Corporate Information, and other material described in the next section of this document to an evaluation agent selected by the Commonwealth. The vendor will be supplied with the contact information of the evaluation agent.

The evaluation agent will review the Technical Data Package, Corporate Information, and other materials provided and notify the vendor of any deficiencies. Certification of the voting system will not proceed beyond this step until the Technical Data Package and Corporate Information are complete.

#### Step 3: Preliminary Review

The evaluation agent will conduct a preliminary analysis of the Technical Data Package, Corporate Information, and other materials provided and prepare an Evaluation Proposal containing the following information:

1. Components of the voting system requiring evaluation.

2. Identification of any additional materials needed to ascertain financial stability and capabilities of the vendor to maintain support of the voting system.
3. Description of the activities required to complete the portion of the evaluation performed by the evaluation agent.
4. Estimate of time required to complete the portion of the evaluation performed by the evaluation agent.

Step 4: Authorization to Proceed

The vendor will review the Evaluation Proposal and notify the Secretary of the State Board of Elections, in writing, of the desire to continue or terminate the evaluation process. A copy of this notification will be sent to the evaluation agent.

Step 5: Evaluation

The vendor will arrange for any “Non-operating, Environmental” testing if required and submit the results of these tests to the evaluation agent. After any required “Non-operating, Environmental” tests have been successfully completed, the evaluation agent will conduct the evaluation described in the Evaluation Proposal and submit a report of the findings to the State Board of Elections.

Step 6: Test Election

The State Board of Elections will supervise a test use of the system in an actual election with the vendor present prior to final certification.

Step 7: Certification

Based on the information contained in the report from the evaluation agent, the test election, and any other information in their possession, the State Board of Elections will determine whether the proposed voting system will be certified for use in the Commonwealth of Virginia and notify the vendor of the decision.

### **3.3. Supporting Information**

Request for Certification

The request to begin the certification process for a voting system shall be a letter addressed to:

Department of Elections  
1100 Bank Street, 1st Floor  
Richmond, Virginia 23219

This request shall be signed by a company officer and contain the following information:

1. Identification of the specific voting system to be evaluated for certification. Each different voting system or version of a voting system requires a separate request for certification. Each component of the hardware, firmware, and software must be identified by version number.

2. Copies of documents substantiating completion of federal compliance testing, including whether the proposed voting system has been certified under the most recent version or versions of the VVSG/VSS currently accepted for testing and certification by the EAC in another state or by a VSTL.
3. Whether the proposed voting system has ever been denied certification or had certification withdrawn in any state or by the EAC.
4. A brief overview description of the voting system. Typical marketing brochures are usually sufficient for this description (8 copies).
5. Whether the proposed voting system or a version of the proposed voting system is currently used in Virginia or elsewhere. (List all locations where the system is used.)
6. A check or money order for the non-refundable certification fee must be included with this request before any certification work begins.

#### Technical Data Package

Before evaluation can begin, the vendor must submit to the evaluation agent a Technical Data Package. Each item in the package must be clearly identified; if the TDP is incomplete or the items in the package are not clearly identified, the entire package may be returned to the vendor and the evaluation of the voting system rescheduled.

The *Technical Data Package* must contain the following items, if they were not included in the TDP submitted to the VSTL:

1. *Hardware Schematic Diagrams.* Schematic diagrams of all hardware.
2. *Hardware Theory of Operations.* Documentation describing the theory of operation of the hardware.
3. *Customer Maintenance Documentation.* Documentation describing any maintenance that the vendor recommends can be performed by a customer with minimal knowledge of the system.
4. *Operations Manual.* Operations documentation that is normally supplied to the customer for use by the person(s) who will operate the equipment.
5. *Recommended Use Procedures.* Specific election administration procedures recommended for use with the system.
6. *Definition of Marked Oval.* Define the system thresholds used to declare a readable mark in an oval to be read by the scanner.
7. *Software License Agreement.* The software license agreement must be perpetual. An annual renewable support fee may be included as an option.

8. *Software Source Code.* Source code of the software and firmware is not required if it was submitted pursuant to federal certification. SBE may, at its discretion, request copies of the source code if the system has not been certified by the EAC. *{If source code is required to be submitted, it shall be supplied in the form of a listing and in a machine-readable form on media that is readable by the voting system. If there is any chance of ambiguity, the required compiler must be specified.}*
9. *Software System Design.* Documentation describing the logical design of the software. This documentation should clearly indicate the various modules of the software, their functions, and their interrelationships with each other. The minimum acceptable documentation is a system flowchart.
10. *Customer Documentation.* A complete set of all documentation which is available to the purchaser/user of the voting system. Clearly identify the documentation which is included in the cost of the system and the documentation which is available for an additional charge.
11. *Standard Contract.* Statement of deliverables to include: verification statement that equipment purchased is identical to equipment certified by the State Board of Elections, software licenses, warranties, support services provided, etc. and associated cost of each.
12. *Warranty.* The period and extent of the warranty and the method of repair/replacement for all hardware items; the circumstances under which equipment is replaced rather than repaired and the method by which a user requests such replacement; additional warranties that are available over and above the standard warranty, what these warranties cover, and their costs; the period and extent of warranty and the method of correction or replacement for all software provided as part of the voting system; and the technical documentation provided with all hardware and software that is used to certify that the individual component will perform in the manner and for the specified time.
13. *Test Data/Software (Optional).* Any available test data, ballot decks, and/or software that can be used to demonstrate the various functions of the voting system or verify that the version of the applications submitted are identical to the versions that have undergone federal compliance testing (i.e. hash testing tools). Although optional, these items can significantly reduce the effort, and hence the time and cost, involved in the evaluation of the system.
14. *Recommended Security Practices.* Documentation of the practices recommended by the vendor to ensure the optimum security and functionality of the system.

If the voting system is certified, the State Board of Elections will retain the Technical Data Package as long as the voting system is marketed or used in the Commonwealth of Virginia.

#### Transfer of Certification (Reciprocity)

If the voting system has successfully completed qualification testing by the EAC or another state, the State Board of Elections may accept the results of those tests. In this case, the Technical Data Package shall contain the following item in addition to the items described above:

*Qualification Test Report.* A certified copy of the results of the evaluation of the voting system under the most recent version or versions of the VVSG/VSS currently accepted for testing and certification by the EAC. This report must clearly identify the system evaluated, specifying the version numbers of all components of the hardware, firmware, and software. The evaluation report or an accompanying letter shall identify the state for which the evaluation was performed, the responsible state official, the organization conducting the evaluation, and the individual responsible for the evaluation. This report must be sent to the State Board of Elections directly from the organization which conducted the evaluation. This report will not prohibit the state from evaluating the voting system and testing all components of hardware, firmware and software to ensure it complies with the Code of Virginia.

#### Corporate Information

Before evaluation can begin, the vendor must submit to the evaluation agent the Corporate Information as detailed below with each item clearly identified. If the Corporate Information is incomplete or the items in the package are not clearly identified, the entire package may be returned to the vendor and evaluation of the voting system rescheduled.

The Corporate Information shall contain the following items:

1. History and description of the business including year established, products and services offered, areas served, branch offices and subsidiary and/or parent companies.
2. Management and staff organization, number of full time employees by category, number of part-time employees by category, resumes of key employees who will assist Virginia localities in acquiring the system if it is authorized for use.
3. Audited Report of the business' most current fiscal year. Multiple reports may need to be submitted depending on the business' fiscal calendar and the length of time to complete the certification process. Certification can take as long as a year.
4. Comfort letter from the business' primary bank. If the business uses more than one, multiple comfort letters must be submitted.
5. Financial history of the business including a financial statement for the past three (3) fiscal years. If the vendor is not the manufacturer of the equipment for which application is made, include a financial statement for the manufacturer for the past three (3) fiscal years.
6. Gross sales in voting products and services for the past three (3) years and the percent that is representative of the total sales of the business and its subsidiaries.

7. The location and manufacturing capability of each manufacturing facility that is used to fabricate and assemble all or any component part of the voting and/or tabulating system being submitted for certification.
8. The location and servicing capability of each service facility that will be used to service the voting and/or counting system for certification and the service limitation of the facility.
9. If publicly traded, indexes rating the business debt.
10. Quality assurance process used in the manufacturing of the voting system.
11. Configuration management process used with the voting system.

If the voting system is certified, the State Board of Elections will retain the Corporate Information as long as the voting system is marketed or used in Virginia. The Department of Elections will sign a statement of confidentiality for corporate information only.

#### Proprietary Information

The vendor must clearly mark any information it requests be treated as confidential and proprietary before providing it to Virginia representatives for evaluation. It is not sufficient to simply state that everything is proprietary. Every page of documentation that contains information the vendor considers proprietary information must be clearly marked. The State Board of Elections cannot guarantee the extent to which any material provided will be exempt from disclosure in litigation or otherwise.

### **3.4. Audit and Validation of Certification**

*It is the responsibility of both the vendor and the local jurisdiction to ensure that a voting system that is supplied or purchased for use in the Commonwealth of Virginia has been certified by the State Board of Elections. It is the responsibility of the vendor to submit any modifications to a previously certified voting system to the State Board of Elections for review.*

If any question arises involving the certification of a voting system in use in Virginia, the hardware and software system verification tools will be used to verify that the voting system in use is in fact identical to the voting system that was submitted for certification. Any unauthorized modifications to a certified system may result in decertification of the system by SBE or bar a voting system vendor from receiving certification of voting systems in the future.

### **3.5. Time Frame**

The State Board of Elections reserves the right to terminate the certification process at any time if the vendor fails to proceed in a timely manner. In particular, if a period of three months expires between any request for information by the Board or its evaluation agent and the vendor's response to that request, the Board will terminate the certification process. If the certification process is terminated under this provision, the vendor will forfeit any fees received by SBE. Any certification process terminated under this provision must be re-initiated from Step 1, Section 3.2: Procedure for Certification.

The certification process is also terminated when:

- a. SBE issues a determination regarding certification;
- b. The Vendor withdraws from the process; or
- c. The system fails the certification test.–Or
- d. The vendor cannot conduct the certification testing with the equipment on-hand.

The process can only be re-initiated from Step 1, Section 3.2: Procedure for Certification, if the process is terminated under conditions b., c. or d.

## Part 4: Appendix A - Glossary

The following terms are defined in SBE Policy 2009-001, Voting Equipment Security.

**Acceptance Testing** - The purpose of acceptance testing is to demonstrate and confirm to the greatest extent possible that the voting systems purchased or leased by a local jurisdiction are identical to the voting systems certified by the State Board of Elections and that the voting systems equipment and software are fully functional and capable of satisfying the administrative and statutory requirements of the local jurisdiction. Acceptance testing is conducted when voting systems are initially received by the local electoral board from a vendor or other outside source (e.g., another local jurisdiction).

**Certification Testing** - The purpose of certification testing is to verify that the design and performance of the voting system being tested comply with all of the requirements of the *Code of Virginia*. Certification testing is not intended to exhaustively test all of the voting system hardware and software attributes; these are evaluated during qualification testing by an approved VSTL. However, all voting system functions, that are essential to the conduct of an election and a recount, are evaluated.

**Evaluation Agent** – An independent outside consultant selected by the State Board of Elections to conduct certification testing of voting systems.

**Qualification Testing** - The purpose of qualification testing is to demonstrate that the voting system complies with the requirements of its own design specifications. This testing encompasses selective in-depth examination of software; inspection and evaluation of voting system documentation; tests of hardware under conditions simulating the intended storage, operation, transportation, and maintenance environments; and tests to verify system performance and function under normal and abnormal operating conditions. Qualification testing is normally conducted by a Voting System Test Laboratory (VSTL).

**Voting System** - The term “voting system” refers to the total combination of mechanical, electro-mechanical, electronic and digital equipment (including the software, firmware, and documentation required to program, control, and support the equipment) that is used to: define ballots; verify voter registration; cast and count votes; report or display election results; recount votes or produce audit records or support election recounts or audits; and to maintain and produce any review trail information; and the practices and associated documentation used to: identify voting system components and versions of such components; test the system during its development and maintenance; maintain records of system errors and defects; to determine specific system changes to be made a system after the initial qualification of the system; and make available any materials to the voter (such as notices, instructions, forms, or paper ballots).

**Voting System Test Laboratory (VSTL):** Test laboratory accredited by the National Voluntary Laboratory Accreditation Program (NVLAP) to be competent to test voting systems. When NVLAP has completed its evaluation of a test lab, the Director of NIST will forward a recommendation to the EAC for the completion of the accreditation process.

## **Part 5: Appendix B - Contacts**

### **The State Board of Elections**

Gary Fox, Voting Technology Coordinator

Telephone: (804) 864- 8919

Email: gary.fox@sbe.virginia.gov

Susan Lee, Manager of Election Uniformity

Telephone: (804) 864-8928

Email: susan.lee@sbe.virginia.gov

Address: 1100 Bank Street, 1st Floor  
Richmond, Virginia 23219-3497



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

---

# Voter Systems Certification Unisyn Voting Systems

---

BOARD WORKING PAPERS  
Presented by Gary Fox  
Voting Technology Specialist



★VIRGINIA★  
STATE BOARD  
of ELECTIONS

## Memorandum

To: Members of the State Board of Elections

From: Gary W. Fox, Voting Technology Specialist

Date: February 26, 2014

Re: Certification of Unisyn OpenElect Optical Scan voting system

---

### **Suggested motion for a Board member to make:**

I move that the Board certify the Unisyn OpenElect Optical Scan Voting System version 1.2 for use in elections in the Commonwealth of Virginia, pursuant to the *State Certification of Voting Systems: Requirements and Procedures*.

**Applicable Code Sections:** §§ 24.2-628 & 629.

### **Attachments:**

Your Board materials include the following:

- Proof of EAC Certification of the Unisyn OpenElect Optical Scan Voting System version 1.2.
- Virginia State Certification Testing Test Report for the Unisyn OpenElect Optical Scan Voting System version 1.2.
- Product sheets for Virginia State Certification Testing Test Report for the Unisyn OpenElect Optical Scan Voting System version 1.2.

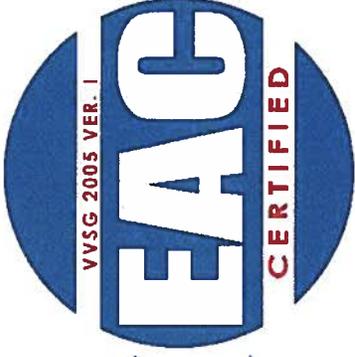
### **Background:**

Following the steps prescribed in the *Virginia State Certification of Voting Systems: Requirements and Procedures*, Unisyn initiated the certification evaluation by a letter to the Secretary of State Board of Elections on December 23, 2013. Unisyn provided their corresponding Technical Data Package and Corporate Information (required under step 2 of the *Requirements and Procedures*) on January 7, 2014. Both of these submissions were deemed complete and in sufficient detail to warrant Step 3, the Preliminary Review. During the preliminary review, the state-designated evaluation agent conducted a preliminary analysis of the TDP, Corporate Information, and other materials provided and prepared an Evaluation Proposal (i.e. Test Plan). Upon Unisyn's agreement with the test plan, the evaluation was conducted on January 13-15, 2014, in the State Board of Elections offices in Richmond, Virginia.

The Unisyn OpenElect Optical Scan Voting System version 1.2 successfully completed Virginia State Certification. On December 23, 2013, the Election Assistance Commission (EAC) issued their Grant of Certification of the Unisyn OpenElect Optical Scan Voting System version 1.2.



United States Election Assistance Commission



## Certificate of Conformance

### Unisyn OpenElect 1.2 (Modification)

The voting system identified on this certificate has been evaluated at an accredited voting system testing laboratory for conformance to the 2005 *Voluntary Voting System Guidelines (2005 VVSG)*. Components evaluated for this certification are detailed in the attached Scope of Certification document. This certificate applies only to the specific version and release of the product in its evaluated configuration. The evaluation has been verified by the EAC in accordance with the provisions of the *EAC Voting System Testing and Certification Program Manual* and the conclusions of the testing laboratory in the test report are consistent with the evidence adduced. This certificate is not an endorsement of the product by any agency of the U.S. Government and no warranty of the product is either expressed or implied.

Product Name: OpenElect

Model or Version: Version 1.2 (Modification)

Name of VSTL: Wyle Laboratories

EAC Certification Number: UNS10121966-OE-1.2

Date Issued: 12/23/2013

A handwritten signature in black ink, appearing to read "J. S. Nelson".

Chief Operating Officer & Acting Executive Director  
U.S. Election Assistance Commission

Scope of Certification Attached

# **Test Report**

**Unisyn Voting Solutions  
OpenElect Voting System  
Version 1.2  
State Certification Testing  
January 16, 2014  
Virginia State Board of Elections  
1100 Bank Street, 1st Floor  
Richmond, VA 23219**

## **Table of Contents**

1	Authority.....	3
2	Background.....	3
3	Testing Overview.....	4
4	Testing Setup.....	5
4.1	Test Candidate.....	7
4.2	Test Decks.....	8
5	Findings.....	9
5.1	Virginia Requirements.....	9
6	Conclusions.....	27

## 1 Authority

Section § 24.2-629 of the *Code of Virginia* authorizes the Virginia State Board of Elections, in the manner prescribed by the Board, to have examined a production model of such equipment and ballots associated with a vendors request for State Certification. The corresponding Virginia State Certification of Voting Systems *Requirements and Procedures* (Rev. 3/3/2010) prescribes the manner of which the Virginia State Board of Elections will conduct the state certification testing. Subsequent to the evaluation, the Board is required to prepare and file in its office a report of its finding as to:

- (i) the apparent capability of such equipment to accurately count, register, and report votes;
- (ii) whether the system can be conveniently used without undue confusion to the voter;
- (iii) its accessibility to voters with disabilities;
- (iv) whether the system can be safely used without undue potential for fraud;
- (v) the ease of its operation and transportation by voting equipment custodians and officers of election;
- (vi) the financial stability of the vendor and manufacturer;
- (vii) whether the system meets the requirements of this title;
- (viii) whether the system meets federal requirements;
- (ix) whether issues of reliability and security identified with the system by other state governments have been adequately addressed by the vendor; and
- (x) whether, in the opinion of the Board, the potential for approval of such system is such as to justify further examination and testing.

## 2 Background

Following the steps prescribed in the Virginia State Certification of Voting Systems *Requirements and Procedures* (Rev. 4/2012), Unisyn Voting Solutions (“Unisyn”) initiated the certification evaluation of the OpenElect Voting System (“OVS”), Version 1.2, by submitting a letter to the Virginia State Board of Elections on January 6, 2014. Additionally, Unisyn provided the corresponding Technical Data Package and Corporate Information (required under step 2 of

the *Requirements and Procedures*). Both of these submissions were deemed complete and in sufficient detail to warrant Step 3, the Preliminary Review. During the preliminary review, the state-designated evaluation agent (Pro V&V, Inc.) conducted a preliminary analysis of the TDP, Corporate Information, and other materials provided and prepared an Evaluation Proposal (i.e. Test Plan). Upon Unisyn's agreement with the test plan, the evaluation was conducted on January 13-15 in the State Board of Elections offices in Richmond, Virginia.

The OVS Version 1.2 application is for certification for use in the Commonwealth of Virginia as a new voting system. On December 23, 2013, the Election Assistance Commission (EAC) issued their Grant of Certification of the OVS Version 1.2, signifying successful completion of conformance testing to the *2005 Voluntary Voting Systems Guidelines (VVSG)*.

### 3 Testing Overview

The evaluation of OVS Version 1.2 was designed to achieve the goals set forth in the test plan. The goals were constructed to verify that the OVS Version 1.2 conforms to the *Code of Virginia*. The evaluation successfully addressed each of the test goals in the following way:

Test Goal	Testing Response
<b>Ensure OVS Version 1.2 provides support for all Virginia election management requirements (i.e. ballot design, results reporting, etc).</b>	This was tested by evaluating the OVS Version 1.2 with 7 Virginia specific election scenarios using a combination of different ballot programming approaches, ballot designs, ballot sizes, languages, and tabulators. The programmed elections were actual elections from Virginia counties. The end-to-end scenario was directly from recent elections in Virginia.
<b>Simulate pre-election, Election Day, absentee, and post-election activities on the OVO, OVI-7, and OVO-VC and corresponding components of the OCS for 5 election scenarios</b>	The OVO, OVI-7, and OVI-VC were tested in pre-election, in-person absentee, Election Day, absentee, post-election and recount situations and evaluated against documented behavior and expected results for all 5 scenarios.

<b>Simulate pre-election, Election Day, and post-election activities on the OVCS and corresponding components of the OCS for 5 election scenarios</b>	The OVCS was tested in pre-election, in-person absentee, Election Day, absentee, and post-election situations and evaluated against documented behavior and expected results.
---	---

## 4 Testing Setup

According to the test plan, the evaluation consisted of 7 election scenarios to be executed utilizing one setup of OVS Version 1.2 that includes each of the following:

### OpenElect Central Suite (OCS)

The OCS is the Election Management System that consists of the following ten components running as either a front-end/client application or as a back-end/server application: Ballot Layout Manager, Election Manager (EM), Software Server (SS), Election Server (ES), Tabulator Client (TC), Tabulator (Tab), Tabulator Reports (TR), Adjudicator, Scripter, and Validator.

### OpenElect Voting Optical Scan (OVO)

The OVO is an optical scan voting machine that is used as precinct tabulator.

### OpenElect Voting Interface (OVI-VC)

The OVI-VC is a ballot marking device that supports ADA and early voting requirements. The OVI-VC is capable of supporting multiple ballot styles within a single election. The OVI-VC accepts input from the voter via a 15-inch LCD touchscreen, an attached ATI keypad, or a binary input such as a Sip-and-Puff device.

