



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

# BOARD MEETING

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Wednesday, May 14, 2014  
General Assembly Building  
Room C  
9:00 AM

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BOARD WORKING PAPERS



**STATE BOARD OF ELECTIONS  
AGENDA**

*DATE: May 14, 2014*  
*LOCATION: General Assembly Building, Room C*  
*TIME: 9:00 a.m.*

- I. CALL TO ORDER** *Charles E. Judd*  
*Chair*
- II. APPROVAL OF MINUTES** *SBE Board Members*  
**April 23, 2014**
- III. SECRETARY'S REPORT** *Donald Palmer*  
*Secretary*
- IV. REPORT FROM LEGAL COUNSEL** *Kristina Perry Stoney*  
*SBE Legal Counsel*
- V. NEW BUSINESS**
- A. State Certification Document for EPB** *Eugene Burton*  
*Voting Technology Specialist*
- B. Voter Photo ID Regulation** *Myron McClees*  
*SBE Policy Analyst*
- C. Voter Registration Drive Guidelines –Approval of Revisions** *Garry Ellis*  
*NVRA/ Voting Registration Coordinator*
- D. Stand by Your Ad Violations** *Chris Piper*  
*Election Services Manager*
- E. General Registrar & Electoral Board Survey** *Edgardo Cortés*  
*Deputy Secretary*
- VI. OTHER BUSINESS & PUBLIC COMMENT**
- VII. EXECUTIVE CLOSED SESSION**  
Discussion of Pending Litigation Matters
- VIII. GOOD OF THE ORDER**



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# Call to Order

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BOARD WORKING PAPERS



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# Approval of Minutes April 23, 2014

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BOARD WORKING PAPERS  
SBE Board Members

1 MINUTES

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3 The State Board of Elections Board Meeting was held on Wednesday, April 23,  
4 2014. The meeting was held in the General Assembly Building, Room C 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; Edgardo Cortés,  
7 Deputy Secretary; Kristina Stoney, Senior Assistant Attorney General and SBE Counsel;  
8 Anna Birkenheier, Assistant Attorney General and SBE Counsel; Susan Lee, Elections  
9 Uniformity Manager; Chris Piper, Election Services Manager and Rose Mansfield,  
10 Executive Assistant. Chairman Judd 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 December 26, 2013, February 28<sup>th</sup>, and March 8<sup>th</sup> of  
13 2014. 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 December 26, 2013 Board Minutes and none were noted. Chairman Judd moved *that*  
16 *the December 26, 2013 be approved as submitted.* Vice Chair Bowers seconded the  
17 motion and the Board unanimously approved the motion. Chairman Judd asked if Board  
18 Members had any additions or corrections to the March 19, 2014 Board Minutes. Ms.  
19 Stoney noted a transcription error in the document. Vice Chair Bowers moved *that the*  
20 *March 19, 2014 Board Meeting Minutes be amended.* Chairman Judd seconded the  
21 motion and the Board approved the amendment. Chairman Judd moved *that the Board*  
22 *Minutes from March 19, 2014 be approved as amended.* Secretary Palmer seconded the  
23 motion and the Board unanimously approved the Minutes. Chairman Judd asked if there  
24 was any discussion and with none the Board unanimously approved the Minutes.  
25 Chairman Judd asked if Board Members had any additions or corrections to the April 2,  
26 2014 Board Minutes. Ms. Stoney noted an error in the legal report regarding the date  
27 recorded and that the date be changed from May 19, 2014 to May 9, 2014. Chairman  
28 Judd moved *that the Minutes of the April 2, 2014 Board Meeting be amended.* Vice Chair  
29 Bowers seconded the motion and the Board unanimously approved the motion. Secretary  
30 Palmer moved *that the April 2, 2014 Board Minutes be approved as amended.* Vice Chair  
31 Bowers seconded the motion and the Board unanimously approved the motion.

32           The second order of business was the Secretary's Report delivered by Secretary  
33 Palmer. Secretary Palmer stated that the voter identification implementation webinar will  
34 be held on April 29, 2014 and regional training will be held May 12-23, 2014. The annual  
35 workshop training will be conducted July 21-22, 2014. Secretary Palmer stated that the  
36 voter identification regulation posted to Regulatory Town Hall on April 21, 2014 will be  
37 available for public input until May 12, 2014. Secretary Palmer expressed condolences  
38 to the family of Mr. Jim Richardson who passed on April 12, 2014. Mr. Richardson  
39 devoted his life to his family and to serving the elections community. Mr. Richardson  
40 was a military veteran and is the father of SBE employee, Terry Wagoner, Absentee  
41 Ballot Coordinator.

42           Secretary Palmer announced that the General Assembly passed and Governor  
43 McAuliffe signed SB 11, the electronic ballot return bill for overseas military voters.  
44 This is the culmination of a three year legislative effort. The companion bills, HB 759  
45 and SB 11, mark only the beginning of vital work to be done on the technical details  
46 necessary to make secure electronic return a reality for our deployed military voters. The  
47 legislation requires the formation of a working group, to include the chief information  
48 officer of the commonwealth, the chief information security officer of the  
49 commonwealth, and local election officials, to assist with the development of security  
50 measures and procedures of the program. SBE and the working group will have the rest  
51 of 2014 and part of 2015 to develop the electronic security measures, procedures, forms  
52 and regulations necessary for our report to the General Assembly and implementation.  
53 The legislation and the Board's current regulations provide authority to the agency to  
54 appoint an advisory panel and working group where specific expertise is required. Now  
55 that the Governor has signed the bills, we plan to proceed with making appointments and  
56 will publish a notice on the website.

57           Secretary Palmer stated that the PEW Charitable Trust released a voting  
58 performance index and Virginia continues to receive high marks in election  
59 administration and is listed above the national average. Secretary Palmer noted that after  
60 the June, 2014 primary SBE will send a list maintenance mailing to voters asking them to  
61 verify their change of address to rule out duplicate registrations. Vice Chair Bowers  
62 inquired how often other states pull data from ERIC. Secretary Palmer stated that SBE

63 Virginia's data is uploaded to ERIC every 60 days and SBE receives a report every 60  
64 days. Vice Chair Bowers asked: "If a voter moves out-of-state is it the responsibility of  
65 the voter's new residence (state) to contact us or do we contact them?" Secretary Palmer  
66 replied: "Most states ask: "where was the last place they were registered to vote." That  
67 state is supposed to let the previous state of registration know that an updated registration  
68 has occurred. SBE has identified scenarios' where that process does not work and SBE  
69 discovered the errors or failure of states to provide this information during the sharing of  
70 registration data between states. " Secretary Palmer asked if there were any additional  
71 questions and there were none.

72 The next order of business was the Legal Report delivered by Kristina Perry  
73 Stoney, Senior Assistant Attorney General and SBE Counsel. Ms. Stoney requested an  
74 executive session to discuss pending litigation. Ms. Stoney asked if the current Board  
75 Members would like to continue to receive letters of assurance related to regulations. Ms.  
76 Stoney noted that this is a routine function of the attorney generals' office. Chairman  
77 Judd moved *that the attorney general's office provide letters of assurance regarding*  
78 *regulations to SBE.* Vice Chair Bowers seconded the motion and the Board unanimously  
79 approved the motion.

80 The next order of business was the presentation of the resolution honoring the  
81 work of Elwood Yates, Jr. retiring Secretary of the Powhatan County Electoral Board.  
82 The Board presented the resolution to Mr. Yates and each Board Member extended their  
83 sincere thanks for his 60 years of service to the election community. Mr. Yates thanked  
84 SBE for the years of support and noted that the years went by quickly because of the  
85 wonderful individuals he was associated with in the election community.

86 The next order of business was the State Certification Guidelines presented by  
87 Gary Fox, SBE Voting Technology Specialist. Mr. Fox stated that the original packet was  
88 submitted to Board Members on February 26, 2014 for Board approval. Mr. Fox stated  
89 that the changes reflect current technologies and updates and provides SBE with the  
90 ability to test equipment for the capability of conducting a recount. The changes include  
91 the agency's name change that is effective July 1, 2014. Chairman Judd stated that the  
92 document was absent of the mention of global pricing and service statewide. Chairman  
93 Judd stated that it is important to have global pricing so no matter the size of the locality;

94 all localities have access to same equipment, at the same price, with the same level of  
95 service. Secretary Palmer stated that *Virginia Code* Sections §§ 24.2-628 & 629 are the  
96 mechanisms for voting equipment certification within the commonwealth and the  
97 changes suggested should fall within the parameters of the *Code*. Secretary Palmer stated  
98 that SBE has worked with the vendors to participate in global pricing. Secretary Palmer  
99 stated that you cannot tie pricing to the certification of equipment. Chairman Judd stated:  
100 “I am not suggesting that the vendor price the equipment before SBE certifies the  
101 equipment, I am saying that the vendor should agree to global pricing. I am just looking  
102 out for the localities.” Vice Chair Bowes stated that there was a concern about the legality  
103 of adding global pricing to the requirements of the certification of voting equipment in  
104 Virginia. Secretary Palmer stated the proposed amendment to the Requirements and  
105 Procedures is directing the Board to review pricing when the localities can contact SBE  
106 to receive information on the pricing of equipment. Secretary Palmer stated that this  
107 proposed amendment is an attempt to set policy based on current efforts of the agency.

108 Chairman Judd moved *that the State Certification of Voting Systems:*  
109 *Requirements and Procedures, Step 7, should read: “Based on the information*  
110 *contained in the report from the evaluation agent, the test election, and any other*  
111 *information in their possession, the State Board of Elections will determine whether the*  
112 *proposed voting system will be certified for use in the Commonwealth of Virginia and*  
113 *notify the vendor of the decision. In addition the State Board of Elections will solicit a*  
114 *state-wide contract from any vendor for voting systems certified for use in the*  
115 *Commonwealth of Virginia.”* Vice Chair Bowers stated that the motion should use the  
116 new agency name: “Department of Elections”. Chairman Judd stated the name change  
117 would be reflected in the motion. Vice Chair Bower seconded the motion to include the  
118 amendment of the name change. Chairman Judd asked if there were any public comments  
119 on the motion.

120 Clara Bell Wheeler, Chairman of the Albemarle County Electoral Board  
121 approached the podium. Ms. Wheeler stated that the areas she represents were considered  
122 small localities and would like to thank the chairman for establishing global pricing. It is  
123 extremely important that the small localities are able to purchase equipment at the same

124 price as the large localities and I thank you for putting in global pricing. Chairman Judd  
125 asked if there were additional comments.

126 Robin Lind, Secretary of the Goochland County Electoral Board approached the  
127 podium. Mr. Lind stated that there is appreciation for the chairman consistently trying to  
128 bring this issue to the forefront. Mr. Lind stated that he believed that the *Code* supported  
129 the actions of the Board Members. Chairman Judd asked if there were additional public  
130 comment and there were none. Chairman Judd asked if there were additional comments  
131 from Board Members and there were none. The Board unanimously approved the  
132 amended motion. Vice Chair Bowers moved *that the Board approve the changes to the*  
133 *State Certification of Voting Systems: Requirements and Procedures, as recommended by*  
134 *SBE Staff*. Secretary Palmer seconded the motion and Chairman Judd asked if there were  
135 any questions and there was none. The Board unanimously approved the motion.

136 The next order of business was the request for temporary full-time status for the  
137 General Registrar of Richmond County, Virginia presented by Edgardo Cortés, Deputy  
138 Secretary. Deputy Cortés informed the Board Members that the Electoral Board  
139 submitted the required request in a timely manner. Deputy Cortés stated that the request  
140 is authorized under Chapter 890, 2012 Acts of Assembly and recommended approval of  
141 the submitted request for the period of May 1, 2014 through June 30, 2014. Vice Chair  
142 Bowers moved *that the Board approve the request from the Electoral Board of the*  
143 *Richmond County for a temporary full-time general registrar for the period of May 1,*  
144 *2014 through June 30, 2014*. Secretary Palmer seconded the motion and Chairman Judd  
145 asked if there were any questions. Vice Chair Bowers stated that there are 17 localities in  
146 the commonwealth whose general registrars' are part-time employees with full-time  
147 responsibilities and the General Assembly should look at resolving this problem by  
148 supporting funding of the general registrars. Chairman Judd stated that he echoed the  
149 Vice Chair sentiments. The voters of the commonwealth should have full-time access to  
150 the general registrars' in the locality in which they reside. Chairman Judd asked if there  
151 were additional comments.

152 Robin Lind, Secretary of the Goochland County Electoral podium. Mr. Lind  
153 expressed that a general registrar expressed distress over the workload imposed on  
154 general registrars who serve on a part-time basis and whose electoral board would not

155 request funding due to budget constraints imposed by their county management. Mr.  
156 Lind stated that VEBA would support the conversation of permanently changing all  
157 general registrars' status to full-time employees. Chairman Judd asked if there were  
158 additional comments. Therese Martin, League of Women Voters approached the podium.  
159 Ms. Martin stated that the league is supportive of changing the status of all part-time  
160 general registrars' to full-time status. Chairman Judd asked if there were additional  
161 comments. Rene Andrews, Chairman of the Electoral Board of Falls Church City  
162 approached the podium. Ms. Andrews stated that any locality that has an election needs  
163 to be available to the voters 45 days prior to the election. In the time period prior to the  
164 election, the general registrar's will need to apply for full-time status. Chairman Judd  
165 asked if there were additional comments and there were none. The Board unanimously  
166 approved the motion.