### OpenElect Voting Interface (OVI-7)

The OVI-VC is a ballot marking device that supports ADA and early voting requirements. The OVI-VC is capable of supporting multiple ballot styles within a single election. The OVI-7 accepts input from the voter via a 7-inch LCD touchscreen, an attached ATI keypad, or a binary input such as a Sip-and-Puff device.

### OpenElect Voting Central Scan (OVCS)

The OVCS is a central count solution consisting of a Canon ImageFORMULA DR-X10C high speed scanner operated by an OVCS client application.

The seven election scenarios used for the evaluation were

**Pre-programmed scenarios:**

1. Hanover 2009 Primary Election, 11-inch ballots
2. Chesterfield 2007 General Elections, 14-inch ballots
3. Chesterfield 2008 General Elections, 14-inch ballots
4. Fairfax (or equivalent size/complexity) 2010 General Election Multi-Language (English, Spanish), 14-inch ballots
5. Fairfax (or equivalent size/complexity) 2011 Primary Elections, 11-inch ballots

**End-to-end scenario:**

6. Fairfax (or equivalent size/complexity) 2012 Presidential Primary Elections (with Preference language) Multi-Language (English, Spanish), 11-inch ballots
7. Recount for scenario above.

The pre-programmed scenarios were programmed by Unisyn test managers prior to the evaluation and were executed from the point where the election is completed in the OCS. Each testing scenario began with opening the election in OCS, reviewing the election definition, and proceeding with the remaining preparations for Election Day and absentee voting.

The end-to-end scenario created a new election for an existing county, generate elections definitions for the tabulators and verify loading of the election definition on the tabulators.

More details on the testing setup are found below:

<b>Election Scenario</b>	<b>Ballot Programming</b>	<b>OCS Configuration</b>	<b>Equipment Used</b>	<b>Ballot Length</b>	<b>Languages</b>	<b># Ballots Run</b>
<b>Hanover 2009 Primary Election</b>	Ballot Style	Standalone workstation	2 OVO, 2 OVI-7, 2 OVI-VC,	11-inch	English	98

			OVCS			
<b>Chesterfield 2007 General Election</b>	Ballot Style	Standalone workstation	2 OVO, 2 OVI-7, 2 OVI-VC, OVCS	14-inch	English	74
<b>Chesterfield 2008 General Election</b>	Ballot Style	Standalone workstation	2 OVO, 2 OVI-7, 2 OVI-VC, OVCS	14-inch	English	123
<b>Fairfax 2010 General Election</b>	Ballot Style	Standalone workstation	2 OVO, 2 OVI-7, 2 OVI-VC, OVCS	14-inch	English, Spanish	10,658
<b>Fairfax 2011 Primary Election</b>	Precinct	Standalone workstation	2 OVO, 2 OVI-7, 2 OVI-VC, OVCS	11-inch	English	88
<b>Fairfax 2012 Presidential Primary Election (End-to-End)</b>	Ballot Style	Standalone workstation	2 OVO, 2 OVI-7, 2 OVI-VC, OVCS	11-inch	English, Spanish	---

#### 4.1 Test Candidate

Supporting the evaluation, Unisyn provided the following components of the OVS Version 1.2 which were verified by serial number, hardware version, and firmware/software version.

<b>Virginia Certification of OVS Version 1.2</b>	<b>Firmware or Software Version</b>	<b>Hardware Version</b>	<b>Serial Number</b>

<b>EMS Component</b>			
OpenElect Central Suite (OCS)	1.2	Dell XPS M1530	J3W97G1
<b>Tabulators</b>			
OpenElect Voting Optical Scan (OVO)	1.2	Rev. E	UVS009128, UVS002252
OpenElect Voting Central Scan (OVCS)	1.2	v. 1.2	ED300254
<b>ADA Device</b>			
OpenElect Voting Interface (OVI-7)	1.2	Rev. F	UVS150010, UVS150018
<b>Ballot Marking Device</b>			
OpenElect Voting Interface (OVI-VC)	1.2	Rev. A & B	UVS203053, UVS150017
<b>Ballot Boxes</b>			
OVO Ballot Box – Plastic	---	1.1	UVSBOT001704

## 4.2 Test Decks

Test decks for the pre-programmed scenarios were provided Unisyn and verified by the test

team. Ballots were provided in the quantity and marked in the manner prescribed in the test plan.

## 5 Findings

The evaluation followed the procedure as provided in Section 6 of the Test plan. During the procedure, the test team (including members of the State Board of Elections and the evaluation agent) made observations of general system behavior and attempted to verify specific behavior related to Virginia legal requirements. Therefore, the findings are organized below into findings related to each Virginia requirement and other findings which were reported during the evaluation.

### 5.1 Virginia Requirements

The evaluation of the OVS Version 1.2 produced the following findings for each requirement of the *Virginia Code*. For each requirement, the OVS Version 1.2 was evaluated for its ability to meet and pass the requirement and whether or not anomalies were reported.

**1. § 24.2-629. The voting system shall accurately count, register, and report votes.**

**Passed:** Yes

**Anomalies Reported:** None

The OVS Version 1.2 met the following condition(s) of satisfactions:

- ✓ All results reports provide the correct/expected results for the test ballots inserted. This includes individual machine and aggregated results.
- ✓ Public and protected counters increment for each ballot.

The evaluation of the OVS Version 1.2 found that the tabulated results matched the expected results for each test deck of ballots inserted into each tabulator. The public counters incremented appropriately and tabulator audit logs correctly recorded ballot tabulation events. The OVO, OVCS, OVI-7, and OVI-VC each provided a protected counter which correctly incremented with each ballot tabulated. The OCS correctly aggregated and reported results from each of the various tabulators into pre-defined and consolidated reporting groups. Comparison of the results tapes from individual machines and the result reports generated in EMS with the test ballots for all three election scenarios was used as the basis for verifying accurate counting and reporting of votes.

- 2. § 24.2-629. The voting system shall provide the ability for voting for all candidates of as many political parties as may make nominations at any election; on as many questions as may be submitted at any election; and at all general or special elections, permit the voter to vote for all of the candidates of one party or in part for the candidates of one or more parties.**

**Passed:** Yes

**Anomalies Reported:** None

The OVS Version 1.2 met the following condition(s) of satisfactions:

- ✓ Election scenarios (including primary elections) are fully supported by voting system without anomaly or burden.
- ✓ The voter is allowed to vote as intended and otherwise permissible.
- ✓ Overvotes are correctly handled and reported.
- ✓ Undervotes are correctly handled and reported.
- ✓ Blank ballots are correctly handled and reported.
- ✓ Write-Ins are correctly handled and reported.

The OVS Version 1.2 supported primary election and general election scenarios of various setups and sizes without anomaly or burden. The evaluation found that OVS Version 1.2 provided the ability for voting for all candidates of as many political parties as were nominated in the election scenarios. Furthermore, the system demonstrated the ability for the voter to vote for all candidates of one party or in part for the candidate of one or more parties.

- 3. § 24.2-629. The voting system shall enable the voter to vote for as many persons for an office as lawfully permitted; prevent the voter from voting for the same person more than once for the same office (only on DREs); and enable the voter to vote on any question he is lawfully permitted to vote on, but no other.**

**Passed:** Yes

**Anomalies Reported:** None

The OVS Version 1.2 met the following condition(s) of satisfactions:

- ✓ Voter is shown questions based on eligibility (i.e. precinct)
- ✓ Voter is only shown questions (s)he is eligible to vote on
- ✓ Voter is not shown questions (s)he is not eligible to vote on
- ✓ Voter is permitted to select for correct number of options on each question.











All ballots generated in the OVS Version 1.2 have the option to include write-in candidates on one or more questions. Furthermore, ballots with write-ins votes were correctly detected, diverted, and tabulated.

**15. § 24.2-681. The voting system shall be able to handle general and special election types in a substantively equivalent manner.**

**Passed:** Yes

**Anomalies Reported:** None

The OVS Version 1.2 met the following condition(s) of satisfactions:

- ✓ Support all election scenarios requested without undue variations to the voting operation for the election official or voter

The OVS Version 1.2 supported all election scenarios requested without undue variations to the voting operation for the election official or voter.

**16. § 24.2-606 -654. The voting system shall allow for the officers of election to open and close polls; and lock each voting and counting device against further voting.**

**Passed:** Yes

**Anomalies Reported:** None

The OVS Version 1.2 met the following condition(s) of satisfactions:

- ✓ Poll workers are provided a sufficient mechanism to open polls and determine the state of the device.
- ✓ Poll workers are provided a sufficient mechanism to close polls and place the device in a state such that further voting is not permitted.
- ✓ These functions are protected by sufficient access controls.

The evaluation of the OVS Version 1.2 found that officers of the election are provided a secure and access-controlled mechanism to open polls and determine the state of the each device. At the close of polls, election officers are provided a mechanism to close polls and place each device in a state such that further voting is not permitted without special authorization. The opening and closing of polls on the OVO, OVI-7, OVI-VC, and OVCS is limited to administrative password access only.

**17. § 24.2-629. The voting system shall be capable of storing and retaining existing votes in a permanent memory in the event of power failure during and after the election.**

**Passed:** Yes

**Anomalies Reported:** None

The OVS Version 1.2 met the following condition(s) of satisfactions:

- ✓ Each device stores tabulated results such that a sudden power failure during and after an election will not erase the results.

The OVO and OVCS store and retain existing votes on removable media as soon as each ballot is tabulated. Therefore, the evaluation showed that power failure during and after an election does not impact the storage of the tabulated results. The OVCS also stores the tabulated results on persistent memory but requires the operator to Save Results in order to write results to the hard drive. If power is lost, any results tabulated but not saved to hard drive will be lost. All saved results are maintained.

**18. § 24.2-629. The voting system shall provide an audit trail.**

**Passed:** Yes

**Anomalies Reported:** None

The OVS Version 1.2 met the following condition(s) of satisfactions:

- ✓ Each software module, tabulator, and supported electronic devices provides an accessible audit trail.
- ✓ Audit logs must be in human-readable form.
- ✓ Audit logs provide timestamps for all entries
- ✓ Audit logs provide entries for all privilege escalation events.
- ✓ Audit logs provide entries for all events impacting the tabulated results.
- ✓ Audit logs do not record voter identifying information or information related to the tabulated results.
- ✓ Audit logs record system or component failures

The evaluation of the OVS Version 1.2 showed that each software module, tabulator, and supported device provides an accessible audit trail. Audit logs are in human-readable format and available for printing. Audit logs provide timestamps for all entries and provide entries for all events impacting the tabulated results. The audit logs evaluated do not record voter identifying information or information related to the tabulated results. Furthermore, the evaluated audit logs provide sufficient detail to indicate system or component failures.



**Passed:** Yes

**Anomalies Reported:** None

The OVS Version 1.2 met the following condition(s) of satisfactions:

- ✓ Generated ballots include the questions and candidates for the corresponding election district and no other.

The ballot generation capability exhibited by the OVS Version 1.2 during evaluation demonstrated the ability to correctly generate ballot styles with the appropriate offices and candidates for a specific election district.

**22. § 24.2-613. The voting system shall generate ballots that comply with the guidelines for managing paper ballots found in the Virginia State Board of Elections guidance documents.**

**Passed:** Yes

**Anomalies Reported:** None

The OVS Version 1.2 met the following condition(s) of satisfactions:

- ✓ Generated ballots follow the guidance provided in the Virginia SBE guidance document (15. Managing Paper Ballots).

The ballot design capabilities provided by the OVS Version 1.2 are sufficient to allow election officers to comply with the guidelines for managing paper ballots found in the Virginia State Board of Elections guidance documents.

**23. § 24.2-613. The voting system shall provide ballot generation capabilities that support the ordering of the names of candidates according to § 24.2-613. Form of ballot.**

**Passed:** Yes

**Anomalies Reported:** None

The OVS Version 1.2 met the following condition(s) of satisfactions:

- ✓ Generated ballots providing the ordering of names are required

The ballot design and generation capabilities provided by the OVS Version 1.2 provide election officials the ability to comply with this Virginia ballot design requirement.

**24. § 24.2-613. The voting system shall provide ballot generation capabilities that support the following ballot requirement:**



The ballot design and generation capabilities provided by the OVS Version 1.2 provide election officials the ability to comply with this Virginia ballot design requirement.

**27. § 24.2-613. The voting system shall provide ballot generation capabilities that support the following ballot requirement:**

**In preparing the ballots for general, special and primary elections, the electoral boards shall cause to be printed in not less than 10-point type, immediately below the title of any office, a statement of the number of candidates who may be voted for that office. The following language shall be used: "Vote for not more than .... ".**

**Passed:** Yes

**Anomalies Reported:** None

The OVS Version 1.2 met the following condition(s) of satisfactions:

- ✓ Ballots generated for one or more of the election scenarios meet this description

The ballot design and generation capabilities provided by the OVS Version 1.2 provide election officials the ability to comply with this Virginia ballot design requirement.

**28. § 24.2-614. The voting system shall (for presidential election ballots) provide ballot generation capabilities that support the following ballot requirement:**

**The ballot shall contain the name of each political party and the party group name, if any, specified by the persons naming electors by petition pursuant to § 24.2-543. Below the party name in parentheses, the ballot shall contain the words "Electors for ....., President and ....., Vice President" with the blanks filled in with the names of the candidates for President and Vice President for whom the candidates for electors are expected to vote in the Electoral College.**

**Passed:** Yes

**Anomalies Reported:** None

The OVS Version 1.2 met the following condition(s) of satisfactions:

- ✓ Ballots generated for one or more of the election scenarios meet this description

The ballot design and generation capabilities provided by the OVS Version 1.2 provide election officials the ability to comply with this Virginia ballot design requirement.

**29. § 24.2-640. The voting system shall provide ballot generation capabilities that support the following ballot requirement:**

**The names of the various candidates shall be printed in type not less than fourteen point.**

**Passed:** Yes

**Anomalies Reported:** None

The OVS Version 1.2 met the following condition(s) of satisfactions:

- ✓ Ballots generated for one or more of the election scenarios meet this description

The ballot design and generation capabilities provided by the OVS Version 1.2 provide election officials the ability to comply with this Virginia ballot design requirement.

**30. § 24.2-615. The voting system shall provide ballot generation capabilities that support the following ballot requirement:**

**Ballots generated by the voting systems shall be uniform throughout the election district in which the same candidates are running to fill the same offices and throughout the district in which a question is submitted to the voters.**

**Passed:** Yes

**Anomalies Reported:** None

The OVS Version 1.2 met the following condition(s) of satisfactions:

- ✓ Ballots generated for one or more of the election scenarios meet this description

The ballot design and generation capabilities provided by the OVS Version 1.2 provide election officials the ability to comply with this Virginia ballot design requirement.

**31. § 24.2-640. The voting system shall provide ballot generation capabilities that support the following ballot requirement:**

**All candidates shall be arranged on each device or other ballot to be electronically counted, either in columns or horizontal rows, and the caption of the various ballots on the devices shall be placed so that the voter knows what feature is to be used or operated to vote for his choice.**

**Passed:** Yes

**Anomalies Reported:** None

The OVS Version 1.2 met the following condition(s) of satisfactions:

- ✓ Ballots generated for one or more of the election scenarios meet this description

The ballot design and generation capabilities provided by the OVS Version 1.2 provide election officials the ability to comply with this Virginia ballot design requirement.

**32. § 24.2-530. The voting system shall allow any qualified person to vote at the primary but shall prevent the person from voting for candidates of more than one party.**

**Passed:** Yes

**Anomalies Reported:** None

The OVS Version 1.2 met the following condition(s) of satisfactions:

- ✓ Primary Election scenarios shall have separate ballots for each party.
- ✓ Ballot tabulators tabulate each party's ballot separately.

The OVS Version 1.2 generates separate ballots for each political party's offices and only list persons for that party. OVS Version 1.2 also tabulates and reports results for each party separately. Therefore, once a voter receives a ballot for a specific party, he is only able to cast a vote for candidates of that party.

**33. § 24.2-529. The voting system shall provide ballot generation capabilities that support the following ballot requirement:**

**The primary ballots for the parties taking part in a primary shall be composed, arranged, printed, delivered, and provided in the same manner as the general election ballots except that at the top of each official primary ballot shall be printed in plain black type the name of the political party and the words "Primary Election." The names of the candidates for various offices shall appear on the ballot in an order determined by the priority of the time of filing for the office. In the event two or more candidates file simultaneously, the order of filing shall then be determined by lot by the electoral board or the State Board as in the case of a tie vote for the office. No write-in shall be permitted on ballots in primary elections.**

**Passed:** Yes

**Anomalies Reported:** None

The OVS Version 1.2 met the following condition(s) of satisfactions:

- ✓ Ballots generated for one or more of the election scenarios meet this description

The ballot design and generation capabilities provided by the OVS Version 1.2 provide



**Passed:** Yes

**Anomalies Reported:** None

The OVS Version 1.2 met the following condition(s) of satisfactions:

- ✓ All data used in the course of the testing is transferred by means of a physical electronic device or communication medium.
- ✓ Wireless technology is disabled or remove from each voting system component.

The evaluation confirmed that no component of the OVS Version 1.2 was utilizing wireless technology to transfer data.

**37. § 24.2-640. The voting system shall not utilize a knob, key lever or other device to vote for any candidate other than on an individual basis except for presidential electors. (i.e. the voting system must not use straight party voting function, or have mechanism disable it and continue to perform all other functions as required)**

**Passed:** Yes

**Anomalies Reported:** None

The OVS Version 1.2 met the following condition(s) of satisfactions:

- ✓ Straight party voting can be disabled in the election configuration.
- ✓ When disabled, the voter is unable to cast a vote for more than one candidate at a time (with the exception of presidential electors).
- ✓ Tabulation logic records only one vote per voter mark

The OVS Version 1.2 has an option in the election setup to disable straight party voting. When disabled, straight party voting is not supported by any component of the voting system and the voting system complies with this requirement.

**38. § 24.2-626. The voting system shall provide accessible voting capability if the voting system submitted is a Direct Recording Electronic (DRE). Otherwise, DREs are not permitted for use in Virginia.**

**Passed:** Not Applicable

**Anomalies Reported:** None

The OVS Version 1.2 does not include a Direct Recording Electronic (DRE) device.

**39. § 24.2-626.1. The voting system shall include provisions which allow individuals with disabilities at each polling place, including non-visual accessibility for the**





## OpenElect® Voting Optical Scan (OVO)

World-Class Service

Commitment to  
Excellence

Professional Support

### Leading Innovation in the Election Industry

Unisyn OpenElect® Voting Optical Scan (OVO) is a comprehensive and secure paper-based digital optical scan voting system that both validates and tabulates ballots at each precinct.

### Supports Ranked Choice Voting (RCV)

- Familiar runoff process done in a single election
- Works equally well when there are multiple seats to fill
- Combines two elections into one, so voters only have to make one trip to the poll

### Integrity, Confidence and Flexibility

- 2005 Certification of the Voluntary Voting System Guidelines (VVSG) from the United States Election Assistance Commission (EAC)
- Hardened Linux and Java platform provides multiple layers of security and flexibility



### High levels of Physical and Software Security

Physical measures, coupled with comprehensive procedures, ensure proper and effective security and integrity during equipment preparation, testing, repair and use.

### Transparent System that Supports Accountability

- Reviewed by an EAC-accredited Voting System Testing Laboratory (VSTL)
- Lab reports are made public as part of our transparent process
- Software code is disclosed as part of a procurement process with a jurisdiction

### OVO Features and Benefits

- Self contained ballot counter includes a full color touch screen display, ballot scanner, and precinct report printer
- Provides the voter easy to follow onscreen instructions for all valid operations
- Scans ballots quickly
- Records and deposits ballots into a locked ballot box
- Prints reports and receipts
- Modular design and compact size provides easy transport and set-up



2005 VVSG Certified

Java and Hardened  
Linux Platform

### Questions?

Please visit: [www.unisynvoting.com](http://www.unisynvoting.com)

Call: 1-760-734-3233

Email: [marketing@unisynvoting.com](mailto:marketing@unisynvoting.com)

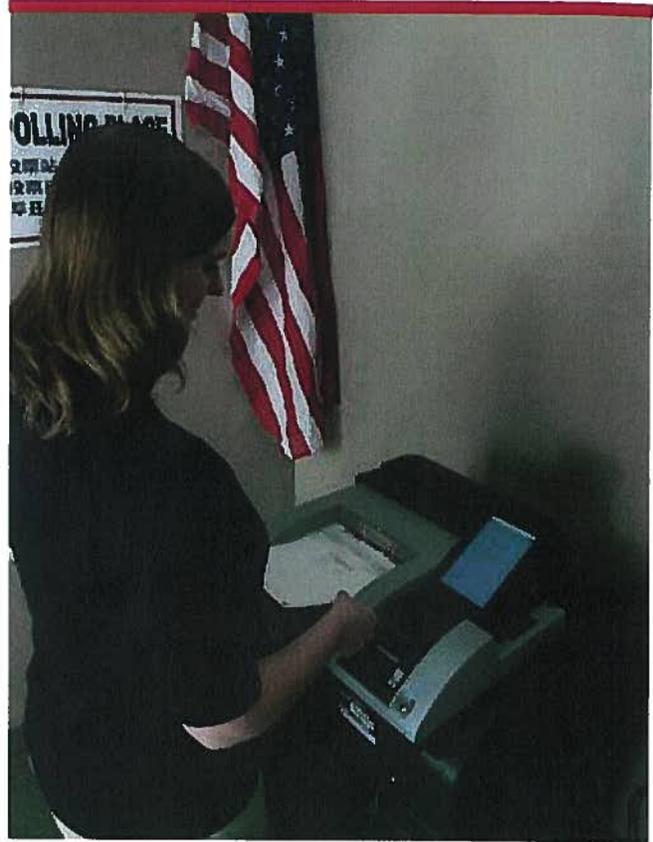
Scalability • Transparency

## Flexibility

- Pre Election Support
- Results Reporting
- Media Support
- Voter Education
- Administration Management
- Technical Support
- Maintenance
- Printing
- Supplies

## Flexibility in Program Design and Support Services

Resources, best practices and leading-edge technology provides our clients with the skills and tools needed to revolutionize local elections.