167 The next order of business was the request for temporary full-time status for the  
168 General Registrar of Mathews County, Virginia presented by Edgardo Cortés, Deputy  
169 Secretary. Deputy Cortés informed the Board Members that the Electoral Board  
170 submitted the required request in a timely manner. Deputy Cortés stated that the request  
171 is authorized under Chapter 890, 2012 Acts of Assembly and recommended approval of  
172 the submitted request for the period of April 1, 2014 through June 30, 2014. Secretary  
173 Palmer moved *that the Board approve the request from the Electoral Board of the*  
174 *Mathews County for a temporary full-time general registrar for the period of April 1,*  
175 *2014 through June 30, 2014.* Vice Chair Bowers seconded the motion and Chairman  
176 Judd asked if there were any questions and there were none. The Board unanimously  
177 approved the motion.

178 The next order of business was the Voter Photo Identification Card Application  
179 Approval presented by Myron McClees, SBE Policy Analyst. Mr. McClees stated the  
180 proposed form currently being presented before the Board is offered in anticipation of the  
181 upcoming implementation date. During the February 26, 2014 Board Meeting, Board  
182 Members voted to allow a 21 day comment period on the original version of the form,  
183 which ended on March 24, 2014. Mr. McClees stated that over 200 comments were  
184 received on the original version of the form and the new form reflects those changes. Mr.  
185 McClees stated that in consultation with the attorney generals' office the affirmation

186 statement in section six was changed. Mr. McClees noted that the document size had  
187 changed to mirror the voter registration card. The felony warning was removed from the  
188 form and the Privacy Act Notice was added to inform voters how information will be  
189 used and protected.

190 Vice Chair Bowers stated she was pleased to read the comments and the amounts  
191 of comments lets SBE know that the election community is active regarding this issue.  
192 The removal of the felony warning was pleasing as SBE does not want to create  
193 additional intimidation to voters who have forgotten where their identification is located.  
194 Secretary Palmer suggested that the Board modify section six to read: "I swear/affirm  
195 that the information provided on this form is true by adding "to the best of my knowledge  
196 I do not have any other form of identification" to provide additional notice to the voter.  
197 Vice Chair Bowers posed the question "Why does that matter since they are using this  
198 identification to vote? When the voter says "To the best of my knowledge" this is given  
199 the right of the voter to obtain a voter identification card that was mandated by the state."  
200 Chairman Judd stated: "To say "I swear/affirm that the information provided on this form  
201 is true." This is addressing only the information written on the form." Secretary Palmer  
202 stated that this identification is not mandated to vote only that it is an acceptable form of  
203 identification if the voter does not have another valid form of identification. Secretary  
204 Palmer stated: "I do not believe that asking a voter to swear or affirm that the information  
205 provided is correct is intimidating because voter have to swear or affirm to get an  
206 absentee ballot or register to vote." Vice Chair Bowers stated: "I understand this and the  
207 photo identification is required to vote and I am not sure why you would want to add  
208 additional layers if during the next step of voting you are affirming who you say you  
209 are." Chairman Judd stated: "We are talking about a small number of individuals as a  
210 valid driver's license covers about 95% of voters in the commonwealth with the other  
211 numerous forms of valid identification cards accepted at the polls." Secretary Palmer  
212 stated: "I would like to thank the SBE staff for their work in going through the comments  
213 and referring to the regulations and working with the workgroup." Secretary Palmer  
214 moved *that the Board adopt the staff recommendation proposed Voter Photo*  
215 *Identification Card Application.* Vice Chair Bowers seconded the motion and Chairman  
216 Judd asked if there were any questions. Robin Lind, Secretary of the Goochland County

217 Electoral Board approached the podium. Mr. Lind suggested that in section six the top  
218 line be changed to read: "..., and may only be issued to registered voters that do not "to  
219 read: "and may only be issued to registered voters who do not"" as a matter of  
220 grammatical correctness. Secretary Palmer moved that the Board adopt the proposed  
221 Voter identification Card Application and removing the word "that" and replacing it with  
222 the word "who" in section six of the form. Vice Chair Bowers seconded the motion and  
223 Board unanimously accepted the amended motion. Chairman Judd asked if there were  
224 additional comments on the motion to approve the form. Theresa Martin, Chairman of the  
225 League of Women Voters approached the podium. Ms. Martin stated she was thankful to  
226 the SBE staff for taking in account the many comments received and incorporating them  
227 into the new voter identification form. Chairman Judd asked if there were additional  
228 comments and there were none. The Board unanimously approved the motion.

229 The next order of business was the Campaign Finance Express Advocacy  
230 definition presented by Chris Piper, Election Services Manager. Mr. Piper stated that the  
231 staff has worked with the Office of the Attorney General as well as the Division of  
232 Legislative Services to draft a definition of "express advocacy". Mr. Piper stated that the  
233 Board's concern with the current definition is that it proved to be too broad in its  
234 application and did not consider intent. The new definition does not attempt to define  
235 intent, but rather states that any advertisements which refer to a candidate and their office  
236 as well as the election date should be deemed to expressly advocating the election or  
237 defeat of the candidate while maintaining the "magic words" standard used in the current  
238 definition. The proposed definition would read: "Express advocacy means a direct or  
239 indirect contribution, in-kind contribution, independent expenditure or loan made to a  
240 candidate or political committee for the purpose of influencing the outcome of an  
241 election; and advertisement which refers to a party or candidate(s) by name which  
242 references the date of election or nominating event for the office sought by the candidate  
243 or uses words or phrases which specifically urge support or opposition of a clearly  
244 identified candidate, such as: "Vote for..."; "Support"; "Elect..."; "Smith for Congress";  
245 "Send Him Home"; "Oppose". Advertisements which indicate the name of the candidate  
246 and the office for which they are seeking shall also be determined to be expressly  
247 advocating the election or defeat of a candidate. Chairman Judd asked: "Do you think

248 this covers all situations that may indicate advocacy.” Mr. Piper replied: “I feel very  
249 strongly that the proposed definition meets the desires of the Boards’ request.” Secretary  
250 Palmer asked how this definition supports the law. Mr. Piper stated that the old law stated  
251 “for the purpose of influencing an election” and in 1998 the definition was challenged  
252 and the ruling referred to “express advocacy” using this definition which refers back to  
253 federal law and the use of those “magic words”. In 2006, the phrase was changed to  
254 clarify the “express advocacy” phrase and the proposed definition tightens the parameters  
255 to reduce vagueness. Secretary Palmer stated that the definition is becoming broader  
256 because SBE is adding a sentence that reads: “...the name of the candidate and the office  
257 for which they are seeking shall also be determined to be expressly advocating the  
258 election or defeat of a candidate.” Secretary Palmer asked if the definition would become  
259 broader by adding this statement. Mr. Piper directed the questions to counsel. Ms. Stoney  
260 stated that during the discussion of developing the language of “express advocacy” that is  
261 going out for public opinion for 21 days SBE was understanding that the proposed  
262 regulation was within the confines of the of the case that set precedent. Ms. Stoney stated  
263 that the attorney general’s office would verify this during the regulatory review.  
264 Secretary Palmer moved *that the proposed regulation on the definition of “Express*  
265 *Advocacy” be placed on the SBE website for public comment for a period of 21 days.*  
266 Vice Chair Bowers seconded the motion and Chairman Judd asked if there were any  
267 comments and there were none. The Board unanimously approved the motion.

268 The next order of business was the Campaign Finance Summary Updates-  
269 Approval to change reporting deadline presented by Chris Piper, Election Services  
270 Manager. Mr. Piper stated that the changes were posted for public comment. The change  
271 of 5:00pm to 11:59pm for the campaign finance reporting deadline will apply to all  
272 Summaries on the Laws and Policies of the Campaign Finance Disclosure Act of 2006.  
273 The comments have been submitted to the Board for review and are overwhelmingly in  
274 support of the proposed change. Of the 61 comments submitted, 15 opposed the proposed  
275 changes while 46 supported the changes. Staff recommends Board approval to change the  
276 deadline from 5:00pm to 11:59pm. Chairman Judd moved *that the Board approve the*  
277 *change from 5:00pm to 11:59pm for the campaign finance reporting deadline and apply*  
278 *this change to all Summaries on the Laws and Policies of the Campaign Finance*

279 *Disclosure Act of 2006*. Vice Chair Bowers seconded the motion and Chairman Judd  
280 asked if there were comments.

281 Bill Wilson, Treasurer of the Virginia Public Access Project (VPAP), approached  
282 the podium. Mr. Wilson stated VPAP respectfully requests that the Board maintain the  
283 5:00pm deadline and maintain the spirit of the policy. Chairman Judd asked if there were  
284 any other comments. Craig Carper, WCVE Public Radio reporter approached the podium.  
285 Mr. Carper stated that the Virginia Capitol Correspondents Association would like to  
286 express our concern with the proposed change to the SBE filing deadline. While the  
287 change makes it easier for those who file, it makes it more difficult for reporters to cover  
288 campaigns in a timely way. The current 5:00pm deadline allows print reporters to publish  
289 data in the next morning's paper. The proposed change to 11:59pm would effectively  
290 mean a 24 hour delay in distributing this information to the public in print publications.  
291 VPAP ask that you consider keeping the current 5:00pm deadline in place, both for the  
292 benefit of those who cover campaigns, but more importantly to better provide valuable  
293 and timely information to the public. Chairman Judd asked if there were any other  
294 comments. Ginger Stanley, Executive Director of the Virginia Press Association  
295 approached the podium. Ms. Stanley stated that the association is strongly opposed to the  
296 change in the deadline and believe that it would remove the public "right to know" and  
297 move the time out of the typical close of business time. Ms. Stanley stated that the  
298 numbers would be reported on their website however, delaying the reporting means that  
299 the impact on the print media would be negative to the media and to the public. Chairman  
300 Judd asked if there were any other comments and there were none. The Board  
301 unanimously passed the motion.

302 The next order of business was the Campaign Finance Yard Sign Proposed Policy  
303 presented by Chris Piper, Election Services Manager. Mr. Piper stated that the staff  
304 requests that the proposed definition of a yard sign be placed on the SBE website for  
305 public comment for a period of 21 days. Mr. Piper stated that there is no definition of  
306 "yard sign" in the *Code of Virginia* or in the Boards' policies. The law governing political  
307 advertisement disclosure is found in § 24.2-955. There has been some confusion as to  
308 whether a disclosure is required on signs placed on someone's private property. The  
309 proposed definition will make it clear that a disclosure is required on all advertisements

310 paid for or distributed by a candidate or political party. Chairman Judd asked if a  
311 homeowner has a homemade sign and wants to place it in their yard would there be a  
312 need for a disclaimer. Mr. Piper stated that policy specially places the ownership on the  
313 candidate or political party. Therefore, an individual who does not meet the independent  
314 expenditure threshold can place a sign in their yard without the disclaimer. Vice Chair  
315 Bowers moved *that the proposed regulation on the definition of "Yard Sign" be placed*  
316 *on the SBE website for public comment.* Secretary Palmer seconded the motion and  
317 Chairman Judd asked if there were any comments and there were none. The Board  
318 unanimously passed the motion.

319 The next order of business was the Stand by Your Ad Violations presented by  
320 Chris Piper, Election Services Manager. Mr. Piper stated that the first consideration was  
321 from the campaign of Bill Colgate. Mr. Piper stated that on or about March 10, 2014, the  
322 Chesterfield County General Registrar received a complaint concerning a flyer  
323 distributed on behalf of Bill Colgate, but did not contain the disclosure statement required  
324 by § 24.2-956. Mr. Piper stated that the copy of the flyer provided to Board Members  
325 does not include the required disclosure statement. Staff recommendation is to assess a  
326 \$100.00 penalty. Chairman Judd asked if there was a representative from the campaign  
327 and there was not. Secretary Palmer moved *that the Board assess a civil penalty of*  
328 *\$100.00 per staff recommendation.* Vice Chair Bowers seconded the motion and  
329 Chairman Judd asked if there were any comments and there were none. The Board  
330 unanimously passed the motion.

331 The next Stand by your Ad Violation was from the campaign of Bob Olson. Mr.  
332 Piper stated that on or about March 10, 2014, the Chesterfield County General Registrar  
333 received a complaint concerning a flyer distributed on behalf of Bob Olsen for  
334 Midlothian School Board that did not contain the disclosure statement required by § 24.2-  
335 956. Mr. Piper stated that the copy of the flyer provided to Board Members does not  
336 include the required disclosure statement. Staff recommendation is to assess a \$100.00  
337 penalty. Chairman Judd asked if there was a representative from the campaign. Bob  
338 Olson, candidate, approached the podium. Mr. Olsen apologized to the Board and stated  
339 that the error was an oversight on his part and when notified by Mr. Haake of the  
340 oversight there was an immediate correction. Chairman Judd asked what the time frame

341 was between notification and correction. Mr. Olsen stated that it was only a couple of  
342 hours. Vice Chair Bowers moved *that the Board waive the civil penalty assessed against*  
343 *Mr. Olsen*. Secretary Palmer seconded the motion and Chairman Judd asked if there were  
344 any other comments and there were none. The Board unanimously approved the motion.