*"Four letters describe Unisyn Voting Solutions - **SAFE: Secure, Accurate, Flexible and Easy** ... No wonder that they're causing such a stir in the election community. The Unisyn OVO will change the way elections are managed in both the public and private sectors."*

OpenElect Voting Optical Scan (OVO)

OpenElect Voting Interface (OVI)

OpenElect Voting Central Scan (OVCS)

OpenElect Central Suite (OCS)

**Unisyn Voting Solutions®** is a different kind of company! Embracing the standards set forth by the voting community, we are the *first* Company to offer a digital optical scanning system certified to the 2005 Voluntary Voting System Guidelines set forth by the U.S. Election Assistance Commission (EAC).

Our products provide a wide array of choices in selecting a voting system. Contact our Election Specialists today to learn more!

**Unisyn Voting Solutions®:** 2310 Cousteau Court, Vista CA 92081

T) 1-760-734-3233 F) 1-760-598-0219 E) [marketing@unisynvoting.com](mailto:marketing@unisynvoting.com)

W) [www.unisynvoting.com](http://www.unisynvoting.com) © 2010



**Unisyn**  
Voting  
Solutions

## OpenElect® Voting Interface™ Vote Center (OVI-VC™)

Innovative and Versatile

2005 VVSG Certified

ADA

Early Voting

Ranked Choice Voting

Java and Hardened Linux  
Platform

OpenElect® Voting Interface™ Vote Center (OVI-VC™) provides touch screen voting to accommodate voters in an early vote center and multiple precinct vote locations. Fully HAVA compliant; each OVI-VC prints on demand a ballot which may be reviewed by the voter prior to being scanned. Secure tabulation is then completed using the OpenElect® Voting Optical Scan (OVO®) or the OpenElect® Voting Central Scan (OVCS®).



### Americans with Disabilities Act (ADA) Features

- HAVA compliant keypad, sip-n-puff, zoom-in ballot and multi-lingual audio functionality

- Allows voters to prepare ballots independently and privately
- Allows voters to correct mistakes (second chance voting)

### Early Voting/Note Centers

- Contains all ballot styles to accommodate non-geographical use at early voting locations
- May be used for write-in candidates when required
- Ballots are printed in easy to read format for review by Voter before tabulation

### Transparent System that Supports Accountability

- Fully reviewed and certified by an EAC-accredited Laboratory
- Lab Reports are public as part of our transparent process
- Software code is disclosed for review as part of a procurement process with a jurisdiction



### Questions?

Please visit: [www.unisynvoting.com](http://www.unisynvoting.com)

Call: 1-760-734-3233

Email: [marketing@unisynvoting.com](mailto:marketing@unisynvoting.com)

Scalability • Transparency

Flexibility

- Pre Election Support
- Results Reporting
- Media Support
- Voter Education
- Administration Management
- Technical Support
- Maintenance
- Printing
- Supplies

## High Levels of Physical and Software Security

Physical measures, coupled with comprehensive procedures, ensure proper and effective security and integrity of equipment during preparation, testing, repair and use.

## Flexibility in Program Design and Support Services

Resources, best practices and leading-edge technology provides our clients with the skills and tools needed to efficiently conduct elections.

## OVI-VC™ Features and Benefits

- Supports multiple languages
- Rank Choice Voting (RCV)
- Modular design provides easy transport and set up for poll workers
- Ballots are printed in easy to read format for review
- Produces complete precinct audit logs and reports
- OVI-VC™ produced ballots can be easily scanned into the OpenElect® Voting Optical Scan (OVO®) or the OpenElect® Voting Central Scan (OVCS®)



*"Unisyn's products are easy to use and their ability to customize a program that is good for our jurisdiction is exceptional. The entire company is focused on making sure our elections are successful."*

OpenElect Voting Optical Scan (OVO)

OpenElect Voting Interface (OVI)

OpenElect Voting Interface (OVI-VC)

OpenElect Voting Central Scan (OVCS)

OpenElect Central Suite (OCS)

**Unisyn Voting Solutions®** is the *first* Company to offer a digital optical scanning system certified to the 2005 Voluntary Voting System Guidelines set forth by the U.S. Election Assistance Commission (EAC).



Our OpenElect® suite of products provides a wide array of equipment choices which allows us to provide the perfect match for the way you want to conduct your elections. Contact our Election Specialists today to learn more!

**Unisyn Voting Solutions®:** 2310 Cousteau Court, Vista, California 92081-8346 USA

T) 1-760-734-3233 F) 1-760-598-0219 E) marketing@unisynvoting.com

W) www.unisynvoting.com © 2010



**Unisyn**  
Voting Solutions

## OpenElect® Voting Interface (OVI)

Innovative and Versatile

2005 VVSG Certified

ADA

Early Voting

Ranked Choice Voting

Java and Hardened Linux  
Platform



### Americans with Disabilities Act (ADA) Features

- HAVA compliant keypad, sip-and-puff, zoom-in ballot and headphone functionality
- Allows voters to prepare ballots independently and privately
- Allows voters to correct mistakes (second chance voting)

### Early Voting

- Contains all ballot styles for non-geographical use at early voting locations
- Can be used for write-in candidates when authorized
- Ballots can be printed in easy to read format for review

### Ranked Choice Voting (RCV)

- Familiar runoff process done in a single election
- Works equally well when there are multiple seats to fill
- Combines two elections into one, so that voters only have to make one trip to the poll

### Transparent System that Supports Accountability

- Reviewed by an EAC-accredited Laboratory
- Lab Reports are made public as part of our transparent process
- Software code is disclosed as part of a procurement process with a jurisdiction



### Questions?

Please visit: [www.unisynvoting.com](http://www.unisynvoting.com)

Call: 1-760-734-3233

Email: [marketing@unisynvoting.com](mailto:marketing@unisynvoting.com)



Scalability • Transparency

Flexibility

- Pre Election Support
- Results Reporting
- Media Support
- Voter Education
- Administration Management
- Technical Support
- Maintenance
- Printing
- Supplies

## High Levels of Physical and Software Security

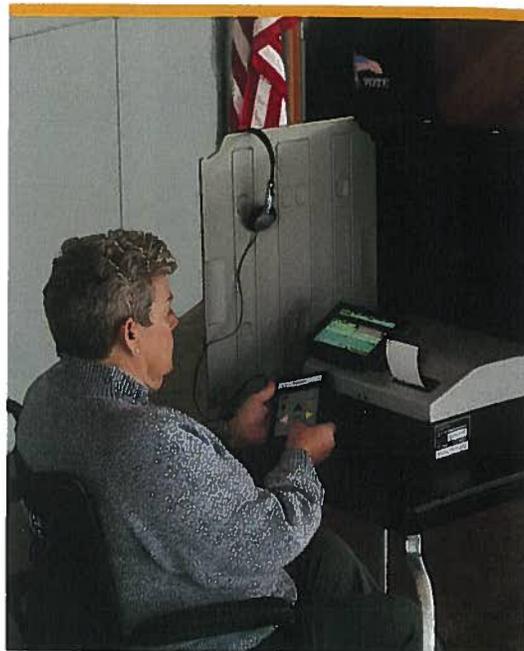
Physical measures, coupled with comprehensive procedures, ensure proper and effective security and integrity during equipment preparation, testing, repair and use.

## Flexibility in Program Design and Support Services

Resources, best practices and leading-edge technology provides our clients with the skills and tools needed to revolutionize local elections.

## OVI Features and Benefits

- Supports multiple languages
- Modular design provides easy transport and set up for poll workers
- Ballots can be printed in easy to read format for review
- Produces a variety of precinct logs and reports
- Ballots can be scanned into the OpenElect® Voting Optical Scan (OVO) or the OpenElect® Voting Central Scan (OVCS)



*"Unisyn's products are easy to use and their ability to customize a program that is good for our jurisdiction is exceptional. The entire company is focused on making sure our elections are successful."*

OpenElect Voting Optical Scan (OVO)

OpenElect Voting Interface (OVI)

OpenElect Voting Central Scan (OVCS)

OpenElect Central Suite (OCS)

**Unisyn Voting Solutions®** is a different kind of company!

Embracing the standards set forth by the voting community, we are the *first* Company to offer a digital optical scanning system certified to the 2005 Voluntary Voting System Guidelines set forth by the U.S. Election Assistance Commission (EAC).



Our products provide a wide array of choices in selecting a voting system. Contact our Election Specialists today to learn more!

**nisyn Voting Solutions®:** 2310 Cousteau Court, Vista, California 92081-8346 USA

T) 1-760-734-3233 F) 1-760-598-0219 E) [marketing@unisynvoting.com](mailto:marketing@unisynvoting.com)

W) [www.unisynvoting.com](http://www.unisynvoting.com) © 2010



**Unisyn**  
Voting  
Solutions

## OpenElect® Voting Central Scan (OVCS)

Innovative and Versatile

2005 VVSG Certified

ADA

Early Voting

Ranked Choice Voting

Java and Hardened Linux Platform

The OpenElect® Voting Central Scan (OVCS) resides at election headquarters. It is a bulk scanner designated to read absentee and provisional ballots, and to perform recounts. The OVCS also captures Write-In data images and produces a Write-In image report for manual processing upon request.

### Enhanced Speed and Security

- Hardened Linux/Java multi-tiered platform provides enhanced security
- Transparent source code – available for review as part of a jurisdiction's procurement process
- Capable of uploading results directly to the tabulator without intermediate steps

### Multifaceted, Flexible and Comprehensive

- Accommodates Ranked Choice Voting (RCV)
- Provides a permanent record of voter choices
- Captures full ballot images
- Extracts write-in entries from ballots and presents consolidated reports for each contest by precinct
- Can be used for central tabulation and recounts

### High levels of physical and software security

Physical measures, coupled with comprehensive procedures ensure proper and effective security, and integrity during equipment preparation, testing, repair and use.



### Questions?

Please visit: [www.unisynvoting.com](http://www.unisynvoting.com)

Call: 1-760-734-3233

Email: [marketing@unisynvoting.com](mailto:marketing@unisynvoting.com)

*"When It Came To Innovation, Unisyn invested to retool the traditional election technology; adopting a new business model and nurturing a support network of peer-reviewed trusted third parties, industry authorities and skilled workers. The change led to the renaissance of an entire industry."*

Scalability • Transparency

Flexibility

- Pre Election Support
- Results Reporting
- Media Support
- Voter Education
- Administration Management
- Technical Support
- Maintenance
- Printing
- Supplies

## Adjudication

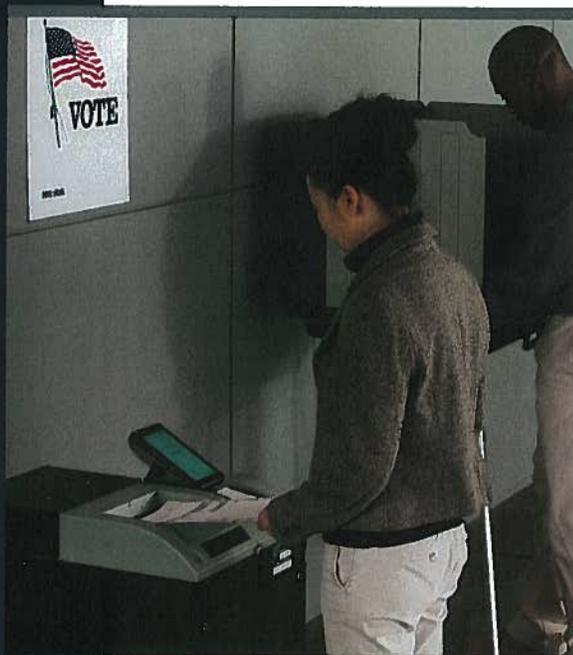
Provides adjudication whereby a qualified group is allowed to review error conditions on a ballot and adjust the ballot record according to the voter's perceived intent.

The OVCS allows for:

- Casting of ballots that cannot be read through system due to defacement of ballot
- Resolution of overvote/undervote conditions on a ballot
- Provides all-electronic handling of write-ins (without manual sorting)
- Provides method for visual validation of system function

## Flexibility in Program Design and Support Services

Resources, best practices and leading-edge technology provides our clients with the skills and tools needed to efficiently conduct local elections.



## Features and Benefits

- Units can be scaled, depending on number of ballots
- Flexibility to read various ballot sizes and two-sided ballots
- Capable of uploading results directly to tabulation without the need for intermediate steps

OpenElect Voting Optical Scan (OVO)

OpenElect Voting Interface (OVI)

OpenElect Voting Central Scan (OVCS)

OpenElect Central Suite (OCS)

**Unisyn Voting Solutions®** is a different kind of company!

Embracing the standards set forth by the voting community, we are the *first* Company to offer a digital optical scanning system certified to the 2005 Voluntary Voting System Guidelines set forth by the U.S. Election Assistance Commission (EAC).



Our products provide a wide array of choices in selecting a voting system. Contact our Election Specialists today to learn more!

**nisyn Voting Solutions®**: 2310 Cousteau Court, Vista, California 92081-8346 USA

T) 1-760-734-3233 F) 1-760-598-0219 E) [marketing@unisynvoting.com](mailto:marketing@unisynvoting.com)

W) [www.unisynvoting.com](http://www.unisynvoting.com) © 2010



**Unisyn**  
Voting  
Solutions

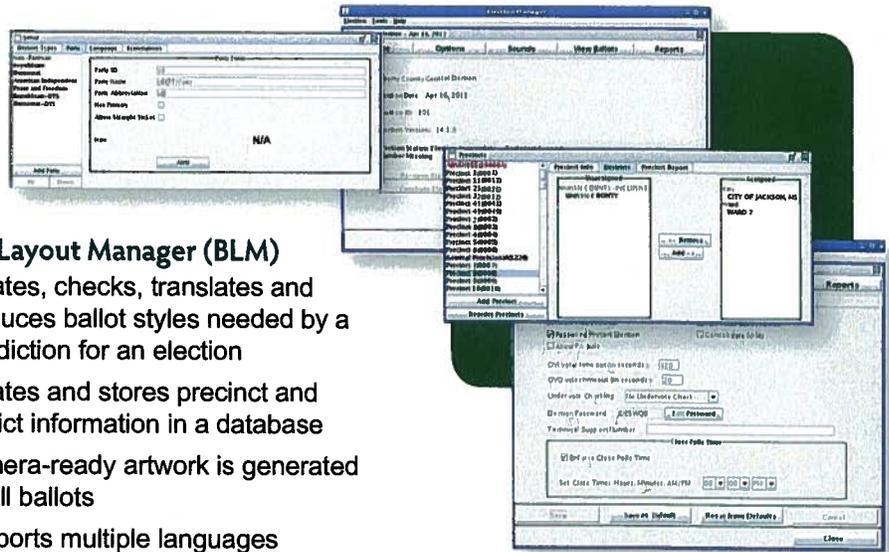
## OpenElect® Central Suite (OCS)

Unisyn OpenElect® Central Suite (OCS) is a Linux-based suite of software applications that works together to define and configure an election:

### Complete Control over Your Election Process

- The product suite provides maximum flexibility and customization while guiding the user through every step of the process
- User friendly graphical interface, with familiar interface conventions
- Consistent screen formats that make them easy to learn and easy to use
- Compiles and tabulates vote results
- Provides reports by precinct, by district, by county and statewide

The Unisyn OpenElect Central Suite (OCS) works in conjunction with our 2005 VVSG Certified Linux-platform digital scan products:



### Ballot Layout Manager (BLM)

- Creates, checks, translates and produces ballot styles needed by a jurisdiction for an election
- Creates and stores precinct and district information in a database
- Camera-ready artwork is generated for all ballots
- Supports multiple languages
- Supports Ranked Choice Voting (RCV)

### Election Manager (EM)

- Converts the Unisyn election definition file to a Unisyn-specific encrypted XML format
- Allows the jurisdiction to add voting device specific options
- Flexibility to check contests for undervotes, whether to allow or disallow certain features and other options
- Creates and manages Supervisor and Maintenance Technician logins and passwords
- Produces a CD containing encrypted compressed files that are loaded onto the voting devices
- CD is also used by post-election OVS components for election day vote processing

World-Class Service

Commitment to  
Excellence

Professional Support

Java and Hardened  
Linux Platform

### Questions?

Please visit: [www.unisynvoting.com](http://www.unisynvoting.com)

Call: 1-760-734-3233

Email: [marketing@unisynvoting.com](mailto:marketing@unisynvoting.com)

Scalability • Transparency

Flexibility

- Pre Election Support
- Results Reporting
- Media Support
- Voter Education
- Administration Management
- Technical Support
- Maintenance
- Printing
- Supplies

### Election Server (ES)

- Sets the correct system time on the voting devices
- Uses the Election CD created by the Election Manager component to download new election data (via a closed and secure network) to OVO and OVI voting devices

### Tabulator Client (TC)

- Following an election, transport media (Flash memory) from each poll location are delivered to a central count location, uploaded and converted to a database format that the jurisdiction can use for Unofficial and Official Canvass Reporting
- Retrieves, decrypts and transfers the vote files from the transport media to the Tabulator
- Resides on the same PC as the Tabulator or on a PC that communicates with the Tabulator

### Tabulator

- Unisyn's Tabulator receives and validates uploaded voting data and provides a status of uploaded files
- Provides Ranked Choice Voting (RCV) functionality
- Uses the Tabulator database to store results from all precincts

### Tabulator Reports (TR)

- Accesses data from the Tabulator Database to generate the necessary Unofficial and Official reports
- As precinct results are uploaded, the vote tabulator generates and updates a number of reports including:
  - Status reports
  - Consolidated Election Report, summarized by precinct
  - Voter Turnout report and other reports such as providing election results to the media
- The vote files maintain both an administrative audit trail and a voter audit trail that provide capability to retrieve ballot images

### Transparent Source Code that Supports Accountability

- Reviewed by EAC-accredited Laboratory
- Lab Reports are made public as part of our transparent process
- Software code is disclosed as part of a procedure process with a jurisdiction

*"In an industry challenged with old technology - One Company has stepped up to the plate. That company is **Unisyn Voting Solutions.**"*

OpenElect Voting Optical Scan (OVO)

OpenElect Voting Interface (OVI)

OpenElect Voting Central Scan (OVCS)

OpenElect Central Suite (OCS)

**Unisyn Voting Solutions®** is a different kind of company!

Embracing the standards set forth by the voting community, we are the *first* Company to offer a digital optical scanning system certified to the 2005 Voluntary Voting System Guidelines set forth by the U.S. Election Assistance Commission (EAC).



Our products provide a wide array of choices in selecting a voting system. Contact our Election Specialists today to learn more!

**nisyn Voting Solutions®:** 2310 Cousteau Court, Vista, California 92081-8346 USA

T) 1-760-734-3233 F) 1-760-598-0219 E) marketing@unisynvoting.com

W) www.unisynvoting.com © 2010



World-Class Service

Commitment to  
Excellence

Professional Support

Java and Hardened  
Linux Platform

### Unisyn Voting Solutions®...Integrity and Passion in Everything We Do!

Unisyn understands that the successful implementation of any new voting system relies on the team that operates it. That is why we work closely with election management, poll workers, technicians and warehouse personnel to help your election run smoothly and efficiently. This includes:

- Partnership that provides security, transparency, flexibility and scalability
- Leading-edge technology that makes reporting easy to manage and secure
- Customized design and delivery of support services and resources
- Highly qualified personalized and interactive staff training
- Nationwide service – we are available to come to you

#### Public and Private Election Services

- Tabulation System Reports
- Ongoing Maintenance
- Service Bureau Ballot Layout
- Early Voting and Absentee Ballots

#### Headquarters Election Staff

- Layout and design of ballots
- Candidate entry
- Tabulation
- Identification and resolution of potential problems

#### Poll Workers

Unisyn offers a "Train the Trainers" program by providing hands-on, classroom and video instruction so that trainers can easily and effectively instruct the numerous polling place workers in all functions of the Unisyn system used in their precinct.

#### Technicians and Warehouse Staff

##### We provide training for:

- Technical service (Unisyn-qualified voting machine repair technician)
- Functionality and maintenance of machines
- All hardware components including repair and replacement of parts
- Warehouse operations, and in the proper preparation, delivery and return of voting units
- "How to troubleshoot problems on Election Day"

*"Unisyn provides a comprehensive and customized program that helps jurisdictions of all sizes obtain fast and accurate results. The entire company is focused on making sure that every vote will actually be counted."*

#### Questions?

Please visit: [www.unisynvoting.com](http://www.unisynvoting.com)

Call: 1-760-734-3233

Email: [marketing@unisynvoting.com](mailto:marketing@unisynvoting.com)

Scalability • Transparency  
Flexibility



- Pre Election Support
- Results Reporting
- Media Support
- Voter Education
- Administration Management
- Technical Support
- Maintenance
- Printing
- Supplies

OpenElect Voting Optical Scan (OVO)  
OpenElect Voting Interface (OVI)  
OpenElect Voting Central Scan (OVCS)  
OpenElect Central Suite (OCS)

## Media/Public Information Services

- A media specialist to help with public education, establishing an image of transparency with local media and providing pertinent information to enhance a positive image of the Election Office
  - Hosted news conference to introduce and demonstrate the ease of use of the new voting machines
  - Literature distribution regarding the new system, including sample ballots
  - Press release to announce the contract signing
  - "Open House" with voting units at the Election Office for people to practice how to operate the machine and how to cast their ballot
  - Staff training on how to demonstrate the voting system to others, such as the public and media

## Maintenance Services

- Unisyn Voting Solutions provides a full complement of services for your election requirements, these include:
  - Service and maintenance of all voting unit components
  - Warehouse services, including storage, and set up

## Printing Services

**Unisyn provides jurisdiction printing services which include:**

- Early Voting, Absentee and Election Day Ballots
- Poll worker manuals
- Precinct kits
- Test decks

We also provide assistance for Ballot Management programs. This includes the coordination between the election staff and the Printer that is designated to print all required ballots in all ballot formats.