345 The next Stand by your Ad Violation was from the campaign of Dianne Mallory-  
346 Coble. Mr. Piper stated that on or about March 10, 2014, the Chesterfield County General  
347 Registrar received a complaint concerning a flyer distributed by Dianne Mallory-Coble  
348 that did not contain the disclosure statement required by § 24.2-956. Chairman Judd  
349 asked if there was a representative from the campaign and there was not. Secretary  
350 Palmer stated that the letter from the campaign states that the campaign notified the  
351 general registrar of the error and tried to stop the flyer to make corrections. Vice Chair  
352 Bowers moved *that the penalty be waived because the correction to the flyer was made*  
353 *immediately after discovering the error*. Secretary Palmer seconded the motion and  
354 Chairman Judd asked if there were any public comments and there were none. The Board  
355 unanimously approved the motion.

356 The next order of business was the Periodic Review of Chapters 40 & 70  
357 presented by Martha Brissette, SBE Policy Analyst. Ms. Brissette stated that these two  
358 regulations lay the ground work for the absentee voting precinct. SBE placed these  
359 regulations out on Town Hall for public comment and none were received. Ms. Brissette  
360 stated that the attorney general's office will be reviewing these regulations before they  
361 are sent out for publication. Chairman Judd asked about Section 1B that asked: "..., do  
362 you wish to cancel your registration in that county, city, or state and register and establish  
363 residence in this county or city in Virginia? What if the voter says "no" to this question?"  
364 Ms. Brissette stated that this section of the regulation was not the section of the regulation  
365 currently under review. Chairman Judd asked:"What happens?" Ms. Brissette stated that  
366 these are supplemental questions and depending on how the voter answers guides the  
367 general registrar. Chairman Judd inquired why numerous sections of this regulation are  
368 stricken. Ms. Brissette stated that these are the sections of the regulation that deal with  
369 the military overseas voting which will be part of Chapter 45. Ms. Stoney, SBE Counsel,  
370 stated that the regulations have been reviewed by the attorney general's office and the  
371 office will provide letters of assurance on these regulations. Vice Chair Bowers moved

372 *that the Board approve the proposed amendments to the Chapter 40 of its regulations on*  
373 *voter registration.* Secretary Palmer seconded the motion and Chairman Judd asked if  
374 there were any comments and there were none. The Board unanimously approved the  
375 motion.

376 The next regulation to be considered by the Board was Chapter 70, Absentee  
377 Voting presented by Martha Brissette, SBE Policy Analyst. Ms. Brissette stated that  
378 numerous sections of this regulation will be moved into Chapter 4.1 that deals with  
379 absentee and overseas voter and to make a change in the definition section relating to  
380 those two areas. Chairman Judd stated: “In two previous public meetings we have  
381 discussed material omissions and what is not a material omission and I would like to see  
382 some public comment on these.” Ms. Brissette stated that the changes presented today  
383 encompass the structural changes to the regulations and the content changes will be  
384 addressed at a later meeting. Chairman Judd moved *that the proposed changes to Chapter*  
385 *70 be tabled until we address it with the other regulations.* Vice Chair Bowers seconded  
386 the motion and the Board unanimously approved the motion.

387 Martha Brissette, SBE Policy Analyst, informed the Board that the suggestion to  
388 retract the approval of Chapter 40 would be suggested as the chapters are interwoven.  
389 Ms. Stoney, SBE Counsel, stated that it is recommended to table the three regulations to  
390 avoid duplications of languages and the regulations can be revised simultaneously.  
391 Chairman Judd, having voted on the prevailing side, moved *that the Board Members*  
392 *reconsider the motion to pass the proposed changes to Chapter 70.* Secretary Palmer  
393 seconded the motion and Board unanimously approved the motion. Chairman Judd  
394 moved *that the Board table Chapter 40.* Vice Chair Bowers seconded the motion and the  
395 Board unanimously approved the motion. Chairman Judd moved *that the creation of*  
396 *Chapter 45 be tabled.* Vice Chair Bowers seconded the motion and the Board  
397 unanimously passed the motion.

398 Chairman Judd asked if there was any other business to come before the Board.  
399 Reagan George, Virginia Voters Alliance approached the podium. Mr. George stated that  
400 the: “Virginia Voters Alliance was started in 2009 to educate the public about voter fraud  
401 and the need to improve our election laws and processes in the Commonwealth of  
402 Virginia. We have established a working relationship with Fairfax County Election Board

403 to recruit election officials as well as recruit, train, and deploy poll watchers to observe  
404 election activities. We also established a working relationship with True the Vote in  
405 Houston to research where multiple voters are listed at the same address. We have been  
406 successful in Fairfax County where our challenges resulted in 70% of voter registration  
407 being removed from the VERIS system. Virginia Voters Alliance was instrumental in  
408 working with members of both Privileges and Elections committees in the General  
409 Assembly to pass the current photo identification bill into law. We are planning to  
410 follow-up this project with the same type of examination of the District of Columbia,  
411 Pennsylvania, New York, New Jersey, Delaware, North Carolina, Tennessee, West  
412 Virginia, and Georgia. Virginia Voters Alliance is also investigating how to identify  
413 voters that are registered and vote in Virginia but live in the states that surround us. We  
414 are also determining the best way to identify non-citizens who have registered to vote and  
415 may have voted in past elections. The problems and improvements needed are; (i) Close  
416 the gap in the voter id law so that absentee voters must positively identify themselves  
417 with a copy of their photo identification when using mailed ballots.,(ii) There are 50,000  
418 plus patient beds in Virginia in Nursing homes and rehab centers. Voter fraud is rampant  
419 in these locations. We sent out 1500 letters to administrators informing them of vote  
420 harvesting process that take place in their facilities. We got four responses.  
421 Administrators must be held accountable for voter fraud that occurs in their facilities. Poll  
422 watchers from each party must be required to be present when patients are involved with  
423 election and voting processes.,(iii) Certain non-violent felons, especially those that  
424 commit voter fraud, should never be given back their right to vote. Felons that are not  
425 allowed to vote should be audited annually by SBE., (iv) Virginia must control the  
426 registration process as well as the form used to register voters. The current system is the  
427 perfect vehicle for identity theft and “lost” registrations. Forms must have control  
428 numbers that are issued to voter registration drive organizers. Receipts must be given to  
429 registrants. Fines should be imposed if unused forms are not returned to the local election  
430 board. Social Security numbers and birth dates should be entered via phone or internet to  
431 activate the voter’s registration.,(v) The process to control duplicate voters moving  
432 between states is broken and full of gaps. ERIC and the Interstate Crosschecks are helpful  
433 but reactive. There needs to be feedback between registrars and the new registration is