## Election Supplies

Unisyn offers all election supplies required to conduct a successful election. Whether you require ballots of any type, voting booths, ballot boxes, vote-here signs, sample ballots, precinct kits, security seals and miscellaneous expendable supplies, we can accommodate any need.

## Unisyn is a Different Kind of Company!

We understand that there are many dynamics involved in running a successful election. For instance, ballots that violate basic design principles can cause votes to be lost. That is why we partner with you to collaboratively design and deliver printed materials, along with staff training and support materials that are tailored to achieve success. Using our expertise and leading-edge technology, we help clients to instill voter confidence, while delivering optimal service and enhancing security. Contact our Election Specialists today to learn more!

**Unisyn Voting Solutions®:** 2310 Cousteau Court, Vista, California 92081-8346 USA

T) 1-760-734-3233 F) 1-760-598-0219 E) marketing@unisynvoting.com

W) www.unisynvoting.com © 2010





★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

---

# Stand By Your Ad Complaints

---

BOARD WORKING PAPERS  
Presented by Chris Piper  
Election Services Manager



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

Charles E. Judd  
Chairman

• Kimberly T. Bowers  
Vice Chair

• Donald L. Palmer  
Secretary

---

## Memorandum

**To:** Charles Judd, Chairman; Kimberly Bowers, Vice Chair; Donald Palmer, Secretary

**From:** Christopher Piper, Election Services Manager

**Date:** February 26, 2014

**Re:** Possible Violation of Chapter 9.5 of Title 24.2, *Code of Virginia* (aka “Stand By Your Ad”)

---

**Defendant:** Democratic Party of Virginia

**Background:** On October 18, 2013, staff received a complaint concerning a political advertisement appearing on a billboard and allegedly paid for by the Democratic Party of Virginia, but did not contain the disclosure statement required by § 24.2-956.1.

**Relevant Statutory and Policy Provisions:** Section 24.2-955 states:

The disclosure requirements of this chapter [Chapter 9.5] apply to any sponsor of an advertisement in the print media or on radio or television the cost or value of which constitutes an expenditure or contribution required to be disclosed under Chapter 9.3 (§ [24.2-945](#) et seq.) except that the disclosure requirements of this chapter do not apply to (i) an individual who makes independent expenditures aggregating less than \$1,000 in an election cycle for or against a candidate for statewide office or less than \$200 in an election cycle for or against a candidate for any other office or (ii) an individual who incurs expenses only with respect to a referendum.

Section 24.2-955.1 defines “print media” as “billboards, cards, newspapers, newspaper inserts, magazines, printed material disseminated through the mail, pamphlets, fliers, bumper stickers, periodicals, website, electronic mail, and outdoor advertising facilities.”

Section 24.2-956.1 states (in part):

It shall be unlawful for any person or political committee to sponsor a print media advertisement that constitutes an expenditure or contribution required to be disclosed under Chapter 9.3 (§ [24.2-945](#) et seq.) unless the following requirements are met:



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

Charles E. Judd  
Chairman

• Kimberly T. Bowers  
Vice Chair

• Donald L. Palmer  
Secretary

---

1. It bears the legend or includes the statement: "Paid for by ....."

[Name of person or political committee]."

2. In an advertisement supporting or opposing the nomination or election of one or more clearly identified candidates, the sponsor states whether it is authorized by a candidate. The visual legend in the advertisement shall state either "Authorized by [Name of candidate], candidate for [Name of office]" or "Not authorized by a candidate."

The State Board of Election's Political Party Committee Summary on Laws and Policies (Rev. January 2013) states on page 34, "A Disclosure Statement is NOT required on **Yard Signs** (The State Board is currently working on a regulation to define "yard sign")."

**Analysis:** The advertisement appearing in the picture provided meets the Board's standard for "express advocacy" as it clearly advocates for the election of three candidates to statewide office. The sign fails to state who paid for the advertisement and is therefore not compliant with the disclosure required in § 24.2-956(1) of the Code of Virginia; however, the Board's guidance document is unclear on yard signs. Due to budget reductions, staff resources to research the issue and provide recommended guidance to the Board have not been available.

**Staff Recommendation:** The Code of Virginia and State Board guidance is unclear on whether disclosures are required on yard signs. Therefore, staff recommendation is to not assess a penalty.

**Authority:** Section 24.2-955.3(D) states, "The State Board, in a public hearing, shall determine whether to find a violation of this chapter and to assess a civil penalty." The civil penalty schedule is found on page 55 of the **Summary of Laws and Policies for Candidate Campaign Committees**, rev. January 1, 2013.



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

Charles E. Judd  
Chairman

• Kimberly T. Bowers  
Vice Chair

• Donald L. Palmer  
Secretary

---

## Memorandum

**To:** Charles Judd, Chairman; Kimberly Bowers, Vice Chair; Donald Palmer, Secretary

**From:** Christopher Piper, Election Services Manager

**Date:** February 26, 2014

**Re:** Possible Violation of Chapter 9.5 of Title 24.2, *Code of Virginia* (aka “Stand By Your Ad”)

---

**Defendant:** Engle for Delegate

**Background:** On November 4, 2013, staff received a complaint concerning a political advertisement appearing in a public right of way and allegedly paid for by Engle for Delegate, but did not contain the disclosure statement required by § 24.2-956 of the Code of Virginia.

**Relevant Statutory and Policy Provisions:** Section 24.2-955 states:

The disclosure requirements of this chapter [Chapter 9.5] apply to any sponsor of an advertisement in the print media or on radio or television the cost or value of which constitutes an expenditure or contribution required to be disclosed under Chapter 9.3 (§ [24.2-945](#) et seq.) except that the disclosure requirements of this chapter do not apply to (i) an individual who makes independent expenditures aggregating less than \$1,000 in an election cycle for or against a candidate for statewide office or less than \$200 in an election cycle for or against a candidate for any other office or (ii) an individual who incurs expenses only with respect to a referendum.

Section 24.2-955.1 defines “print media” as “billboards, cards, newspapers, newspaper inserts, magazines, printed material disseminated through the mail, pamphlets, fliers, bumper stickers, periodicals, website, electronic mail, and outdoor advertising facilities.”

Section 24.2-956 states:

It shall be unlawful for any candidate or candidate campaign committee to sponsor a print media advertisement that constitutes an expenditure or contribution required to be disclosed under Chapter 9.3 (§ [24.2-945](#) et seq.) unless all of the following conditions are met:

1. It bears the legend or includes the statement: "Paid for by ..... [Name of candidate or campaign committee]." Alternatively, if the advertisement is supporting a candidate who is the sponsor and the advertisement makes no reference to any other clearly identified candidate, then the statement "Paid for by ..... [Name of sponsor]" may be replaced by the statement "Authorized by ..... [Name of sponsor]."

The State Board of Election's Candidate Campaign Committee Summary on Laws and Policies (Rev. January 2013) states on page 50, "A Disclosure Statement is NOT required on **Yard Signs** (The State Board is currently working on a regulation to define "yard sign")."

**Analysis:** The advertisement appearing in the picture provided meets the Board's standard for "express advocacy" as it clearly advocates for the election of Jeffrey Engles to the House of Delegates. The sign fails to state who paid for the advertisement and is therefore not compliant with the disclosure required in § 24.2-956(1) of the *Code of Virginia*. However, the Board's guidance document is unclear on yard signs. Due to budget reductions, staff resources to research the issue and provide recommended guidance to the Board have not been available.

**Staff Recommendation:** The *Code of Virginia* and State Board guidance is unclear on whether disclosures are required on yard signs. Therefore, staff recommendation is to not assess a penalty.

**Authority:** Section 24.2-955.3(D) states, "The State Board, in a public hearing, shall determine whether to find a violation of this chapter and to assess a civil penalty." The civil penalty schedule is found on page 55 of the **Summary of Laws and Policies for Candidate Campaign Committees**, rev. January 1, 2013.



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

---

# Revised Summaries of Campaign Finance Guidance-Approval

---

BOARD WORKING PAPERS  
Presented by Chris Piper  
Election Services Manager



★VIRGINIA★  
STATE BOARD  
*of* ELECTIONS

## Memorandum

To: Members of the State Board of Elections

From: Chris Piper, Election Services Division Manager

Date: February 26, 2014

Re: Approval of Updates to Campaign Finance Summaries – Change to Reporting Deadlines

---

### **Suggested motion for a Board member to make:**

I move that the staff post the recommended changes to the committee summaries for public comment and for a minimum of 21 calendar days.

**Applicable Code Sections:** § 24.2-946

### **Attachments:**

Your Board materials include the following:

- A copy of the Candidate Campaign Committee Summary (an example of the changes which will be reflected in the various committee summaries rather than overwhelm the Board with several 50+ page documents).

### **Background:**

At the Board meeting on January 8, 2014, the Board unanimously directed staff to change the filing deadline of electronically filed campaign finance reports to 11:59pm on the day of the deadline. Current Board policy was to assess penalties for any reports filed after 5:00pm. The Summaries have been updated to reflect this change in Board policy. Staff also researched other forms and determined no additional updates are needed at this time. Committees which file their reports on paper are not affected by this change.

Some concerns have been brought up by members of the media and so staff recommends the change be posted for public comment prior to officially adopting the changes to the committee summaries.

# ***CANDIDATE CAMPAIGN COMMITTEES***



**Virginia's Campaign Finance Disclosure Act**  
Title 24.2 - Chapter 9.3, 9.4 and 9.5 of the *Code of Virginia*

***Summary of Laws and Policies  
for  
Candidate Campaign Committees***

Revised ~~January 1, 2013~~ February 26, 2014  
*Supersedes All Previous Versions*

COMMONWEALTH OF VIRGINIA  
VIRGINIA STATE BOARD OF ELECTIONS  
1100 BANK STREET, FIRST FLOOR  
RICHMOND, VIRGINIA 23219-3497

Toll-free within Virginia 800-552-9745 or 804-864-8901  
Fax Number: 804-786-1364  
Visit our website: [www.sbe.virginia.gov](http://www.sbe.virginia.gov)

## Table of Contents

<b>CHAPTER 1 – GENERAL INFORMATION .....</b>	<b>3</b>
SECTION 1.1 - PURPOSE OF <i>SUMMARY</i> .....	3
SECTION 1.2 - CAMPAIGN FINANCE STAFF .....	3
SECTION 1.3 - RELATED PUBLICATIONS.....	3
SECTION 1.4 - ELECTIONS NOT COVERED.....	4
SECTION 1.5 - FEDERAL LAWS AND REQUIREMENTS .....	4
SECTION 1.6 - CASH-BASIS VS. ACCRUAL-BASIS REPORTING .....	5
SECTION 1.7 - DEFINITIONS .....	5
<b>CHAPTER 2 – STATEMENT OF ORGANIZATION.....</b>	<b>11</b>
SECTION 2.1 - BECOMING A “CANDIDATE” .....	11
SECTION 2.2 - ESTABLISHING A CANDIDATE CAMPAIGN COMMITTEE .....	11
SECTION 2.3 – CANDIDATE COMMITTEES AFTER THE ELECTION .....	15
SECTION 2.4 - EXEMPT CANDIDATES .....	15
SECTION 2.5 – CAMPAIGN COMMITTEE TREASURER.....	16
<b>CHAPTER 3 – SCHEDULE A: CASH CONTRIBUTIONS.....</b>	<b>18</b>
SECTION 3.1 – LIMITS ON CONTRIBUTIONS.....	18
SECTION 3.2 – TYPES OF CASH CONTRIBUTIONS .....	18
SECTION 3.3 – ITEMIZED CONTRIBUTIONS VS. UNITEMIZED CONTRIBUTIONS .....	18
SECTION 3.4 – CONTRIBUTOR’S REQUIRED INFORMATION .....	19
SECTION 3.5 – SOLICITING CONTRIBUTIONS .....	20
SECTION 3.6 – OTHER CONTRIBUTION POLICIES.....	22
SECTION 3.7 - CONTRIBUTIONS FROM FEC PACS AND OUT-OF-STATE POLITICAL COMMITTEES .....	23
SECTION 3.8 – FUNDRAISERS .....	23
<b>CHAPTER 4 – SCHEDULE B: IN-KIND CONTRIBUTIONS .....</b>	<b>25</b>
SECTION 4.1 - TYPES OF IN-KIND CONTRIBUTIONS.....	25
SECTION 4.2 – IN-KIND CONTRIBUTION VS. INDEPENDENT EXPENDITURES.....	26
SECTION 4.3 – REPORTING IN-KIND CONTRIBUTIONS.....	26
<b>CHAPTER 5 – SCHEDULE C: REFUNDS, REBATES AND INTEREST.....</b>	<b>28</b>
SECTION 5.1 - TYPES OF MISCELLANEOUS RECEIPTS.....	28
<b>CHAPTER 6 – SCHEDULE D: EXPENDITURES.....</b>	<b>29</b>
SECTION 6.1 - REPORTING EXPENDITURES .....	29
SECTION 6.2 - OTHER TYPES OF EXPENDITURES .....	29
<b>CHAPTER 7 – SCHEDULE E: LOANS.....</b>	<b>31</b>
SECTION 7.1 – TYPES OF LOANS .....	31
SECTION 7.2 - REPORTING LOAN RECEIPTS AND REPAYMENTS .....	31
SECTION 7.3 – CANDIDATE INTEREST PAYMENTS.....	31
SECTION 7.4 - FORGIVING LOANS .....	31
<b>CHAPTER 8 – SCHEDULE F: DEBTS REMAINING UNPAID.....</b>	<b>33</b>
SECTION 8.1 TYPES OF REPORTABLE DEBTS.....	33
SECTION 8.2 - REPORTING OUTSTANDING DEBTS .....	33

<b>CHAPTER 9 – SCHEDULES G AND H: SUMMARY PAGES .....</b>	<b>34</b>
<b>CHAPTER 10 – SCHEDULE I: DISBURSEMENT OF EXCESS FUNDS .....</b>	<b>35</b>
SECTION 10.1 - FILING A FINAL REPORT .....	35
SECTION 10.2 – HOW TO DISPOSE OF SURPLUS FUNDS .....	35
DISBURSEMENT OF TANGIBLE ITEMS OF VALUE.....	36
<b>CHAPTER 11 – NON-REGULAR REPORTS.....</b>	<b>37</b>
SECTION 11.1 – TYPES OF NON-REGULAR REPORTS.....	37
SECTION 11.2 - LARGE PRE-ELECTION CONTRIBUTION REPORTS .....	37
SECTION 11.3 - REPORTING LARGE PRE-ELECTION CONTRIBUTIONS .....	37
SECTION 11.4 - INDEPENDENT EXPENDITURE REPORTS .....	38
<b>CHAPTER 12 – WHERE AND WHEN TO FILE CAMPAIGN FINANCE REPORTS .....</b>	<b>40</b>
SECTION 12.1 - FILING PERIODS .....	40
SECTION 12.2 - REPORTS AS CONDITION TO QUALIFICATION FOR OFFICE .....	42
SECTION 12.3 - WHERE TO FILE CAMPAIGN FINANCE REPORTS .....	42
SECTION 12.4 – WHEN TO FILE REPORTS.....	42
SECTION 12.5 - EXTENSION OF THE FILING DEADLINE.....	43
SECTION 12.6 - NO ACTIVITY REPORTS .....	43
<b>CHAPTER 13 – CAMPAIGN FINANCE REPORTING PENALTIES .....</b>	<b>45</b>
SECTION 13.1 – GENERAL PROVISIONS.....	45
SECTION 13.2 - PROCEDURE TO COLLECT CIVIL PENALTIES FOR CAMPAIGN FINANCE REPORTS .....	46
SECTION 13.3 – PENALTY SCHEDULE FOR INCOMPLETE REPORTS .....	46
SECTION 13.4 – ADDITIONAL PENALTIES FOR STATEWIDE OFFICES .....	47
SECTION 13.5 – PENALTIES FOR ACCEPTING CONTRIBUTIONS FROM UNREGISTERED OUT-OF-STATE POLITICAL COMMITTEES OR FEDERAL POLITICAL ACTION COMMITTEES .....	48
SECTION 13.6 - WILLFUL VIOLATIONS .....	49
<b>CHAPTER 14 – POLITICAL ADVERTISEMENT DISCLOSURE .....</b>	<b>50</b>
SECTION 14.1 - WHEN DISCLOSURE STATEMENTS ARE REQUIRED .....	50
SECTION 14.2 - REQUIREMENTS FOR PUBLICATIONS.....	51
SECTION 14.3 - PRINT MEDIA DISCLOSURE REQUIREMENTS FOR CANDIDATES .....	52
SECTION 14.4 - TELEVISION DISCLOSURE REQUIREMENTS FOR CANDIDATES .....	52
SECTION 14.5 - RADIO DISCLOSURE REQUIREMENTS FOR CANDIDATES.....	53
SECTION 14.6 – CAMPAIGN TELEPHONE CALL REQUIREMENTS.....	54
<b>CHAPTER 15 – POLITICAL ADVERTISEMENT PENALTIES .....</b>	<b>55</b>
SECTION 15.1 - PROCEDURE FOR REPORTING VIOLATIONS.....	55
SECTION 15.2 - PENALTIES FOR CANDIDATES FOR STATEWIDE OFFICE .....	55
SECTION 15.3 - PENALTIES FOR CANDIDATES FOR GENERAL ASSEMBLY OR LOCAL OFFICE.....	56

## **CHAPTER 1 – General Information**

### **Section 1.1 - Purpose of Summary**

In accordance with § 24.2-946 of the *Code of Virginia*, the Virginia State Board of Elections (SBE) has prepared this *Summary of Virginia's Campaign Finance Laws and Policies for Candidate Campaign Committees* (hereafter referred to as "Summary"), which is designed to assist candidates and their treasurers on how to file the required campaign finance reports and outlines the provisions of the Campaign Finance Disclosure Act (CFDA or the "Act"), Chapters 9.3, 9.4 and 9.5 of Title 24.2 of the *Code of Virginia* and the policies adopted by the State Board related to those laws. This document has been prepared to assist the candidate committee in understanding the laws enacted by the General Assembly and the related policies set forth by the State Board of Elections. This Summary is a basic reference tool, and is **NOT** a substitute for the actual law.

It is important to understand that there is more to the law than just timely filing the required campaign finance reports. As a candidate or treasurer, you should familiarize yourself with this Summary for it will serve as a valuable resource.

SBE makes the Summary available on the Internet to all candidates, their treasurers and the general public. SBE will also mail a copy of the Summary upon request.

### **Section 1.2 - Campaign Finance Staff**

SBE staff is available to assist you in preparing reports and interpreting the requirements of the CFDA. Should you have questions or require clarification, please contact:

**Chris Piper**, Manager, Election Services: [chris.piper@sbe.virginia.gov](mailto:chris.piper@sbe.virginia.gov)

**Tina Edmonds**, Compliance Specialist: [tina.edmonds@sbe.virginia.gov](mailto:tina.edmonds@sbe.virginia.gov)

**Rise Miller**, Service Specialist: [rise.miller@sbe.virginia.gov](mailto:rise.miller@sbe.virginia.gov)

### **Section 1.3 - Related Publications**

If your committee is required to file its campaign finance reports electronically, or if you have chosen to file electronically, please refer to the *COMET* User Manual found online at SBE's website:

[http://www.sbe.virginia.gov/cms/documents/CF/COMET\\_User\\_Manual.pdf](http://www.sbe.virginia.gov/cms/documents/CF/COMET_User_Manual.pdf)

Candidates will also need to familiarize themselves with the appropriate candidate bulletin for the office they seek. These can be found online at SBE's website:

[http://www.sbe.virginia.gov/cms/Cidate\\_Information/Cidate\\_Bulletins\\_Forms.html](http://www.sbe.virginia.gov/cms/Cidate_Information/Cidate_Bulletins_Forms.html)

## Section 1.4 - Elections Not Covered

The provisions of CFDA do not apply to primaries and elections for:

- Members of the United States Congress;
- President and Vice President of the United States;
- Town office in a town with a population of less than 25,000;
  - §24.2-945 allows, by adoption of an ordinance, the governing body of any town with a population of less than 25,000 may provide that the provisions of the Act shall be applicable to elections for town offices in the town.
- Directors of soil and water conservation districts; or
- Political Party Committee Officers.

In addition, persons (defined in Section 1.7) that make contributions from their direct operating or personal funds are not subject to the requirements of CFDA unless they make independent expenditures, in the aggregate during an election cycle, of \$1,000 or more for a statewide election or \$200 or more for any other election (see § 24.2-945.2).

## Section 1.5 - Federal Laws and Requirements

A federal candidate is required to file campaign finance reports with the Federal Election Commission (FEC). The FEC (and *not* SBE) enforces federal campaign finance laws. The following are candidates who must file with the FEC, not SBE:

- President of the United States;
- Vice-President of the United States;
- United States Senate;
- United States House of Representatives; or
- Any political committee wishing to support or oppose *federal candidates*.

These committees must contact the Federal Election Commission (FEC) to obtain forms and information pertaining to federal campaign finance requirements and filing deadlines. You may contact the FEC at:

800-424-9530 (toll-free) or 202-694-1000 (within the Washington, D.C. area)

[www.fec.gov](http://www.fec.gov) – Internet address

999 E. Street, NW, Washington, DC 20463-0002 – U.S. Mail

Federal Committees that are registered with SBE who file their reports with the FEC are not required to file campaign finance reports with SBE. Candidates for office in Virginia may accept contributions from these types of candidates or political committees. However, it is important for you to review the provisions of § 24.2-947.3:1 and Section 3.7 of this Summary prior to accepting contributions from these types of committees.

SBE has no authority to provide any guidance regarding federal tax laws. Please contact the Internal Revenue Service if you have questions regarding your committee's tax filing requirements. Their website address is <http://www.irs.gov/charities/political/index.html>.

## Section 1.6 - Cash-Basis vs. Accrual-Basis Reporting

Virginia's campaign finance reporting system works on an accounting principle known as 'cash-basis' reporting rather than 'accrual-basis' reporting. In an accrual-basis reporting system, contributions are reported in the period for which they are earned (e.g., once contracted services are provided), regardless of when the cash from these contributions are received. Expenditures are recorded as they are owed (e.g., when supplies are ordered, the printer finishes your brochure, employees actually perform the work, etc.), instead of when they are paid.

In a cash-basis reporting system, contributions are reported when the cash is received. Expenditures are reported in the reporting period when the expenditures are paid. Therefore, it is important to remember that, in Virginia, contributions are reported on the dates when the funds are actually received (not deposited) and on the dates when the funds are actually expended. It is very similar to the method that most people use to balance their check books.

The exceptions to this rule apply only in cases where debts on material goods have been received or for In-Kind Contributions with regards to services or advertisements purchased on behalf of a candidate where coordination has also occurred (See [Chapter 4](#)). Since no money is actually changing hands in this type of contribution, the information should be reported on the same date that the service was provided or when the advertisement benefiting the candidate was disseminated.

## Section 1.7 - Definitions

The following are definitions of the terms used in the Summary that are of principal importance to candidates and their treasurers. Please keep in mind that some of the terms, while not specifically defined in CFDA, are useful in understanding this document. If you wish to read the exact definitions as they appear in CFDA, you may refer to § 24.2-945.1, 24.2-955.1 or 24.2-101 of the *Code of Virginia*.

***Adjournment sine die*** – Adjournment on the last legislative day of the regular session (the regular session does not include the ensuing reconvened session or any special session following in the same year).

***Advertisement*** – Any message appearing in the print media, on television, or on radio that constitutes a contribution or expenditure under Chapter 9.3 (§ 24.2-945 et seq.) of this title. "Advertisement" does not include issue advocacy or novelty items authorized by a candidate including, but not limited to, pens, pencils, magnets, and buttons to be attached to wearing apparel.

***Agent of the candidate or candidate's campaign committee*** – One empowered to act for or represent the candidate made through an agreement, verbal or otherwise, between the candidate and the person. The term shall not include unpaid volunteers.

***Aggregate Contribution*** – The total amount of contributions (cash and in-kind) made by an individual or other entity during an election cycle.

**Authorization** – Means the express approval or consent by the candidate, the candidate’s campaign committee, or an agent of the candidate campaign committee after coordinating the expenditure with the candidate, the candidate’s campaign committee, or an agent of the candidate campaign committee.

**Candidate** – Means an individual who seeks nomination for election, or election to public office, in the Commonwealth of Virginia whether or not that person’s name is on the ballot. The definition includes ‘write-in’ candidates. An individual is considered, for campaign finance purposes only, a candidate seeking nomination for election or re-election under the provisions of the Act if they have:

- Provided payment of a filing fee for any party nomination method;
- Submitted a Statement of Qualification form (see § 24.2-501) (whether or not funds or resources have been solicited, received or expended);
- Personally, or through another person, solicited or received funds or other things of value, or made expenditures, including expenditures from personal funds, for the purpose of bringing about such individual’s nomination or election to any office;
- Has been endorsed or nominated by a Political Party and is thus entitled to a position on the ballot at an election or primary (whether or not funds or resources have been solicited, received or expended);
- Has otherwise been qualified for placement on the ballot pursuant to the election laws (whether or not funds or resources have been solicited, received or expended);
- Has appointed a campaign treasurer, designated a campaign committee, or designated a campaign depository;
- Has not filed a final report for the previous election cycle prior to a new election cycles begin date. In this instance, an individual will be considered a candidate for the same office in the succeeding election for administrative purposes (see §24.2-947).

Candidate Types:

- Local Candidate – Candidate for a city, county or town’s local or constitutional offices.
- General Assembly Candidate – Candidate for Virginia State Senate or House of Delegates.
- Statewide Candidate – Candidate for Governor, Lieutenant Governor or Attorney General.

**Candidate’s Campaign Committee** - The committee designated by a candidate to receive all contributions and make all expenditures for them or on their behalf in connection with their nomination or election. A Candidate’s Campaign Committee may not be established for multiple candidates.

**Candidate’s Election Cycle** – An election cycle begins on January 1 of the year that the candidate first seeks election for the office through December 31 immediately following the election for such office. The election cycle provides for the aggregation of contributions and expenditures for the candidate’s campaign finance reporting. A candidate with any activity to report in a new election cycle shall be presumed to be a candidate for reelection in the succeeding election solely for the purpose of filing campaign finance reports.

**Conspicuous** – So written, displayed, or presented that any reasonable person can notice it.

**Contribution** – Money or services of any amount, and any other thing of value, given, advanced, loaned, or in any other way provided to a candidate, campaign committee, political committee, inaugural committee or person for the purpose of influencing the outcome of an election or defraying the costs of the inauguration of a Governor, Lieutenant Governor or Attorney General. “Contribution” includes money, services or things of value in any way provided by a candidate to his own campaign and the payment by the candidate of any primary filing fee.

**Coordinated or Coordination** – An expenditure that is made (i) at the express request or suggestion of a candidate, a candidate’s campaign committee, or an agent of the candidate or his campaign committee or (ii) with material involvement of the candidate, a candidate’s campaign committee, or an agent of the candidate or his campaign committee in devising the strategy, content, means of dissemination, or timing of the expenditure.

**Debt** – Any and all outstanding financial obligations.

**Depository** – The account(s) in a designated financial institution established to maintain all monetary receipts of a committee.

**Designated Contribution** – Means a contribution that is designated specifically and in writing for a particular candidate or candidates and that is made using a political committee solely as a conduit.

**Election** – Any general, primary, special election or referendum.

**Expenditure** – Money or services of any amount, and any other thing of value, paid, loaned, provided or in any other way disbursed by any candidate, campaign committee, political committee, inaugural committee or person for the purpose of influencing the outcome of an election or for defraying the costs of the inauguration of a Governor, Lieutenant Governor or Attorney General.

**Express Advocacy** – A direct or indirect contribution, in-kind contribution, independent expenditure or loan made to a candidate or political committee for the purpose of influencing the outcome of an election; an advertisement that refers to a party or candidate(s) by name and states “Vote for...”; “Support”; “Elect...”; “Smith for Congress”; “Send Him Home”; “Oppose”, etc.

**Failure to File** – Any required campaign finance report not received by the State Board or local electoral board within 60 days after official notification from the State Board or local electoral board. For candidates for Statewide Office, a report shall be considered *failure to file* if the report is not received within fourteen days after official notification from the Secretary of SBE.

**Federal Political Action Committee** – Any political action committee registered with the Federal Election Commission that makes contributions to candidates or political committees registered in Virginia.

**Full-screen** – The only picture appearing on the television screen during the oral disclosure statement that (i) contains the disclosing person, (ii) occupies all visible space on the television screen, and (iii) contains the image of the disclosing person that occupies at least fifty percent of the vertical height of the television screen.

**Inaugural Committee** – Any organization, person or group of persons that anticipate receiving contributions or making expenditures, from other than publicly appropriated funds, for the inauguration of the Governor, Lieutenant Governor, or Attorney General.

**Incomplete report** – A campaign finance report that does not include all required information.

**Independent Expenditure** – An expenditure made by any person or political committee that is not made to, controlled by, coordinated with, or made with the authorization of a candidate, his campaign committee, or an agent of the candidate or his campaign committee. It includes an expenditure made by a candidate campaign committee (i) that is not related to the candidate's own campaign and (ii) that is not made to, controlled by, coordinated with, or made with the authorization of a different candidate, his campaign committee, or an agent of that candidate or his campaign committee.

**In-Kind Contribution** – The donation of goods, services, property or anything else of value that is offered for free or less than the usual and normal charge; or payments by a third party for goods and services rather than money. The basis for arriving at the dollar value of an In-Kind gift is as follows: new items are valued at retail value; used items are valued at fair market value and services rendered are valued at the actual cost of service per hour. Services are not to include personal services (outside of the person's professional occupation) for which no compensation is asked or given.

**Occurrence** – One broadcast of a radio or television political campaign advertisement in violation of the expanded disclosure requirements for television and radio.

**Out-of-State Political Committee** – Means an entity subject to § 527 of the United States Internal Revenue Code that is not registered as a political committee or candidate campaign committee in Virginia and whose contributions made to political committees and candidate campaign committees registered in Virginia is 50% or more of the committee's expenditures made in the form of contributions. The term does not include federal political action committees.

**Person** – Any individual or corporation, partnership, business, labor organization, membership organization, association, cooperative or other like entity who makes contributions from their direct operating funds, or their own personal funds as in the case of an individual. Persons are subject to independent expenditure reporting requirements.

**Petty cash fund** – Fund established by a campaign treasurer for the purpose of making expenditures or reimbursing verified credit card expenditures of less than \$200. The total must never exceed \$200 and if established, the treasurer must maintain complete records, as required by CFDA, of any expenditure less than \$200 (see § 24.2-947.2).

**Political Action Committee (PAC)** – Any organization, person, or group of persons, established or maintained in whole or in part to receive and expend contributions for the purpose of influencing the outcome of any election. The term shall not include a campaign committee, federal political action committee, out-of-state political committee, political party committee, referendum committee, or inaugural committee. **Note:** May also be referred to as Political Committee.

**Political Committee** – A general term refers to any political action committee, political party committee, referendum committee, or inaugural committee. The term does not include:

- Federal Political Action Committee,

- Out-of-State Political Committee,
- Campaign Committee, or
- Person, which in making contributions does so out of their own personal funds or the entity's direct operating funds.

**Political Party Committee** – Any state political party committee, congressional district political party committee, political party committee for a county or city, other election district political party committee, organized political party group of elected officials, which anticipates receiving contributions or making expenditures in whole or in part, for the purpose of influencing the outcome of an election. **Note:** May also be referred to as Political Committee.

**Primary Purpose** – Means that 50% or more of the committee's expenditures made in the form of contributions shall be made to candidate campaign committees or political committees registered in Virginia. Administrative expenditures and the transfer of funds between affiliated or connected organizations shall not be considered in determining the committee's primary purpose. The primary purpose of the committee shall not be determined on the basis of only one report or election cycle, but over the entirety of the committee's registration.

**Print Media** – Means billboards, cards, newspapers, newspaper inserts, magazines, printed material disseminated through the mail, pamphlets, fliers, bumper stickers, periodicals, website, electronic mail, and outdoor advertising facilities. If a single print media advertisement consists of multiple pages, folds, or faces, the disclosure requirement of this section applies only to one page, fold, or face.

**Radio** – Any radio broadcast station that is subject to the provisions of 47 U.S.C. §§ 315 and 317.

**Referendum Committee** – Any organization, person, group of persons, or committee, that makes expenditures to advocate the passage or defeat of a referendum legally placed on the ballot.

**Reporting Period** – Means the activity beginning and activity ending dates for a particular campaign finance report.

**Residence** – Means and requires both domicile and a place of abode for all purposes of qualification to register and vote.

**Scan Line** – A standard term of measurement used in the electronic media industry calculating a certain area in a television advertisement.

**Solicit** – To request a contribution, orally or in writing. This does not include a request for support of a candidate or their position on an issue.

**Sponsor** – A candidate, candidate campaign committee, political party committee, political action committee, individual, or other entity that purchases an advertisement.

**Surplus funds** – The funds remaining after the payment of all debts (including penalties assessed by SBE) and expenses incurred by a committee. **Note:** May also be referred to as Excess Funds.

**Television** – Any television broadcast station, cable television system, wireless-cable multipoint distribution system, satellite company, or telephone company transmitting video programming that is subject to the provisions of 47 U.S.C. §§ 315 and 317.

**Treasurer** – The appointed bookkeeping officer of a candidate’s campaign committee.

**Un-obscured** – Means that the only printed material that may appear on the television screen is a visual disclosure statement required by law and that nothing is blocking the view of the disclosing person’s face.

## **CHAPTER 2 – Statement of Organization**

### **Section 2.1 - Becoming a “Candidate”**

An individual is **not** required to file a Statement of Organization simply by publicly announcing their candidacy. An individual is considered, for campaign finance purposes only, a candidate seeking nomination for election or re-election under the provisions of the Act if they have:

- Provided payment of a filing fee for any party nomination method;
- Submitted a Statement of Qualification form (see § 24.2-501);
- Personally, or through another person, solicited or received funds or other things of value, or made expenditures, including expenditures from personal funds, for the purpose of expressly advocating such individual’s nomination or election to any office;
- Has been endorsed or nominated by a Political Party and is thus entitled to a position on the ballot at an election or primary;
- Has otherwise been qualified for placement on the ballot pursuant to Virginia’s election laws;
- Has appointed a campaign treasurer, designated a campaign committee, or designated a campaign depository;
- Has not filed a final report for the previous election cycle prior to a new election cycle’s begin date. In this instance, an individual will be considered a candidate for the same office in the succeeding election for administrative purposes (see §24.2-947).

It is important to note that these requirements are only related to establishing a campaign finance account. There are other requirements for qualifying as a candidate for purposes of having their name placed on the ballot. The candidate will need to consult the appropriate candidate bulletin available on SBE’s website: [http://www.sbe.virginia.gov/cms/Cidate\\_Information/Index.html](http://www.sbe.virginia.gov/cms/Cidate_Information/Index.html)

### ***Compliance with Reporting Requirements as a Requirement for Candidacy***

Candidates for statewide office or the General Assembly will not be allowed to run for office in a future election if they have failed to file all required campaign finance reports for a previous election for which they participated in the previous five years. They must also pay any outstanding civil penalties.

SBE is required to have notified the candidate that they have not filed the required reports at least 60 days prior to the deadline for the person to file the written statement of qualification.

### **Section 2.2 - Establishing a Candidate Campaign Committee**

A candidate must file a Statement of Organization (SBE-947.1) and register as a candidate for campaign finance purposes within 10 days of meeting any of the requirements listed in Section 2.1.

The candidate will be required to establish a campaign committee even if the committee does not consist of any individual other than the candidate. The committee is simply a term used to identify the entity responsible for receiving all contributions and making all expenditures on behalf of the candidate.

The following information is important information to understand before completing the committee's Statement of Organization:

### ***Naming the Campaign Committee***

The individual's campaign committee name must be legible and include at least the last name of the candidate, as it is also required to match the name on the bank account. A Statement of Organization will not be accepted for a campaign committee which does not include at least the last name of the candidate. For individuals with common last names, it is recommended that the name of the campaign committee also include the first name or nickname of the candidate.

### ***Candidate Campaign Committee Information***

The Statement of Organization will ask for the mailing address of the campaign committee. This will be the address that SBE and local electoral boards will consider the primary means for contacting the committee. The committee may choose to enter the campaign headquarters, the candidate's residence address or the treasurer's residence address. The campaign may establish a Post Office Box as its primary mailing address.

### ***Registering a Campaign Committee for a Special Election Which Has Not Been Called***

No individual can register for an election which has not been called. In the case of a presumed special election, if an individual wants to begin fundraising prior to the election being ordered, then the individual must register as a candidate for the next General Election for that office.

After the special election has been called, the campaign committee must amend their Statement of Organization to reflect the new special election date.

### ***Candidate Information***

The candidate must provide their voter registration number so the reviewing authority can verify that the candidate is a registered voter and a resident in the district or locality where they intend to run for office. The voter registration number can be found on the candidate's voter registration card or on our website at [www.sbe.virginia.gov](http://www.sbe.virginia.gov).

### ***Treasurer Information***

A candidate is required to appoint one individual, who is a registered voter in Virginia, as treasurer of their campaign committee. The candidate can choose to serve as their own treasurer.

The treasurer must also provide their voter registration number so the reviewing authority can verify that the treasurer is a registered voter in the Commonwealth. The voter registration number can be found on the treasurer's voter registration card or on our website at [www.sbe.virginia.gov](http://www.sbe.virginia.gov).

The treasurer must sign the Statement of Organization signifying their acceptance of the appointment. No person can fulfill the duties of the treasurer unless they have signed the *Statement*. Any candidate who fails to appoint and report the appointment of treasurers shall be deemed their own treasurer.

For more information on the duties and responsibilities of the treasurer, see Section 2.5 of this Summary or § 24.2-947.3 of the Code of Virginia.

### ***Establishing a Campaign Depository***

Banks require persons setting up a new account to have an Employer Identification Number (EIN). EIN numbers can be obtained online at [www.irs.gov](http://www.irs.gov) or by calling the Helpdesk for political organizations. The phone number is 877-829-5500.

Campaign committees are required to establish a campaign depository in a financial institution located within the Commonwealth. The *Statement of Organization* will require your committee to identify the name and address of the committee's **PRIMARY** financial institution. You are not required to provide the committee's bank account number.

**\*\*\*PERSONAL BANK ACCOUNTS MAY NOT BE USED UNDER ANY CIRCUMSTANCES\*\*\***

The name of the account must match exactly with the name of the campaign committee. All checks drawn off of the committee's depository must include the name of the campaign committee.

### ***Establishing Secondary Depository Accounts***

§ 24.2-947.2 allows for the establishment of a separate Federal Compliance Account in the candidate's designated campaign depository for complying with the requirements of federal campaign finance laws, including restrictions on sources and amounts of campaign contributions applicable to federal candidates and officeholders. All contributions and expenditures on this account must be disclosed on a consolidated basis with the candidate's campaign finance report. The Federal Compliance Account may only be used to facilitate compliance with FEC regulations and may not be used for any other purpose.

§ 24.2-947.2 also allows a campaign committee to transfer funds from the established checking account to another account or instrument for the purpose of earning interest on those funds. This can be done so long as:

- Complete records are maintained for each election cycle;
- All interest earned and fees paid are reported on the committee's campaign finance reports;
- The establishment of such an account is reported on the Campaign Committee's Statement of Organization;
- Expenditures are made only from the primary checking account; and
- Before filing a Final Report, the transferred funds and any earned interest are returned to the primary checking account.

### ***Filing Method - Electronic or Paper?***

Candidates for local and constitutional offices have the option to file paper or electronic reports. The committee must select which Filing Method it will use on the Statement of Organization. A local committee that files electronically cannot change its filing method to paper without first notifying SBE and their local General Registrar by submitting an Amended Statement of Organization. An electronic filer who submits a report on paper will not be considered to have filed a timely campaign finance report.

Candidates for statewide office are required to file campaign finance reports electronically. Candidates for the General Assembly have the option of filing their reports electronically or on paper. However, any candidate for the General Assembly which files their report on paper must pay \$25 per report (including Large Pre-Election Contribution reports) at the time of filing. Failure to submit the fee will cause the report to be considered unfiled until such time as the fee is paid. As a result, civil penalties will be assessed for the late filing of a required report.

The Statement of Organization must also indicate whether the committee intends to use SBE's e-filing software to prepare their reports or if they intend to use one of SBE's Approved Vendors.

To become an e-filer, you must register and submit your Statement of Organization using "COMET" (Committee Electronic Tracking System). More information on COMET can be found on our website: [www.sbe.virginia.gov](http://www.sbe.virginia.gov).

SBE offers COMET at no charge to any registered committee in the Commonwealth. SBE provides all of the support for this application and is available to assist you with your questions. However, if your committee wishes to use an outside company, they may choose from one of SBE's Approved Vendors. SBE certifies all companies who wish to sell their software for the purposes of creating campaign finance reports to be filed in Virginia. Once their software is approved, SBE will accept campaign finance reports created from the company's software.

### ***Where to File the Statement of Organization***

- Candidates for Constitutional or local offices must file their Statement of Organization and any amended Statements with the local electoral board of their county or city of residence and electronic filers file a copy with the State Board of Elections.
- General Assembly candidates must send the original, signed version, and any amended Statements, to the State Board of Elections. A copy of their Statement of Organization is to be sent to the local electoral board of their county or city of residence.
- Statewide office candidates must send their Statement of Organization and any amended Statements to the State Board of Elections.

### ***Amending the Statement of Organization***

The committee must file an amended Statement of Organization within 10 days of any change to a candidate's campaign committee information (e.g., a change in address, change of treasurer, etc.) to the appropriate office(s) as listed above.

If there is no change to the information submitted, candidates who are seeking election for the same office in a successive election do not need to file a new Statement of Organization for each successive election. The original Statement of Organization will continue in effect until a Final Report is filed or until a change in the information occurs.