434 only active when the prior registration is purged.,(vi) Virginia should require proof of  
435 citizenship to register to vote with both the state form and federal post card. To assist in  
436 that effort the DMV should keep citizenship status on all drivers and their status should  
437 be present on all drivers' licenses. The SBE and DMV should reconcile voter  
438 registrations with citizenship status annually. Long term the federal real identification law  
439 should be amended to include citizenship status which should be made available to the  
440 state's DMV.,(vii) There needs to be a clearing house for all voter fraud referrals  
441 statewide. The SBE would be the perfect place to assume that role and provide  
442 transparency for the public concerning this issue., and (viii) SBE should also develop key  
443 performance indicators requiring the local registrars to report their work backlog, in-  
444 process and completed activities monthly. These statistics should also be made available  
445 to the public. In conclusion, the Brennen Center talking points are patently false. The  
446 statement that "voter fraud does not exist because there are no convictions" just points  
447 out that our laws are ineffective and full of gaps. The lack of convictions shows us that  
448 voter fraud is hard to prevent and hard to prove with existing poorly written laws, poor  
449 systems processes, and lax prosecutions. The statement that "voter fraud does not warrant  
450 the expenditures to prevent it because it is such a small percentage of the overall vote".  
451 What percentage of the dollars in your checking account at the bank would you be  
452 comfortable losing every month? I don't want my bank to be robbed before they take  
453 precautions to safeguard my money. The state should be just as proactive with my vote; it  
454 is just as precious to me as my checking account. Voter fraud does not require  
455 convictions to exist. Thank you for giving me the opportunity to speak to you about this  
456 important subject. Chairman Judd asked if there were further comments.

457 Jay DeLancy, Executive Director of the Voter Integrity Project of North Carolina  
458 approached the podium. Mr. DeLancy stated that on April 4, 2014 their state elections  
459 chair released information about a program that Virginia is participating in as well called  
460 the interstate crosscheck program. In North Carolina the chair found 675 voters with the  
461 exact first name, last name, date of birth, and last four of their social security number.  
462 These people either all committed fraud or were victims of identity theft. The leadership  
463 of North Carolina would like to see the release of Virginia's data found in the interstate  
464 crosscheck program. Chairman Judd asked if there were further comments.

465 Clara Bell Wheeler, Albemarle County Electoral Board Chair approached the  
466 podium. Ms. Wheeler thanked the members of the SBE Board and Staff who worked  
467 diligently to get Virginia into the Kansas Interstate Crosscheck project. Please take the  
468 data and do something with it. Ms. Wheeler stated: “When a registrar in the  
469 commonwealth has the audacity to say to SBE and his electoral board that he is not going  
470 to pay any attention to the crosscheck system and that they are not going to pay attention  
471 to dual registration. I think that person should be removed from office because they are  
472 not adhering to the *Code of Virginia* and they are not caring what the *code* says for  
473 registration and they are not listening to what SBE has provided them in terms of  
474 information. If we are going to have the crosscheck we need to use it. Voter Fraud is real.  
475 What separates us from other countries is that we should have free, fair, and legal  
476 elections. We need to check identification and teach our election officers in a  
477 standardized method of behavior for elections. Thank you for putting us in crosscheck  
478 and I know that you will implement it fairly.”

479 Secretary Palmer stated that SBE has been transparent about the results that SBE  
480 has received and, in 2014, Virginia has over 100,000 matches of duplicate registrations  
481 with other states based off of name, date of birth, and social security number. The  
482 agency, the Board, and the *Code of Virginia* has determined that we are going to take  
483 action and, in this federal election year, we are going to send mailers to all these  
484 individuals out-of-state to have them respond and remove themselves from the voter  
485 rolls. Virginia produced a report in January, 2014 and we will have a report to the  
486 General Assembly in August, 2014. This cross-state data is helpful in identifying the  
487 moving of voters and SBE wants to ensure that our rolls are clean. Secretary Palmer  
488 stated that SBE will educate the public on the responsibility of notifying their voting  
489 locality when they relocate. Secretary Palmer stated that he encourages that all the  
490 advocacy groups make it known to voters that it is important to update their information  
491 when they move. Chairman Judd asked if there were additional items to come before the  
492 Board or the Good of the Order. Ms. Stoney stated that an executive session was  
493 necessary to discuss pending litigation. Chairman Judd stated that this would not be  
494 possible at today’s meeting.

495 Chairman Judd moved *that the Board adjourn*. Vice Chair Bowers seconded the  
496 motion and without further comment the Board voted to adjourn. The meeting was  
497 adjourned at approximately 12:35PM.

498 The Board shall reconvene on May 14, 2014 at 9:00AM in the General Assembly  
499 Building, Room C.

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Secretary

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Chair

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Vice Chair

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# Secretary's Report

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BOARD WORKING PAPERS  
Donald Palmer  
SBE Secretary



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# Legal Report

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BOARD WORKING PAPERS  
Kristina Perry Stoney  
SBE Legal Counsel



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# New Business

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BOARD WORKING PAPERS



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# State Certification Document Electronic Poll Books

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BOARD WORKING PAPERS  
Eugene Burton  
Voting Technology Specialist



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To: Members of the State Board of Elections

From: Eugene Burton, Voting Technology Specialist

Date: May 14, 2014

Re: Request for Certification Checklist – Electronic Pollbooks (EPB)

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

I move that the Board approves the *Request for Certification Checklist – Electronic Pollbooks (EPB)*, as recommended by SBE staff.

**Applicable Code Sections:** §24.2-611(D).

**Attachments:**

Your Board materials include the following:

- A draft of *Request for Certification Checklist – Electronic Pollbooks (EPB)*.
- A draft of *Electronic Pollbook Certification – Testing Checklist*

**Background:**

§24.2-611(D) of the Code of Virginia allows all localities to expend their own funds to purchase electronic pollbooks that have been approved for use in elections by the State Board. Although most localities in Virginia use the EPB program developed by the SBE, many localities are looking at vendors for solutions that offer newer technology. To help ensure the EPB solutions offered by vendors meet Virginia Election Law requirements, SBE staff is proposing a certification process outlined in the attached checklist.

**Virginia Department  
of Elections**

***Request for Certification Checklist –  
Electronic Pollbooks (EPB)***

In accordance with the State Certification of Electronic Pollbooks, the certification evaluation procedure must be initiated by a letter from the vendor to the Commissioner of the Department of Elections. This letter shall be for either a specific Electronic Pollbook or for a software/firmware upgrade to an Electronic Pollbook system. To assist in meeting this requirement, this checklist shall be used by both the vendor and an authorized reviewer of the Department of Elections to ensure the request for certification is completed.

**VENDOR INSTRUCTIONS:**

The request to begin the certification process for an Electronic Pollbooks shall be a letter addressed to:

**Voting Technology Division  
Department of Elections  
1100 Bank Street, 1st Floor  
Richmond, Virginia 23219**

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.
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. The location and manufacturing capability of each facility that is used to fabricate and assemble all or any component part of the EPB system being submitted for certification.
7. The location and servicing capability of each service facility that will be used to service the EPB system.
8. If publicly traded, indexes rating the business debt.
9. Quality assurance (test plans) used to ensure solution meets advertised requirements.