## **Section 2.3 – Candidate Committees After the Election**

### ***Candidates Seeking the Same Office in Successive Election Cycles***

At the end of an election cycle, candidates whose campaign accounts are still open automatically proceed to the next election cycle. That cycle begins as of January 1 after the date of the last election for that office.

The first cover page of reports filed in the next election cycle should indicate the next general election date and year for that office beginning with the first report that contains financial activity in the year immediately following the election.

### ***Candidates who have an open account and choose not to run again***

If, at any point, the candidate decides not to run for election for the same office then they are still required to file all reports related to that office until such time as they file a Final Report or they will be subject to civil penalties for not filing.

Candidates are encouraged to close their committees as soon as they determine that they will not be running for the same office in the next scheduled election. Most penalties assessed to candidate campaign committees are a direct result of a campaign that has ended and has not filed a final report.

## **Section 2.4 - Exempt Candidates**

Candidates for local office may file a request for exemption from filing campaign finance reports if:

- They do not intend to solicit or accept any contribution from any other person or political committee during the course of the campaign;
- Will not contribute more than \$1,000 of their own personal money during the course of the campaign;
- Will not expend more than \$1,000 of their own personal money during the course of the campaign; and
- That they will comply with all requirements of the Campaign Finance Disclosure Act.

Candidates that qualify for an exemption are still required to establish a campaign depository. All deposits and all expenditures from the depository are funded from the candidate's \$1,000. The only exception is that the exempt candidate may pay State Board for a "Registered Voter List" and/or a "List of Those Who Voted" with a check drawn from his/her own personal account. The money spent on the list(s) must be tracked and included in the campaign's records for confirmation that the \$1,000 exemption threshold is not exceeded.

Example: Exempt Candidate X puts \$960 of her own money into her campaign account. She then spends \$50 of her own money on a voter list. Candidate X is no longer an exempt candidate since she has exceeded the \$1,000 personal funding threshold by \$10.

If, at any time, the candidate determines that they will engage in one or more of the prohibited activities listed above, they must file a *Rescind a Request from Exemption* form prior to engaging in the activities described above. The first campaign finance report must account for all prior contributions and expenditures pertaining to the campaign. The committee will then be required to file reports on the appropriate filing schedule.

Exempt candidates are required to file a final report prior to the candidate taking office. The final report must detail all contributions from the candidate's personal funds and all expenditures throughout the life of the campaign. A final report is also required from exempt candidates that were not successful in their nomination or election.

## Section 2.5 – Campaign Committee Treasurer

In order to serve as a campaign treasurer the individual must be a citizen, resident and registered voter of the Commonwealth of Virginia. An individual may serve as treasurer of multiple committees. Each committee must maintain separate campaign depositories.

Once appointed, the treasurer may serve indefinitely. When an appointed treasurer resigns or is replaced, in order to relieve the treasurer from assuming the filing obligations under CFDA, an amended Statement of Organization must be filed with the appropriate office. The candidate is responsible for notifying the proper agencies within 10 days after appointing a replacement.

### Duties and Responsibilities of Treasurers

The treasurer is responsible for maintaining the campaign finance records for the campaign committee. The duties of a treasurer can include, but are not limited to:

- Filing complete, accurate and timely campaign finance reports and other required forms;
- Signing campaign finance reports and other required forms;
- Authorizing expenditures;
- Monitoring disclosure to ensure compliance with Virginia Election Laws; and
- Keeping detailed and accurate records so as to comply with all of the requirements of the Campaign Finance Disclosure Act.

All contributions and expenditures received or made by the candidate, or any agent of the campaign committee, must be paid over or delivered to the treasurer.

The ultimate responsibility for compliance with the requirements of the Act always rest with the treasurer and the candidate. It is the treasurer's or candidate's signature that is required on the campaign finance reports.

## Disposal of Records

The treasurer must keep detailed and accurate records of all contributions and expenditures in their possession for at least one year from the date of filing the final report or three years after the December 31<sup>st</sup> immediately following the election, whichever is later.

## Records

Campaign Finance Records can include, but are not limited to:

- Receipts;
- Invoices;
- Bank statements;
- Copies of checks from contributors;
- Any communications from State Board or local electoral board;
- Copies of checks for expenditures; and
- Completed solicitation forms.

## **CHAPTER 3 – Schedule A: Cash contributions**

### **Section 3.1 – Limits on Contributions**

There are no contribution limits in Virginia. A committee can accept contributions from any individual, corporation, union, association or partnership. It is required that all contributions received by the committee, and that all required information identifying the contributor, be reported on the committee's campaign finance reports.

Federal law prohibits any political organization to accept contributions from a foreign national or foreign corporation. An exception to the law is granted for individuals who have a valid green card. For more information concerning the prohibition of contributions from foreign nationals please visit the FEC website at [www.fec.gov](http://www.fec.gov).

Contributions to political campaigns in Virginia are tax deductible. Please visit [www.tax.virginia.gov](http://www.tax.virginia.gov) for more information.

### **Section 3.2 – Types of Cash contributions**

A committee can solicit contributions from any source mentioned in Section 3.1. A cash contribution may be made in the form of, but is not limited to:

- Cash;
- Check;
- Money Order;
- Credit or Debit Card.

### **Section 3.3 – Itemized Contributions vs. Unitemized Contributions**

Contributors who have contributed an aggregate amount of more than \$100 to a committee during an election cycle (begins January 1 after the date of the election) must be “itemized” on the committee's campaign finance report. This means that the committee must include the required occupation or business information for the contributor on the campaign finance report.

Contributors who have contributed an aggregate of \$100 or less to the committee during an election cycle are reported as “unitemized” on the report. This means that the committee is not required to list the name of the contributor and other required information on the report. The contributor will have to be “itemized” if they provide additional contributions which increase their aggregate contribution for the election cycle to be more than \$100. The committee is required to gather at least the name and address from each contributor no matter how small the contribution to ensure that full disclosure is possible should the individual's aggregate contributions go above \$100.

### ***Designated Contributions***

A designated contribution means a contribution that is designated specifically and in writing for a particular candidate or candidates and is made using a political committee solely as the conduit. For each designated contribution received from a political committee, out of state political committee, or federal PAC, the conduit committee is required to provide the recipient committee the name of the person who designated the contribution and provide the following information:

- The name and address of the person paid;
- A brief description of the purpose of the expenditure;
- The name of the person contracting for or arranging the expenditure;
- The amount of the expenditure; and
- The date of the expenditure.

The recipient committee must report the information provided by the conduit committee for each individual whose contribution exceeds and aggregate of \$100.

### ***Anonymous Contributions***

If a campaign receives any cash contributions from an unknown source, the receiver of the contribution may donate the money to any organization described in § 170(c) of the Internal Revenue Code.

### ***Committees Must NOT Accept Anonymous Contributions***

## **Section 3.4 – Contributor’s Required Information**

The committee is required to report the following information about each contributor who contributes an aggregate of more than \$100 in an election cycle:

### ***Name of the Contributor***

The report must contain the individual or organization’s name as it appears on the check. The name of the cardholder must be reported for contributions received by credit card. If the contributor submitted their contribution by any other means, then it is the responsibility of the treasurer to retain the name of the contributor for purposes of reporting.

The full name of the contributor is required to be reported, in alphabetical order, on the campaign finance report. For businesses and other types of organizations, the name of the company should be listed in alphabetical order. For individuals, the order must be alphabetical by the person’s last name. The committee must report the full name of the organization. Acronyms are not acceptable.

### ***Address of the Contributor***

The full address of the contributor is required to be reported on the campaign finance report. The report must contain the individual or organization’s address as it appears on the check. For contributions received by credit card then the address of the cardholder must be reported. If the contributor submitted

their contribution by any other means, then it is the responsibility of the treasurer to retain the address of the contributor for purposes of reporting. Post Office Boxes are acceptable addresses in all instances.

### ***Occupation of the Contributor (Individuals Only)***

The occupation of the contributor must not state the title or position of the individual. The report should indicate the type of work the individual is employed to do.

The following is a non-exhaustive list of acceptable occupations:

- Construction
- Marketing
- Financial Advisor
- Entrepreneur
- Student
- Retired
- Homemaker/Housewife

Every person has an occupation even if that occupation is “retired” or “student”. In no case should a committee report the individual’s occupation as “N/A”.

### ***Principal Type of Business (Contributions from Businesses)***

The treasurer must enter the type of business for the organization making the contribution. For example, a committee that received a contribution from an electric utility would enter “Electric Utility.”

### ***Date Received***

A contribution is considered “received” the date that it knowingly comes into the hands of an “agent” of the committee (“agent” is defined in Section 1.7). Contributions should never be reported as the date that the money is deposited unless the contribution was received on the same date that the contribution is deposited. Contributions should also not be reported as the date written on the check unless that is the same date that the check is received.

If a contribution is provided by credit or debit card on a website, the date that the contribution is considered received is the date that the contributor entered their information into the website. The treasurer should not report the contribution as being received on the date that the information is reported from the collecting entity to the committee. Contributions received via services such as PayPal should be reported when the funds are released to the committee’s account.

## **Section 3.5 – Soliciting Contributions**

SBE strongly recommends that all committees make every effort possible to gather the required information at the time that a contribution is collected even if the contributor’s donation is \$100 or less. Although this information is not required for contributors who contribute \$100 or less, their aggregate contribution may exceed \$100 in the future. If the information is obtained at the time of the first contribution, time and energy may be saved in the future.

### **Recording Contributor's Information**

When keeping records of contributions, each committee should maintain, at a minimum, the following detailed information:

- Contributor's full name;
- Contributor's mailing address;
- Contributor's occupation, employer and location (city/town and state) of principal place of business if the contributor is an individual;
- Type of business and location (city/town and state) of the corporation or business if the contributor is a business or corporation;
- Type of committee and the location (city/town and state) of the committee if the contributor is a political committee;
- Date contribution received;
- Amount of the contribution; and
- Contributor's total contributions to date, including "In-Kind" Contributions (see [Chapter 4](#)).

### **Solicitation Form**

Certain efforts can be made to secure a contributor's required information. SBE recommends that each contribution be accompanied by a solicitation form and that the form be maintained with a copy of the contribution in the committee's records.

Each solicitation should include a request for the contributor's full name; complete mailing address, occupation, name of employer and location of principal place of business. The following is an example of a solicitation form:

## John Doe for Virginia

Name: \_\_\_\_\_

Street Address: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

Occupation: \_\_\_\_\_

Employer: \_\_\_\_\_

Place of Employment: \_\_\_\_\_

Contribution Amount: \$ \_\_\_\_\_

Are you a U.S. Citizen or Have a Valid Green Card:    Y        N

"Virginia law requires all candidate campaign committees to maintain a record of the name, mailing address, occupation information (includes type of work, employer and principal place of business) for each individual who contributes to our committee. Your information will not be reported if your cumulative contribution is \$100 or less for this campaign."

### ***Best Efforts Policy***

Most committees, at one time or another, will receive unsolicited contributions which do not include the required information necessary to comply with the Act. In such instances, the committee must make every effort to contact the contributor in order to gather the required information. SBE considers a “best effort” made by the committee to include sending a written request to the contributor asking for the required information.

If the campaign finance report is due and, after sending a written request, any of the required information of the itemized contributor is still unknown, it shall temporarily suffice to report “Unable to Obtain” or “Information Requested” in the field missing the required information. The committee is also required to submit, along with the committee’s report, a copy of the written request to the contributor asking for the required missing information. SBE does not consider a report complete if more than 20% of the total number of contributors or other required itemized information is missing.

## **Section 3.6 – Other Contribution Policies**

### ***Joint Checks***

It is unacceptable to enter two names on the committee’s campaign finance report when referring to one contribution. There are cases when the committee will receive a check which has two names listed in the address field. In most cases, these are contributions written on checks from married couples who have a joint checking account.

In these cases the treasurer must report the contribution as being received by the person who signed the check. This cannot be changed unless there is written authorization from both persons listed on the check. For example, both individuals could sign the check in order to split the contribution between both individuals listed on the check. Conversely, a solicitation form could be submitted which states that the contribution should be designated to the individual’s listed on the solicitation form.

### ***Returned Checks***

If a contributor’s check is returned by the committee’s depository for insufficient funds or is otherwise not accepted by the committee, then the committee has the option to not record the contribution on its report if no report was due between the time the contribution was received and the time that the contribution was returned.

If the contribution was reported on a Campaign Finance report and later returned by the depository for insufficient funds, then the committee has the option to amend the report by removing the contribution. This policy is to prevent potential public embarrassment from a contributor whose bank account was overdrawn.

### ***Contributions by Credit Card***

A contribution that is made by credit or debit card may be made either in person, over the telephone or via the Internet. If this method of payment is used, the entire amount charged to the contributor’s account must be reported. Any service fees charged to a candidate’s campaign committee by the card processing agent must be reported separately on the report as an expenditure by the committee. Even if the company

charges the committee a “per transaction fee,” the fee per transaction shall not be used to reduce the amount of the contribution shown, but must be reported as an expenditure made by the committee for the period being reported. “Per transaction” fees can be bundled into a single line item on the Schedule of Expenditures.

### ***Contributions During a Legislative Session***

Contributions or promises of contributions may not be made, accepted or solicited by the Governor, Lieutenant Governor, Attorney General, any member of the General Assembly or any person acting on behalf of these individuals on and after the first day of a Regular Legislative Session which annually begins on the second Wednesday in January and continues for no less than 45 days in odd years and 60 days in even years. The Regular Session does not end until the General Assembly agrees to *adjournment sine die* which signifies the end of the Regular Session. Contributions can be made to these committees during Special Sessions or during any other non-Regular Legislative Session including the Veto Session.

These restrictions do not apply to contributions made by the Governor, Lieutenant Governor, Attorney General or any member of the General Assembly from their personal funds or to contributions made to the campaign committee of a candidate in a special election.

### **Section 3.7 - Contributions from FEC PACs and Out-of-State Political Committees**

Prior to accepting contributions of \$10,000 or more in the aggregate in any calendar year from a political action committee registered with the Federal Election Commission (FEC) or from an out-of-state political committee, the campaign committee must request the SBE-supplied registration number from the committee and verify that number with SBE. This can be done by sending an email to SBE at [cfda@sbe.virginia.gov](mailto:cfda@sbe.virginia.gov).

It is important that the treasurer verify the registration status of a political committee before the campaign accepts a contribution from any political committee which aggregates \$10,000 or more in the calendar year.

### **Section 3.8 – Fundraisers**

Many candidates will wish to raise funds for their campaigns by organizing and hosting fundraisers. There are several issues to be aware of when thinking about organizing fundraisers.

#### ***Contributions vs. Expenditures***

Purchasing a ticket to a fundraiser is considered a contribution to the committee.

A committee must report all expenditures related to the event. If other persons have paid for particulars of the fundraiser, then they must be reported as in-kind contributions. (See [Chapter 4](#) for more information on in-kind contributions.)

In no case is it acceptable for the committee to defray the costs from the amount raised. The contributions received must be reported independently of the expenses of the event.

## **Joint Fundraisers**

All contributors should write one check for each committee participating in the fundraiser. At no time should a contribution be made to both committees on a single check.

## **Common Fundraising Scenarios**

The Act requires that all contributions collected by individuals for a committee be accompanied by certain identifying information. Anonymous contributions are illegal. As a result of this requirement, SBE has provided some examples of fundraising scenarios to avoid:

### **Pass the Hat**

In a “pass the hat” scenario, the persons in the room may already be large contributors. Any additional monies contributed by those contributors would have to be itemized. In this fundraising scenario the contributor’s required information is not being gathered since each contribution is anonymously placed in the “hat”. It is also possible that someone could contribute more than \$100. Anonymous contributions are illegal; therefore, “pass the hat” type fundraisers are also illegal.

### **Golf Tournaments**

In most cases golf tournaments require a monetary contribution to the host committee to participate. Once at the tournament the competitors are able to purchase “mulligans” or other additional items. The money from these purchases is considered additional contributions to the host committee from the contributor and it is the responsibility of the committee to record the purchaser’s required information. Conversely, the committee could sell “mulligans” and give the money to charity. In this case all contributions should be made out directly to the charity and the campaign should not deposit these funds.

### **Raffles**

According to *Code of Virginia § 18.2-340.15*, political organizations in Virginia may not, under any circumstance, use raffles as a fundraising tool. The State Board of Elections does not regulate this activity. Please see Department of Charitable Gaming’s website for more information: <http://www.dcg.virginia.gov/>.

## **CHAPTER 4 – Schedule B: In-Kind Contributions**

An in-kind contribution is the donation of goods, services, property or anything of value that is offered for free or at less than the usual and normal charge, or payments by a third party for goods or services. This type of contribution does not include a donation of cash, checks, or promissory notes. In-kind contributions must be itemized in the same manner as cash contributions (see [Chapter 3](#) for more information).

### **Section 4.1 - Types of In-Kind Contributions**

Some types of in-kind contributions can include, but are not limited to:

- Voluntary contributions of advertising materials;
- Voluntary contributions of use of an automobile;
- Voluntary contributions of free lodging;
- Voluntary contributions of catering for a fundraiser;
- Voluntary contributions of printing of literature; and
- Voluntary contributions of office space and equipment.

Voluntary discounts are also in-kind contributions. A discount is the difference between the usual and normal charge for goods or services and the amount charged to the recipient committee. Committees which are using coupons available to any other consumer should NOT report the discounted amount as an in-kind contribution.

#### Example 1:

A business entity sells to a committee food or beverages that normally would cost \$1,000, at a discount of 20%. The \$200 savings by the committee is considered an “In-Kind” Contribution from the business entity and this amount should be listed on Schedule B of the disclosure reporting forms. The remaining \$800 would be reported on Schedule D as normal.

Although services provided to a committee can be considered an in-kind contribution, the uncompensated time volunteers spend working for the committee – stuffing envelopes, knocking on doors, etc. is not considered an in-kind contribution.

#### Example 2:

Mrs. Dee Designer, a professional webpage developer, designs a website for John Q. Candidate free of charge. Since designing web pages is something Dee would normally charge \$2,500 for doing, she has made an in-kind contribution of \$2,500 to John Q. Candidate’s committee. This \$2,500 counts toward Mrs. Designer’s aggregate contributions to date to the committee.

Dee Designer still wants to do more to help John Q. Candidate. She volunteers to answer telephones at his campaign headquarters and to distribute flyers in the neighborhood.

Since answering telephones and distributing flyers is not a service that Dee normally charges for, her activities are not considered an in-kind contribution to the committee.

## Section 4.2 – In-Kind Contribution vs. Independent Expenditures

An independent expenditure is an expenditure which is intended to benefit a candidate (either by showing support for the candidate, or by showing displeasure with the candidate's opponents), but one which has not been coordinated with the candidate or an agent of the candidate's campaign committee. A candidate or an agent of their committee may have knowledge of an independent expenditure, but that does not necessarily mean that they have received an in-kind contribution.

To qualify as an in-kind contribution, the candidate or an agent of the candidate's campaign committee must have either expressly requested or suggested to the person or committee that the expenditure be made, or the candidate or an agent of the candidate campaign committee must have material involvement in devising the strategy, content, means of dissemination, or timing of the expenditure.

## Section 4.3 – Reporting In-Kind Contributions

It is the responsibility of the recipient of the in-kind contribution to obtain the information necessary to properly report the receipt of the contribution. The required contributor information for reporting in-kind contributors is the same as for reporting cash contributions (See [Chapter 3](#)). There are a few differences that are outlined below.

### ***Date Received***

In-kind contributions must be reported as being received on the same date that the good or service was received and NOT the date the committee is informed of the cost of the good or service.

### ***Service or Goods Received***

As stated above, in-kind contributions can be professional services or material goods offered for free or less than the usual and normal charges or payments for goods or services through a third-party. The committee is required to indicate the type of service or the good received on their campaign finance report.

### ***Basis Used to Determine Value***

All in-kind contributions have an attached value whether they are a service or a good. Therefore, the committee is required to report what basis was used in order to determine the value for the service or goods received. SBE recognizes only two bases for determining an in-kind contribution's value:

#### Actual Cost:

This basis must be used when the actual cost of a good or service was determined to be the value of the In-Kind Contribution.

#### Fair Market Value:

This basis is used when an actual cost is not able to be determined.

***Aggregate-to-Date***

Treasurers must always remember to aggregate a contributor's cash contributions with their in-kind contributions in cases where a contributor has given both directly and In-Kind.

## **CHAPTER 5 – Schedule C: Refunds, Rebates and Interest**

A committee may receive income from sources that are not direct or in-kind contributions. Typically, these are funds received by the committee which did not come from entities who support the committee's stated purpose. These types of income are known as miscellaneous receipts and must be reported on Schedule C of the disclosure report.

### **Section 5.1 - Types of Miscellaneous Receipts**

#### ***Bank Interest***

Treasurers are allowed to establish depositories that accrue interest. At the end of every month, the bank will report to the committee the amount of interest accrued on the statement. Bank interest is required to be reported on each committee's campaign finance report.

If the treasurer establishes a secondary depository for the purpose of earning interest, such as a money market account, it is required that all interest accrued from that account be reported on Schedule C as well.

\*Please note that interest income exceeding \$100 in a calendar year may be subject to federal tax. Please contact the IRS for more information.

#### ***Refunded Expenditures***

There are situations when a committee issues a check and it is returned to the committee or it is not cashed. In these instances, the committee must report the expenditure (see [Chapter 6](#)) and report the income back into the committee on Schedule C.

#### ***Rebates***

If a committee receives a rebate on a previous expenditure, then it is to be reported on Schedule C. For example, if a committee purchases a computer and the manufacturer rebates the committee \$100 after the purchase, then the receipt of this income must be reported on Schedule C.

## **CHAPTER 6 – Schedule D: Expenditures**

### **Section 6.1 - Reporting Expenditures**

It is the treasurer's responsibility to ensure that all required information is retained at the time that the expenditure is made. The following is what is required to be reported on the committee's schedule of expenditures:

- **Full Name of Payee** - The report must contain the full name of the entity to which the expenditure was paid. For individuals, businesses and persons the full name is required. Entries containing acronyms for companies are not acceptable (unless the entity is more commonly recognized by its acronym [e.g. AARP]).
- **Mailing Address of Payee** - The report must contain the full mailing address of the entity to which the expenditure was paid.
- **Item or Service** - The committee should make every effort to be as descriptive as possible when reporting the item or service that was provided for the expenditure. Vague or incomplete descriptions should be avoided.
- **Date Paid** - The report must list the expenditures in order by the date that the expenditure was made (earliest first). It is not acceptable to report the expenditure on the date that the expenditure cleared the bank account.

### **Section 6.2 - Other Types of Expenditures**

#### ***Independent Expenditures***

Every person, campaign and political committee who makes an independent expenditure in an aggregate amount of \$1,000 or more for a statewide campaign or \$200 or more for any other election within an election cycle for the candidate supported or benefiting from the expenditure, must file an Independent Expenditure Form within 24 hours of making the expenditure or within 24 hours after the expenditure is disseminated, whichever is first.

Any independent expenditure made by a committee must also be reported on Schedule D of the committee's next required campaign finance report.

#### ***Credit Card Expenditures***

The Campaign Finance Disclosure Act requires that a committee itemize all credit card expenditures on its campaign finance report. It is not acceptable to report a single expenditure to the credit card company. Each individual item must be reported on the date that the expenditure was made.

The committee should not report the payee as being the credit card company. The payee should be listed as the entity which actually received the funds through use of the credit card. For example, if the

candidate uses a credit card to purchase a hotel stay, the report should list the name of the hotel as the payee and NOT the candidate or the credit card company.

### **Reimbursements**

The treasurer may only reimburse authorized members of the campaign committee's staff with a check from the committee's primary depository if the staff member has used their personal funds for an expense made on behalf of the committee. It is the treasurer's responsibility to ensure that proper records for reimbursements are kept.

A reimbursement should not occur if the staff member does not provide the treasurer with a complete record of the expenditure including receipts that identify the nature of the expense and the names and addresses of each entity paid by the staff member who is being reimbursed.

To report a reimbursement, the committee may list the entity which was paid initially on the date that the expenditure was made. For example, on October 1<sup>st</sup>, Joe Staffer uses his personal credit card to purchase office supplies from "Office Warehouse." On October 9th, Mr. Staffer requests a reimbursement from the treasurer for \$50 providing a receipt for the expenses. On October 12th, the treasurer writes a check for \$50 to Mr. Staffer. In this case, the treasurer would report an expenditure paid on October 1st of \$50 to "Office Warehouse" and not an expenditure of \$50 to Mr. Staffer.

In the case of reimbursements to a single person which account for multiple expenditures of the same nature by said person, it is proper to report the single expenditure made by the campaign committee. For example, if Joe Staffer pays for parking for the month of June at \$6 per day for 20 days, it is proper for the campaign to reimburse Joe Staffer \$120 and report the payee as "Joe Staffer" with the item or service indicated as "Parking for the Month of June."

Entering "reimbursement" in the item or service column is not considered proper disclosure.

Reimbursements for mileage should be valued at the current state rate. The state rate can be found on Virginia's Department of Accounts' website: <http://www.doa.virginia.gov>

### **Petty Cash Fund**

A treasurer may establish a petty cash fund up to \$200. These monies are inclusive of the committee's total expendable funds. The fund should be used for the purpose of making expenditures or reimbursing credit card expenditures of less than \$200. Receipts must be kept and the expenditure made for reimbursement must be reported on the date the expenditure was made and not the date that the reimbursement was provided. The treasurer may replenish the petty cash fund as needed provided the total balance of the fund never exceeds \$200.

## **CHAPTER 7 – Schedule E: Loans**

### **Section 7.1 – Types of Loans**

Loans are funds advanced to a committee that must be repaid sometime in the future. Loans must be recorded on Schedule E of the campaign finance report.

### **Section 7.2 - Reporting Loan Receipts and Repayments**

Loans received and loans repaid are reported on Schedule E only.

When reporting loan payments list the:

- Date the loan was made;
- Name and address of the person making the loan and any co-borrower, guarantor, or endorser of the loan;
- Amount of the loan; and
- Date and amount of any repayment of the loan.

#### ***Schedule E – Part I (Income)***

Part I of the form requires the disclosure of loans received (income).

Unpaid loans are reported on Schedule F (see [Chapter 8](#)) as an unpaid debt until the loan is fully repaid or forgiven.

#### ***Schedule E - Part II (Repayment)***

Part II of the form requires the disclosure of loans repaid.

Requires the disclosure of loans repaid (expenditure). An expenditure for a loan repayment should never be reported on Schedule D.

### **Section 7.3 – Candidate Interest Payments**

If a candidate loans the campaign money, then the campaign committee shall not pay interest on any loan to the committee made by the candidate or by a member of his immediate family. Paying interest to a candidate will result in civil penalties to the campaign.

### **Section 7.4 - Forgiving Loans**

If there is an outstanding loan to the campaign, the contributor has the option of forgiving the loan and converting it into a contribution. The campaign finance report must show the conversion of the loan to a

contribution by listing the outstanding amount on Schedule A as a cash contribution and on Schedule E as a loan repayment.

## **CHAPTER 8 – Schedule F: Debts Remaining Unpaid**

### **Section 8.1 Types of Reportable Debts**

Any obligation for payment for a good, a service or a loan should be listed on Schedule F until the obligation is paid in full.

Virginia's campaign finance system operates on a cash-basis reporting system. Therefore, it is not necessary to report debts for outstanding bills from utility companies, etc.

#### ***Loans***

As soon as a committee receives a loan, the campaign finance report must report the amount of the loan remaining unpaid on Schedule F.

### **Section 8.2 - Reporting Outstanding Debts**

It is required that the committee enter the full name and mailing address of the creditor, the date that the debt was incurred and the remaining balance of the debt. The committee must continue reporting any debt on Schedule F on each subsequent report until the debt is fully repaid.

#### ***Purpose of Obligation***

The committee should make every effort to be as descriptive as possible when reporting the purpose of the debt's obligation. Vague or incomplete descriptions must be avoided.

## **CHAPTER 9 – Schedules G and H: Summary Pages**

Schedule G is a statement of the information on contributions, receipts, expenditures and loan transactions for the reporting period.

Schedule H contains a summary of the total of contributions, receipts, expenditures of the current election cycle (current reporting year for committees).

Schedules G and H are used to summarize the data contained in the campaign finance report. Be sure to follow the instructions on each form to accurately complete the schedules.

### ***Negative Balances and Outstanding Debts and Loans***

SBE will not accept a report if the report shows a negative balance. Negative balances do not occur with correct reporting. A negative balance is usually due to a failure to report all income or a failure to report or properly disclose in-kind contributions.

## **CHAPTER 10 – Schedule I: Disbursement of Excess Funds**

### **Section 10.1 - Filing a Final Report**

All committees are required to file a Final Report when the committee disbands or closes, in order to discontinue filing campaign finance reports for a committee. The Final Report must be received by the appropriate receiving office (reference “*Where to File the Final Report*” on the Final Report cover sheet for the appropriate receiving office). The Final Report cover sheet is located on SBE’s website.

A candidate must file a Final Report when he or she:

- No longer seeks election to the same office in a successive election; or
- Seeks election to a different office; or
- Is deceased. In this case, the campaign treasurer must sign the Final Report. If the deceased candidate was serving as his/her own treasurer, the executor of the candidate’s estate should file and sign the Final Report.

The receiving office will close a campaign committee only if:

- There is no balance, deficit, outstanding debts, or outstanding loans (including loans from the candidate); and
- Surplus funds have been properly disbursed and reported; and
- There are no outstanding reports or civil penalties due.

### ***Negative Balances, Outstanding Debts and Loans***

Neither SBE nor a locality’s Electoral Board will accept a Final Report if the report shows a negative balance. In this case, the campaign must first amend the appropriate reports and resolve the problem before the Final Report will be accepted. A negative balance is usually due to a failure to report all income (including money from the candidate) or a failure to report or properly disclose in-kind contributions.

If there is an outstanding loan to the campaign, the lender has the option of forgiving the loan and converting it to a contribution. The campaign finance report must show the conversion of the loan to a contribution by listing the outstanding amount on Schedule A as a cash contribution and on Schedule E as a loan repayment.

Outstanding debts to the campaign must be repaid prior to filing a final report.

### **Section 10.2 – How to Dispose of Surplus Funds**

Once a campaign has decided to submit a Final Report, the committee must no longer be active in fund-raising. If there is no debt, any money remaining is considered surplus funds and must be properly disposed of by one or any combination of the following methods:

- Transferring the excess for use in a succeeding election or to retire the deficit in a preceding election;
- Returning the excess to a contributor in an amount not to exceed the contributor's original contribution;
- Donating the excess to any organization described in §170(c) of the Internal Revenue Code;
- Contributing the excess to one or more candidates or to any political committee that has filed a statement of organization;
- Contributing the excess to any political party committee; and
- Defraying any ordinary, non-reimbursed expense related to his elective office.

It is be unlawful for any person to convert any contributed moneys, securities, or like intangible personal property to his personal use or to the use of a member of the candidate's "immediate family" as that term is defined in § 30-101.

### **Disbursement of Tangible Items of Value**

Gifts of goods to the committee must also be disbursed. The disposition of this type of contribution may be carried out as follows:

- The tangible item may be sold to any buyer for fair market value. The proceeds of the sale must be reported as a rebate on Schedule C and used to pay off the debts of the campaign or as part of a surplus distribution.
- If the committee is indebted to the candidate, the items may be transferred to the candidate to satisfy any or all of the debt.
- The items may be distributed as non-cash surplus to any eligible recipient described above.
- If any item is leased, the campaign committee should simply return the item and discontinue the leasing agreement. If any item is loaned to the campaign committee, it should discontinue use and return the item.

## **CHAPTER 11 – Non-Regular Reports**

### **Section 11.1 – Types of Non-Regular Reports**

Candidate campaign committees will sometimes be required to file other reports in addition to the required regular campaign finance reports. These are called “non-regular reports.”

### **Section 11.2 - Large Pre-Election Contribution Reports**

A Large Pre-Election Contribution report is required to be filed by a candidate’s campaign committee if they receive a cash or in-kind contribution or a loan if the contribution or loan amount is:

- \$5,000 or more if a candidate for Statewide office; or
- \$1,000 or more if a candidates for the General Assembly; or
- \$500 or more if a candidate for any other office,

And the contribution or loan is received by the campaign committee between:

- The 12th day preceding any nominating event (e.g. primary, mass meeting, caucus, etc.) and the date of the nominating event unless the candidate is running unopposed for the nomination; or
- The 12th day preceding a November election and the election date; or
- The 11th day preceding any other election in which the individual is a candidate and the Election Day.

#### ***Nominating Events***

A Large Pre-Election Contribution Report is not required if the candidate for the nomination is or has become, by virtue of withdrawal of the opponent(s), running unopposed for the nomination.

Nominating events include, but are not limited to: primary, caucus, mass meeting, or other event at which the party’s nomination shall be finally determined or an event at which delegates are chosen who pledge their support of a specified candidate on a ballot at a subsequent convention.

### **Section 11.3 - Reporting Large Pre-Election Contributions**

The information required on Large Pre-Election Contribution reports is the same as required for cash and in-kind contributions or for loans. All contributions and loans reported in this manner must also be reported on the committee’s next required regular campaign finance report.

#### ***When to File Large Pre-Election Contributions***

Large Pre-Election Contribution reports are due no later than ~~5:00 pm~~[5pm](#) on the next day after the committee has received the contribution.

If the large pre-election contribution is received on a Saturday then the report is not due until ~~5:00 pm~~5pm on the following Monday.

If the large pre-election contribution is received on the day before the election, then the report is due on that day.

### ***Where to File Large Pre-Election Contributions***

**Candidates for local office** which file electronically file Large Pre-Election Contributions electronically. Paper filers submit their reports with the county or city Electoral Board only. Faxed copies are not acceptable in order to meet this deadline. An original, signed copy must be submitted to the local Electoral Board in person.

**General Assembly candidates, who report their regular campaign finance reports electronically,** report their Large Pre-Election reports electronically with SBE only.

**General Assembly candidates, who report their regular campaign finance reports on paper,** report their Large Pre-election Contributions in writing via facsimile with SBE. An original, signed copy must also be sent to the State Board and must be postmarked no more than 24 hours after the contribution is received. A copy must also be delivered to the local electoral board of the county or city of the candidate's residence by the ~~5pm~~applicable deadline.

**Statewide candidates** report Large Pre-Election Contributions electronically with SBE only.

### **Section 11.4 - Independent Expenditure Reports**

An Independent Expenditure report is required if the committee makes independent expenditures that support, oppose or benefit a candidate in excess of \$1,000 or more to a candidate for statewide office or in excess of \$200 or more to any other candidate in the aggregate during an election cycle.

The Independent Expenditure reporting form requires the filer to have the following information:

- Listing of the candidate(s) supported or opposed, including the office sought;
- Identifying the independent expenditures made, the payee, the amount and a description of the expenditure.

Any independent expenditure filed by the committee must also be reported on the committee's next required regular campaign finance report.

### ***Where to File Independent Expenditure Reports***

Independent Expenditure reports are only available to file on paper.

The Independent Expenditure Report is to be filed with the State Board of Elections if the candidate(s) supported or opposed is a candidate for statewide office or the General Assembly.

If the candidate supported or opposed is a candidate for local or constitutional office then the Independent Expenditure report must be filed with the local electoral board of that county or city.

In cases where multiple candidates are supported or opposed in multiple localities, one report must be filed in each candidate's locality which is supported or opposed.

Independent Expenditure Reports must be filed on paper and can be faxed to the appropriate office to meet the deadline with an original, signed copy sent and postmarked within 24 hours after the funds are expended.

### ***When to File Independent Expenditure Reports***

Independent Expenditure reports are due within 24 hours after the committee has made the expenditure or when the advertisement supporting or opposing the clearly identified candidate is disseminated, whichever is first.

## **CHAPTER 12 – Where and When to File Campaign Finance Reports**

### **Section 12.1 - Filing Periods**

#### ***Non-Election Year Reporting Schedule***

Candidates for an office that is not being decided in the current calendar year must adhere to the following filing schedule:

<b>ACTIVITY BEGINNING</b>	<b>ACTIVITY ENDING</b>	<b>REPORT DUE DATE*</b>
Date of Inception or January 1	June 30	July 15
July 1	December 31	January 15

\*Report due dates that fall on a holiday or weekend will be moved to the next business day.

#### ***November General Election Schedule***

Candidates for an office to be decided at a November General Election during the current calendar year must adhere to the following filing schedule:

<b>ACTIVITY BEGINNING</b>	<b>ACTIVITY ENDING</b>	<b>REPORT DUE*</b>
January 1	March 31	April 15
April 1	13 Days Before a Primary	8 Days Before a Primary
12 Days Before a Primary	June 30	July 15
July 1	August 31	September 15
September 1	September 30	October 15
October 1	13 Days <b>Before</b> General Election	8 Days <b>Before</b> General Election
Last Regularly Filed Report	23 Days <b>After</b> General Election	30 Days <b>After</b> General Election
Last Regularly Filed Report	December 31	January 15

\*Report due dates that fall on a holiday or weekend will be moved to the next business day.

### May General Election Schedule

Candidates for an office to be decided at a May General Election during the current calendar year must adhere to the following filing schedule:

ACTIVITY BEGINNING	ACTIVITY ENDING	REPORT DUE*
January 1	<b>*If Primary Called</b> 11 Days <b>Before</b> Primary	<b>*If Primary Called</b> 8 Days <b>Before</b> Primary
<b>January 1</b>	March 31	Not Later than April 15
<b>*If Primary Called</b> Last Regularly Filed Report	11 Days <b>Before</b> Election	8 Days <b>Before</b> Election
<b>*If No Primary Called</b> January 1		
Last Regularly Filed Report	June 10	June 15
June 11	June 30	July 15
July 1	December 31	January 17

\*Report due dates that fall on a holiday or weekend will be moved to the following next day.

### Special Election Reporting Schedule

If a special election is held on a regular election date then the committee must adhere to the filing schedule for the regular election. However, candidates for nomination or election to an office to be filled by a Special Election held on a date other than a regularly scheduled general election for that office must adhere to the following schedule:

ACTIVITY BEGINNING	ACTIVITY ENDING	REPORT DUE*
Inception	11 days <b>Before</b> Special Election	Eight Days <b>Before</b> Special Election
10 Days <b>Before</b> Special Election	Election Day	30 Days <b>After</b> Special Election**

\*Report due dates that fall on a holiday or weekend will be moved to the next business day.

\*\*Winning candidates for an office decided in a Special Election held on a date other than a regular election date cannot take office until such time as their committee has filed a post-election report.

Immediately following the filing of the special election's post-election report, the candidate must refer to the normal filing schedule for that office's general election. For example, for a candidate who participates in a special election for the House of Delegates, the candidate will be responsible for filing campaign finance reports on the November election schedule for the next year in which that office is scheduled for election immediately after filing a post-election report.

## Section 12.2 - Reports as Condition to Qualification for Office

No person will be allowed to take office until their committee has filed the required reports from the applicable schedule listed above. Further, no officer authorized by the laws of Virginia to issue certificates of election shall issue one to any person determined to be elected to any such office, until copies of the reports cited above have been filed as required.

However, a person who is elected to fill a vacancy at a special election held on a general election day (May or November) may qualify for the office and be issued a certificate of election in advance of filing the 30-day post-election report, upon the filing of that post-election report complete through the Election Day.

## Section 12.3 - Where to File Campaign Finance Reports

- **Candidates for local office** that file electronically file with SBE only. Paper filers file with the county or city electoral board only. Faxed copies are not acceptable in order to meet the deadline. An original, signed copy must be submitted to the local Electoral Board in person.
- **General Assembly Candidates that file by paper** file the original report with SBE and a copy with the candidate's county or city electoral board in the county or city where the candidate resides.
  - **1VAC20-90-20. Filing Fee.**
    - This regulation requires all General Assembly members which file their campaign finance reports on paper with the State Board of Elections to pay a \$25 administrative fee per report filed (to include large pre-election contribution reports). The payment is due by the deadline for filing the report or the report will not be considered timely filed. Indigent committees may request a waiver from the State Board of Elections.
- **General Assembly Candidates that file electronically** file with SBE.
- **Statewide Candidates** file electronically with SBE.

## Section 12.4 – When to File Reports

When a report's due date falls on a weekend or holiday, or if the local office where the candidate committee files is closed on the report's due date, then the report is due the first business day immediately following the report's due date.

- **Reports filed with the Electoral Board** must be received in the office of the Electoral Board or General Registrar by the close of business on or before the due date. Faxed copies and postmarked dates are not acceptable.
- **Reports that are mailed to SBE** must be received in the office by the deadline for filing the report or faxed and received by [close of business on the 5:00 p.m.](#) deadline for filing the report with the original copy of the report mailed to SBE and postmarked by the report's due date.
- **Reports that are electronically filed with SBE** must file their electronic reports no later than [5:00 pm 11:59](#) on the report's due date.

## Section 12.5 - Extension of the Filing Deadline

The Code of Virginia authorizes SBE or the local electoral boards to grant an extension of a filing deadline in certain situations. SBE or the local electoral boards will not impose civil penalties if an appropriate written request is received by the report's due date describing any of the following situations:

- If a candidate or treasurer who is required to file a report spouse, parent, grandparent, child, grandchild, or sibling dies within the 72 hours before the deadline. (The State Board or the local electoral board is authorized to grant an extension of the filing deadline for a period not to exceed five days for good cause shown by the filer and found by the Board or board sufficient to justify the granting of the extension.);
- In emergency situations that interfere with the timely filing of reports. The extension is limited in scope to the areas and times affected by the emergency. The extension will be applicable only in the case of an emergency declared by the Governor pursuant to Chapter 3.2 (§ [44-146.13](#) et seq.) of Title 44 or declared by the President of the United States and confirmed by the Governor by executive order as an emergency.;
- A candidate who serves as his own campaign treasurer and who is a member of a uniformed service of the United States called to active duty during a reporting period will be granted a reasonable period, to be set by The Secretary of the State Board.
- In the event of a failure of the computer or electronic filing system that prevents timely filing, the extension will not exceed a period of up to five days after restoration of the computer or filing system to operating order. A receipt stating the date of restoration is required (only the State Board can grant extensions in this instance).

The following excuses are not sufficient and will not be considered for granting an extension of the filing deadline. They include, but are not limited to:

- Inclement weather, without a declaration of a state of emergency by the Governor or the President of the United States ;
- The loss of data due to, but not limited to: failure to back-up database, creating multiple databases in VA Filing software or failure to transfer data to a new or different computer.
- Treasurer or committee officer transition that may result in a “paper shuffle;”
- Candidate committee’s lack of knowledge of how to file, the need to file or due date of filing; or
- Candidate’s failure to have copies of necessary forms.

## Section 12.6 - No Activity Reports

All committees are required to file a report on the required deadlines even if there is no financial activity for the committee, except for bank interest or bank fees, during the reporting period. In such cases, a committee which files reports on paper can simply file a cover sheet and fill out the “No Activity” box indicating that there has been no financial activity, other than Bank Interest or Fees. The filer must

promise to report all interest and fees on the next required report in which the committee has financial activity.