If the EPB system is certified, the Department of Elections will retain the Corporate Information as long as the voting system is marketed or used in Virginia.

#### 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.

In addition, the Department of Elections will solicit a statewide contract from any vendor for Electronic Pollbooks certified for use in the Commonwealth.

#### **REVIEWER INSTRUCTIONS:**

Use the checklist below to ensure that the proper information is provided in the request letter and initial in the vendor column next to each item in the checklist to signify that the information is included. Finally, sign and date the signature block below and enclose this checklist with your request for certification.

To ensure the request for certification is complete, first check that the vendor has initialed the checklist next to each requirement and signed the checklist. If not, the request should be deemed incomplete. Next, ensure that the information required is contained within the letter and is provided with sufficient details. For each item, initial in the reviewer column and then complete the reviewer information at the end of this checklist. Return a copy of this checklist to the vendor at their preferred address along with a notification of the earliest date after which the requested certification evaluation can begin. Retain the original letter and completed checklist.

*Request for Certification Checklist – Electronic Pollbooks (EPB)*

Vendor Name: \_\_\_\_\_ EPB System: \_\_\_\_\_

| <b>Request for certification shall contain the following information:</b>  | <b>Vendor</b> | <b>Reviewer</b> |
|--|---------------|-----------------|
| 1. Identification of the specific Electronic Pollbook system to be evaluated for certification. Each different Electronic Pollbooks or version of an Electronic Pollbooks requires a separate request for certification. Each component of the hardware and software must be identified by version number. |               |                 |
| 2 A brief overview description of the Electronic Pollbook system. Typical marketing brochures are usually sufficient for this description.   |               |                 |
| 3. Whether the proposed Electronic Pollbook system has ever been denied certification or had certification withdrawn in any state.   |               |                 |
| 4. Whether the proposed Electronic Pollbook or a version of the proposed Electronic Pollbook is currently used in Virginia or elsewhere. (List all locations where the system is used.)  |               |                 |
| 5. A check or money order for the non-refundable certification fee of \$3000.00 must be included with this request before any certification work begins.   |               |                 |
| 6. Whether the proposed Electronic Pollbook system has been reviewed and certified by an approved lab. If yes, the date of such certification.   |               |                 |

**Vendor Truth and Accuracy Statement**

The information provided in the Request for Certification is true and accurate. I understand that if this information is found to be inaccurate, the Department of Elections may choose to terminate this certification testing.

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

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Submitted Date: \_\_\_\_\_

**Virginia Department of Elections Review**

Checklist reviewed by

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

Title: \_\_\_\_\_

Date of Review: \_\_\_\_\_

Copy Sent to vendor on: \_\_\_\_\_

Outcome of Review: Accepted

Rejected

Reviewer's Comments:



\_\_\_\_\_  
 \_\_\_\_\_

**Virginia Department of Elections** | *Electronic Pollbook Certification Testing Checklist*

§24.2-611(D) of the Code of Virginia requires electronic pollbooks (EPB) programs to be approved for use in elections by the State Board. Each EPB program submitted for certification in Virginia shall undergo State Certification Testing. State Certification is intended to verify that the design and performance of the electronic pollbook complies with all applicable requirements of the *Code of Virginia* and must provide the functionality required by the Virginia Department of Elections.

This checklist provides a point by point list of the items to be verified during State Certification Testing as well as the reference to the Virginia State Law from where the requirement is derived. This checklist requires that the vendor attest to the electronic pollbook compliance with these requirements but the final determination is the sole discretion of the State Board of Elections and its authorized reviewers.

**VENDOR INSTRUCTIONS:**

Any electronic pollbook submitted for use and certification in the State of Virginia must comply with the *Code of Virginia* in all respects. Prior to submission, use the checklist below to ensure the electronic pollbook, its software and equipment, meets each of the requirements in the checklist. Upon submission of the electronic pollbook for testing, initial in the vendor column next to each item in the checklist to signify that the electronic pollbook submitted meets the specific requirement. Then, sign the truth and accurate statement at the bottom and submit this checklist to the Department of Elections and designated evaluation agent along with the electronic pollbook.

**REVIEWER INSTRUCTIONS:**

To ensure the submitted electronic pollbook is compliant with the *Code of Virginia*, first check that the vendor has initialed the checklist next to each requirement and signed the truth and accurate statement. If not, the checklist should be deemed incomplete and testing should not continue. The checklist should be marked rejected and a new checklist must be completed.

Next, initial next to each requirement as they are tested and the requirement is deemed met according to the Test Plan associated with this certification testing. For each item, the test plan should include conditions of satisfaction which shall be met in order for the requirement to be deemed complete. If a requirement is deemed to not be complete, clearly indicate so in the reviewer column. All requirements must be met in order to pass State Certification. If the electronic pollbook does not meet the conditions of satisfaction in the test plan for any requirement, this checklist should indicate so and the outcome should be marked as rejected.

When the checklist is completed, regardless of the outcome, return a copy of this checklist to the vendor at their preferred address and retain this completed checklist for inclusion in the final report.

Vendor Name: \_\_\_\_\_ EPB System: \_\_\_\_\_

**CHECKLIST AND DEFINITION:**

*Electronic Pollbook Certification Testing Checklist*

Electronic Pollbook Definition - An electronic pollbook, also known as an ( EPB), is typically either hardware, software or a combination of the two that allows elections officials to review and/or process voter information during an election but does not actually count votes. This software or hardware is used in place of paper – based pollbooks. The functions of an EPB include voter lookup, verification, precinct assignment, ballot assignment, and may perform other functions such as redirecting voters to the correct voting location.

| <b>The electronic pollbook shall:</b> |                        |   | <b>Vendor</b> | <b>Reviewer</b> |             |
|---------------------------------------|------------------------|---|---------------|-----------------|-------------|
|                                       | <b>VA Code Section</b> | <b>GENERAL VOTING OPERATION</b>   |               | <b>PASS</b>     | <b>FAIL</b> |
| 1.                                    | § 24.2-531             | Ability to produce a separate pollbook report for each party taking part in any primary.  |               |                 |             |
| 2.                                    | §24.2-668(C)           | Redundant memory devices which can produce a list of those who have already voted -- at least one of these devices shall be removable by an Officer of Election in case of emergency.   |               |                 |             |
| 3.                                    | §24.2-668(C)           | Ability to mark reports in order to identify the election for which it is used.   |               |                 |             |
| 4.                                    | § 24.2-611             | Ability to automatically record the consecutive number of the voter at the time he offers to vote.  |               |                 |             |
| 5.                                    | § 24.2-611             | Ability to record voting credit for each in-person and curbside voter. And audit features which permit verification of proper data transfer into Virginia Election and Registration Information System (VERIS).                   |               |                 |             |
| 6.                                    | § 24.2-611             | And audit features which permit verification of proper data transfer into Virginia Election and Registration Information System (VERIS).  |               |                 |             |
| 7.                                    | § 24.2-611             | Ability to incorporate safeguards to assure that the records of the election, including the voter record and voter count records, will provide prompt, accurate, and secure records of those who have voted.                      |               |                 |             |
| 8.                                    | § 24.2-643             | For federal elections, the ability to identify any voter who is required by 42 U.S.C.S. § 15483(b) of the Help America Vote Act of 2002 to show identification the first time the voter votes in a federal election in the state. |               |                 |             |
| 9.                                    | § 24.2-651             | When a voter’s qualifications are challenged, the ability to record that the challenged voter signed the required Oath if he is allowed to vote.  |               |                 |             |