Committees who file electronically can simply create the electronic report being sure to indicate in the required area that there is no activity for the reporting period.

## **CHAPTER 13 – Campaign Finance Reporting Penalties**

### **Section 13.1 – General Provisions**

Any person who violates, or aids, abets, or participates in the violation of, the Act shall be subject to a civil penalty not to exceed \$100.

For purposes of establishing penalties, the *Code of Virginia* creates three categories of violations: (i) the failure to file reports (§24.2-953.1); (ii) the late filing of reports (§24.2-953.2); and (iii) incomplete reports (§24.2-953.3). In addition, a special category exists to provide for additional civil penalties that relate only to statewide campaigns (§24.2-953.4). As to each category, the Code provides for a specific range of civil penalties and, where appropriate, the type of notice that must be provided before a penalty may be imposed.

The sections relating to the failure to file reports (§24.2-953.1) and the late filing of reports (§24.2-953.2), do not require that notice be provided before the imposition of penalties. Thus, if the statutory filing deadline is missed, the penalty is automatically triggered.

The procedure to be filed for the assessment of penalties relating to incomplete reports is governed by §24.2-953.3. It provides, in part: “Prior to assessing a penalty ...for the filing of an incomplete report, the Secretary of the Board, or the general registrar or secretary of the local electoral board, as appropriate, shall notify, by certified mail, the candidate and treasurer, or person or political committee required to file a report...No penalty shall be assessed if the information required to complete the report is filed within 10 days of the date of mailing the written notice.”

In a similar fashion, §24.2-953.4, which provides for additional penalties relating to statewide races, also explicitly requires that a prior notice must be given before a penalty may be imposed. It provides, in relevant part: “Prior to assessing a penalty pursuant to this section the Secretary shall notify...the candidate and treasurer in writing that a report has not been filed or that a filed report has not been completed...No penalty shall be assessed pursuant to this section if the report or information required to complete the report is filed within seven days of the date of mailing the written notice.”

It will be noted that the above analysis does not address the terms of §24.2-953, which does contain a 60 day notice provision. Said provision does not relate to the imposition of civil penalties. Instead, it relates solely to the steps that might be followed if the Board seeks to create a rebuttable presumption of willfulness as to the violation of campaign finance laws. The potential of a rebuttable presumption is only triggered, however, after actual receipt of the mailing and only after the passage of 60 days, a time period much greater than that necessary to impose a penalty under §24.2-953.3 (10 days) and §24.2-953.4 (7 days).

The State Board has formally adopted the following schedules for the assessments of civil penalties. To ensure uniformity throughout the state, this schedule must be followed when the filing officer is assessing civil penalties.

“Official Notification,” or any variation of this phrase, as stated within this chapter refers to the letter sent via United States Postal Service Certified Mail to the committee’s primary mailing address as reported on the committee’s most recently filed Statement of Organization. The date of “official notification” is either

the date that the letter is received and signed for or the date on which the USPS returned the mail to SBE or the local electoral board. The notification is considered made even if the notification is not signed for, or was undeliverable, so long as the notification was sent to the committee's primary mailing address.

## **Section 13.2 - Procedure to Collect Civil Penalties for Campaign Finance Reports**

Late Report = \$100 civil penalty automatically imposed after the conclusion of the report's filing deadline. The State Board or the local electoral board will notify the committee of civil penalty and collection procedures via email or regular postal mail. If the payment is not received within 60 days of the deadline, the matter is referred to the appropriate Attorney for the Commonwealth for collection.

Failure to File Report = if no report is filed within 60 days of the due date, the State Board or the local electoral board will notify the committee via certified mail. The penalty will increase to \$500 and the committee will be provided an additional 60 days to submit the report. If, after 60 days has passed, the committee has not filed the report, then the matter is sent to the appropriate Attorney for the Commonwealth for collection and determination as to whether the violation is willful. The penalty notification will increase from \$500 to \$1000 if second or subsequent violations.

If delivery of the certified letter to the committee's primary mailing address is returned undeliverable or the recipient refused to sign, then the matter shall immediately be referred to the appropriate Attorney for the Commonwealth.

The local electoral board of a county or city will notify the Commonwealth's Attorney for the county or city in which the electoral board has jurisdiction.

For candidates for the General Assembly, the State Board will notify the Commonwealth's Attorney of the county or city of the residence of the candidate in violation. For candidates for statewide office, the State Board will notify the Commonwealth's Attorney for the City of Richmond.

Candidates for the General Assembly or statewide office must make their checks payable to "Treasurer of Virginia" for deposit to the General Fund. Candidates for local office must make their checks payable to the treasurer of their locality for deposit to their General Fund.

## **Section 13.3 – Penalty Schedule for Incomplete Reports**

### ***Best Efforts Policy***

Once reports are received, SBE and the local electoral boards are required to review the reports and provide requests for additional information to the committee within 21 days of the deadline. The committee's failure to file an amended report or late filing of an amended report will be assessed civil penalties.

In conducting its review, SBE and the local electoral board are required to review the following:

- the report is legible;
- there is no missing information in required fields or descriptions such as "N/A", "none", "unknown" etc. In fields where "requested" or "unable to obtain" is entered, verify that copies of letters to the contributors requesting this information have been filed;

- the beginning balance of the current report (Schedule H, Line 16) equals the ending balance of the previous period's report (Schedule H, Line 19);
- Line 19 and Line 29 on Schedule H match;
- contributions are reported in alphabetical order on Schedule A and Schedule B as required by § 24.2-947.4;
- expenditures are reported in chronological order (earliest first) on Schedule D; and
- expenditure descriptions are relevant.

If any required information is not included or the report is not completed properly, the report is deemed incomplete. However, SBE has determined that some missing information does not necessarily mean that a report should be considered incomplete. SBE has adopted this "Best Efforts" policy in order to comply with the requirements of § 24.2-953.3.

Therefore, Campaign Finance reports are not considered incomplete if:

- Less than 20% of contributors are missing required information on Schedule A or Schedule B; or less than 20% of any other itemized information does not include the required information.
  - \*For example, if there are 100 itemized contributors on Schedule A, then no more than 20 of those contributors can have missing information.

#### AND

- Letters requesting the required information from those contributors is filed with the report.

If these conditions are not met, then the report is considered incomplete and a letter requesting an amended report will be mailed to the committee. Failure to amend the report within 10 days of the date of the letter will result in a \$100 civil penalty being assessed to the committee.

If the requested amended report is not filed within 120 days of the specified deadline then the violation is presumed willful and the matter will be forwarded to the appropriate Attorney for the Commonwealth.

### **Section 13.4 – Additional Penalties for Statewide Offices**

The Act requires that candidates for statewide office be assessed penalties in addition to candidates for other offices.

#### ***Procedure to Collect Additional Penalties for Candidates for Statewide Office***

##### **Delinquent Completed Report (Statewide Office)**

- An incomplete report for statewide candidates is defined as a report that is filed timely with the State Board but is missing required information or contains mathematical errors.

- Prior to assessing a penalty the Secretary of the State Board must notify the candidate and their treasurer within 14 days of the deadline for the required report, via certified mail, that an amended and completed report must be filed, citing the omissions from the report. No penalty will be assessed if the report or information required to complete the report is filed within seven days of the date of mailing the written notice.
- If the campaign committee fails to file the required report within seven days of the date of the written notice, these penalties will assess against the candidate and treasurer, who will be jointly and severally liable, for each day of non-compliance in addition to the prescribed penalties for candidate campaign committees.
- The Secretary of the State Board has the authority to extend the seven day time period for filing the completed report if good cause is shown. However, no additional time may be granted if the report was due eight days prior to a primary, general or special election.

#### **Late Report (Statewide Office)**

- A late report will automatically be assessed a \$100 penalty.
- After 7 days, if report is still not filed, SBE will send an official notification to the committee.
- If the campaign committee fails to file the required report within seven days of the date of the official notice, a penalty of \$500 per day of non-compliance will be assessed against the candidate and treasurer, who will be jointly and severally liable, in addition to the \$100 previously assessed.

The Secretary of the State Board has the authority to extend the seven day time period for filing the completed report if good cause is shown. However, no additional time may be granted if the report was due eight days prior to a primary, general or special election. These penalties are to be assessed to candidates for statewide office in addition to the penalties enumerated above.

#### **Section 13.5 – Penalties for Accepting Contributions from Unregistered Out-of-State Political Committees or Federal Political Action Committees**

It is unlawful for any committee registered in Virginia to accept contributions of more than \$10,000, in the aggregate during a calendar year, from an out-of-state political committee or federal political action committee that is not registered with SBE.

Accepting any contribution of \$10,000 or more, in the aggregate during a calendar year, without first verifying the committee's SBE registration status will result in a penalty equal to the amount of the contribution received.

SBE will assess the penalty at the time that it becomes aware of the violation. If the penalty is not paid within five days after official notification of the penalty then SBE will send the matter to the Commonwealth's Attorney for the city of Richmond to enforce its collection.

## Section 13.6 - Willful Violations

A willful violation occurs when the State Board or an investigation by an Attorney for the Commonwealth or the Attorney General's office determines that the person or committee intentionally attempted to subvert the provisions of the Act.

In the case of willful violation, a committee will be guilty of a Class 1 misdemeanor and the Attorney for the Commonwealth will initiate civil proceedings to enforce any civil penalties prescribed. There will be a rebuttable presumption that the violation of the Act was willful if the violation is based on a committee's failure to file a report required and its failure to file continues for more than 60 days following the official notification by SBE or local electoral board.

## **CHAPTER 14 – Political Advertisement Disclosure**

### **Section 14.1 - When Disclosure Statements are Required**

A disclosure statement is required for all political advertisements which uses express advocacy to support the election or defeat of a candidate or group of candidates.

#### ***A Disclosure Statement is NOT required on:***

- Yard Signs;
  - State Board is currently working on a regulation to define “yard sign”.
- Novelty items such as;
  - Pens
  - Pencils
  - Magnets
  - Buttons to be attached to wearing apparel.

#### ***A Disclosure Statement IS Required on:\****

- Billboards;
- Bumper Stickers;
- Cards or Business Cards;
- Sample Ballots;
- Newspaper ads;
- Newspaper inserts;
- Magazines;
- Advertisement disseminated through the mail;
- Pamphlets;
- Fliers;
- Periodicals;
- Websites;
- Electronic mail (E-mail);
- Outdoor advertising facilities
- Barns, baseball stadium, buses, etc.;
- Television advertisements;
- Radio advertisements.

\* No disclosure is required for individuals who incur only referendum expenses or whose aggregate expenditures for or against a candidate, in an election cycle, do not exceed \$200 for a non-statewide candidate or \$1,000 for a statewide candidate.

## Section 14.2 - Requirements for Publications

It is unlawful for any of the entities listed below, to accept or receive or agree to accept or receive any money or other valuable consideration for supporting or advocating the election or defeat of any candidate:

- Owner;
- Clerk;
- Proprietor;
- Agent;
- Officer;
- Editor;
- Reporter;
- Manager; or
- Employee of any newspaper, magazine, or periodical printed or published in Virginia.

This section does not prevent any person, firm or corporation that is engaged in the publication of any newspaper, magazine or periodical from receiving from any person compensation for printing and publishing any matter or article that advocates the election or defeat of any candidate, as long as the statement “PAID ADVERTISEMENT,” appears in plain type in boldface Roman capitals in a conspicuous place at the beginning of the matter or article; and the matter or article otherwise complies with the provisions of § 24.2-955.2 of the Code of Virginia.

The person accepting a “PAID ADVERTISEMENT” for the newspaper, magazine or periodical will require and for one year, retain a copy of, proof of the identity (government issued identification) of the person who submits the advertisement for publication when the authorization statement on the advertisement is made by any person other than the:

- Candidate;
- Candidate’s Campaign Committee;
- Political Party Committee; or
- Political Action Committee (PAC) registered with the SBE.

This proof of identity must be submitted either:

- In person and include a valid VA driver’s license, or any other identification card issued by a government agency of the Commonwealth, one of its political subdivisions, or the United States; or
- If other than in person, the person submitting the advertisement must provide a telephone number and the person accepting the advertisement may phone the person to verify the validity of the person’s identifying information before publishing the advertisement.
- § 24.2-955.2 (B) states that a candidate who is clearly identified in a “Paid Advertisement” is entitled to obtain the identity of the person who submitted the advertisement from the newspaper, magazine, or periodical that published in the advertisement. .

### **Section 14.3 - Print Media Disclosure Requirements for Candidates**

The visual statement required on print media advertisements must be displayed in a conspicuous manner. Advertisements with multiple folds, faces or pages must include the disclosure on at least one fold, face or page.

Print media advertisements appearing in an electronic format must be displayed in at least seven (7) point font; however, if the advertisement lacks sufficient space for a disclosure statement of at least the minimum seven (7) point font, then the advertisement will meet the disclosure requirements if, by clicking on the advertisement, the viewer is taken to a landing page or a home page that displays the required disclosure statement.

Committees will be considered to have complied with the law if the disclosure legend or statement conveys the required information.

#### ***“Paid for by...” Statement***

Every political advertisement sponsored by a candidate that appears in Print Media must state who paid for the advertisement. The statement must include the name of the candidate or the candidate’s campaign committee. The committee can replace the “Paid for by...” statement with “Authorized by...”

In the case of a print media advertisement that has more than one sponsor, the disclosure statement must name all of the sponsors.

### **Section 14.4 - Television Disclosure Requirements for Candidates**

Political advertisements that appear on television must also comply with the Communications Act of 1934, 47 U.S.C. §§ 315 and 317 as well as the applicable laws in § 24.2-9957.1 of the Code of Virginia.

If the sponsor of the advertisement does not have control over the audio then the disclosure requirements must be the same as for Print Media. The statements must be made in a conspicuous manner. Committees will be considered to have complied with the law if the disclosure legend or statement conveys the required information.

#### ***“Paid for by...” Visual Statement***

Every political advertisement sponsored by a candidate that appears on television must visually state who paid for the advertisement. The statement must be 20 scan lines in size and must include the name of the candidate or the candidate’s campaign committee.

If the candidate or his campaign committee is the sponsor of the advertisement AND the advertisement does not refer to any other clearly identified candidate then the committee can replace the “Paid for by...” statement with “Authorized by...”

In the case of a television advertisement that has one or more sponsors, the disclosure statement must name all of the sponsors and the candidate must speak the disclosure statement.

### ***“Authorized by...” Spoken Statement***

For any political advertisement appearing on television and sponsored by a candidate who refers to a clearly identified candidate or candidates other than the candidate who is sponsoring the advertisement must include a disclosure statement spoken by the candidate which states “I am... (or “This is...”) [Name of candidate], candidate for [name of office], and I (or ‘my campaign’) sponsored this ad.” There must be a full-screen, un-obscured photographic picture or actual appearance of the candidate throughout the entire spoken statement which must be at least 4 seconds in length.

It is not required to state whether the candidate authorized the advertisement if the candidate referred to in the advertisement is not the sponsoring candidate’s opponent or if the candidate referred to in the advertisement is not being expressly advocated.

The spoken statement can be spoken at any time during the advertisement unless the duration of the advertisement is more than 5 minutes. In this case, the spoken statement must be delivered at the beginning and the end of the advertisement.

If more than one candidate is sponsoring the advertisement then at least one candidate must speak the disclosure statement.

## **Section 14.5 - Radio Disclosure Requirements for Candidates**

Political advertisements that appear on radio must also comply with the Communications Act of 1934, 47 U.S.C. §§ 315 and 317 as well as the applicable laws in § 24.2-9957.1 of the Code of Virginia. The disclosure statement must last at least two seconds and must be spoken so that its contents can be easily understood.

In the case of a radio advertisement that has one or more sponsors, the disclosure statement must name all of the sponsors and the candidate must speak the disclosure statement. If more than one candidate is sponsoring the advertisement then at least one candidate must speak the disclosure statement.

### ***Spoken Statement***

For any political advertisement airing on radio and sponsored by a candidate which refers to a clearly identified candidate or candidates, other than the candidate which is sponsoring the advertisement, must include a disclosure statement spoken by the candidate which states “I am... (or “This is...”) [Name of candidate], candidate for [name of office], and I (or ‘my campaign’) paid for this ad.”

If the candidate or his campaign committee is the sponsor of the advertisement AND the advertisement does not refer to any other clearly identified candidate then the committee can replace the “Paid for by...” statement with “Authorized by...”

It is not required to state whether the candidate authorized the advertisement if the candidate referred to in the advertisement is not the sponsoring candidate’s opponent or if the candidate referred to in the advertisement is not being expressly advocated.

## Section 14.6 – Campaign Telephone Call Requirements

Campaign telephone calls are a series of telephone calls, electronic or otherwise, made to twenty-five or more telephone numbers in the Commonwealth during the 180 days before a general or special election or during the ninety days before a primary, conveying or soliciting information relating to any candidate or political party participating in the election or primary, and under an agreement to compensate the telephone callers. A violation of these disclosure requirements will not void any election.

It is unlawful for any person, corporation or political committee making campaign telephone calls to intentionally modify the caller identification information for the purpose of misleading the recipient as to the identity of the caller.

It is unlawful for any candidate or campaign committee to make campaign telephone calls or to contract with persons making telephone calls without disclosing before the conclusion of each telephone call, information to identify the candidate or campaign committee who has authorized and is paying for the calls unless such call is terminated prematurely by means beyond the maker's control. The person making the campaign telephone calls must disclose the following information prior to the conclusion of the call:

- The name of the candidate(s) or candidate campaign committee(s) paying for the call;
- The name of the candidate(s) or candidate campaign committee(s) who authorized the calls.

## **Chapter 15 – Political Advertisement Penalties**

### **Section 15.1 - Procedure for Reporting Violations**

The person alleging any violation to print media, radio or television advertisements should contact the State Board of Elections. Once the complaint is received, the State Board, in a public hearing, shall determine whether to find a violation of this chapter and to assess a civil penalty. At least 10 days prior to such hearing, the State Board shall send notice by certified mail to persons whose actions will be reviewed at such meeting and may be subject to civil penalty. Notice shall include the time and date of the meeting, an explanation of the violation, and the maximum civil penalty that may be assessed.

### **Section 15.2 - Penalties for Candidates for Statewide Office**

The following penalties will apply only to statewide candidates or statewide campaign committees which sponsor political advertisements.

#### ***Print Media***

Violators shall be assessed a penalty as follows:

- \$50 for a first time violation with explanation, apology and/or remedial measures taken;
- \$100 for a first time violation without explanation, apology and/or remedial measures taken;
- \$250 for any second violation;
- \$500 for any third violation; and
- \$1000 for any fourth or subsequent violation.

If the advertisement is disseminated or on display in the 14 days prior to or on the Election Day for which the advertisement pertains, the above penalties will be doubled and the maximum penalty would be \$2,500.

#### ***Television***

The penalty for violating required television disclosures will be \$2,500 per occurrence unless the advertisement is disseminated or on display in the 14 days prior to or on the Election Day for which the advertisement pertains. In this case, the penalty will be \$10,000 per occurrence.

#### ***Radio***

The penalty for violating required radio disclosures will be \$2,500 per occurrence unless the advertisement is disseminated or on display in the 14 days prior to or on the Election Day for which the advertisement pertains. In this case, the penalty will be \$10,000 per occurrence.

#### ***Campaign Telephone Calls***

The penalty for violating required campaign telephone call disclosures will be \$2,500.

## **Section 15.3 - Penalties for Candidates for General Assembly or Local Office**

The following penalties will apply only to General Assembly or local candidates and/or their campaign committees which sponsor political advertisements.

### ***Print Media***

Violators shall be assessed a penalty as follows:

- \$50 for a first time violation with explanation, apology and/or remedial measures taken
- \$100 for a first time violation without explanation, apology and/or remedial measures taken
- \$250 for any second violation
- \$500 for any third violation
- \$1000 for any fourth or subsequent violation

If the advertisement is disseminated or on display in the 14 days prior to or on the Election Day for which the advertisement pertains, the above penalties will be doubled and the maximum penalty would be \$2,500.

### ***Television***

Violators whose total expenditures for the election cycle are less than \$10,000 will be assessed a penalty of \$500 unless the advertisement is disseminated or on display in the 14 days prior to or on the Election Day for which the advertisement pertains. In this case, the penalty will be \$1,000.

Violators whose total expenditures for the election cycle are \$10,000 or more will be assessed a penalty of \$1,000 unless the advertisement is disseminated or on display in the 14 days prior to or on the Election Day for which the advertisement pertains. In this case, the penalty will be \$2,500.

### ***Radio***

Violators whose total expenditures for the election cycle are less than \$10,000 will be assessed a penalty of \$250 unless the advertisement is disseminated or on display in the 14 days prior to or on the Election Day for which the advertisement pertains. In this case, the penalty will be \$500.

Violators whose total expenditures for the election cycle are \$10,000 or more will be assessed a penalty of \$500 unless the advertisement is disseminated or on display in the 14 days prior to or on the Election Day for which the advertisement pertains. In this case, the penalty will be \$1,000.

### ***Campaign Telephone Calls***

The penalty for violating required campaign telephone call disclosures will be \$2,500 per occurrence.



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

---

# Other Business & Public Comment

---

BOARD WORKING PAPERS



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

---

# Good of the Order

---

BOARD WORKING PAPERS



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

---

# Adjournment

---

BOARD WORKING PAPERS



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

# BOARD MEETING

---

Wednesday, February 26, 2014  
Washington Building  
Room B27  
9:00 AM

---

BOARD WORKING PAPERS  
Master Copy  
Prepared by Rose Mansfield  
Executive Assistant to the Board