*Electronic Pollbook Certification Testing Checklist*

| <b>The electronic pollbook shall:</b> |                            |   | <b>Vend<br/>or</b> | <b>Reviewer</b> |             |
|---------------------------------------|----------------------------|---|--------------------|-----------------|-------------|
|                                       | <b>VA Code<br/>Section</b> | <b>GENERAL VOTING OPERATION</b>   |                    | <b>PASS</b>     | <b>FAIL</b> |
| 10                                    | § 24.2-652                 | The ability to allow the Officer of Election to enter a new voter record, check in the voter and record that the voter signed the required statement in accordance with State Board’s instructions. Provided that the voter offers to vote and his name does not appear on the EPB for that precinct, and required conditions regarding eligibility are met.                      |                    |                 |             |
| 11                                    |                            | Ability to allow Officers of Election to add a voter record when a voter votes a Provisional ballot. The voter shall NOT receive a consecutive pollbook count (PBC) number. The EPB shall be able to produce a separate report listing all voters who cast a Provisional ballot.  |                    |                 |             |
| 12                                    | § 24.2-668                 | Ability to store the election results on a removable data memory device, capable of being sealed, conveyed, and retained as required by §24.2-668, and otherwise treated as the pollbook for that election for all purposes subsequent to the election.   |                    |                 |             |
| 13                                    | §24.2-666                  | Ability to record the notation “P” (meaning paper ballot) for a voter who voted on a traditional [vs. optical scan ballot] paper ballot for any reason.   |                    |                 |             |
| 14                                    | § 24.2-711                 | Ability to record the notation “AB” (meaning absentee ballot) for each person on the absentee voter applicant list prior to opening the polls and prior to election day.  |                    |                 |             |
| 15                                    | § 24.2-711                 | Ability to produce, on screen and on a paper printout, a report of all voters having been marked with “AB” prior to the opening of the polls so that the officers of election at each precinct may check the report for accuracy and make any additions or corrections required.  |                    |                 |             |
| 16                                    | §24.2-653.1                | If a voter who previously requested an absentee ballot {name is marked with an “AB”} presents himself to vote in person and meets the required conditions, the ability to allow the Officer of Election to change the voter record to indicate a Provisional ballot was cast, the proper form was signed, and NOT assign a consecutive pollbook count (PBC) number to that voter. |                    |                 |             |
| 17                                    | §24.2-651.1                | If a voter offers to vote whose name is marked as already having voted meets the required conditions to be permitted to vote, the ability for the officers of election to allow such voter to vote, indicate that the proper statement was signed, and assign a second consecutive voter number to that voter .   |                    |                 |             |

*Electronic Pollbook Certification Testing Checklist*

| <b>The electronic pollbook shall:</b> |                        |   | <b>Vendor</b> | <b>Reviewer</b> |             |
|---------------------------------------|------------------------|---|---------------|-----------------|-------------|
|                                       | <b>VA Code Section</b> | <b>Technical Requirements:</b>  |               | <b>PASS</b>     | <b>FAIL</b> |
| 18                                    |                        | Provide for the importing, collection, storage, retrieval, displaying, and editing of information [typical database type functions] for all registered voter records generated by the state voter registration system; shall allow for retrieval and display of information on registered voters by various search criteria, e.g. voter name, ID number, DMV number, locality, precinct, address, etc |               |                 |             |
| 19                                    |                        | Be capable of importing and populating Department of Motor Vehicles (DMV) data (i.e. Customer Numbers; Inventory Control Numbers) that is integrated with voter registration records or provided separately.  |               |                 |             |
| 20                                    |                        | Have sufficient storage and memory to house, process, and display a pollbook voter record for all voter records in the state voter registration system.   |               |                 |             |
| 21                                    |                        | Have the ability to support all VA election types and ballot combinations. Shall be capable of providing sufficient voter record information for determining a voter's eligibility to vote, correct precinct, and ballot style.   |               |                 |             |
| 22                                    |                        | Be capable of obtaining voter identification information by scanning/reading barcodes on various documents including Driver's Licenses and Voter Registration Cards, and searching voter records using that information.  |               |                 |             |
| 23                                    |                        | Have the ability to display user defined and edited informational prompts when voter meets specified criteria (i.e. HAVA voter).  |               |                 |             |
| 24                                    |                        | Be capable of: tracking the pollbook count (PBC); automatically updating it upon checking in a voter; synchronizing it across networked units simultaneously; displaying it conspicuously, continuously (without user action)   |               |                 |             |
| 25                                    |                        | Have the ability to generate reports and display them on screen, send to a printer, and save to a removable storage device. Shall be able to track and report current voting statistics. Shall be able to produce summary reports.  |               |                 |             |

*Electronic Pollbook Certification Testing Checklist*

| <b>The electronic pollbook shall:</b> |                            |  | <b>Vend<br/>or</b> | <b>Reviewer</b> |             |
|---------------------------------------|----------------------------|--|--------------------|-----------------|-------------|
|                                       | <b>VA Code<br/>Section</b> | <b>Technical Requirements:</b>   |                    | <b>PASS</b>     | <b>FAIL</b> |
| 26                                    |                            | Be configurable such that any two (2) or more EPB units may be inter-connected via cable (networked) such that inputs on any EPB unit is synchronized between all EPB units in the same polling place, simultaneously. Upon inserting a new unit to networked units in a polling place, all data stored on the active unit(s) shall be synchronized automatically to the new unit. The insertion or removal of a unit, or failure of any networked unit, shall not have any impact on the remaining active units. An alert shall be displayed on the active units if a networked unit loses its connection to the network. |                    |                 |             |
| 27                                    |                            | Have a backup power supply (battery), such that, in the absence of AC power, the battery takes over automatically without the loss of any data. Battery power status should be displayed continuously with appropriate prompts/warnings before the system shuts down due to power loss. The battery should sustain the unit for a minimum of 2 hours and, preferably, 4 hours.   |                    |                 |             |
| 28                                    |                            | Be single use (only system administration and EPB associated applications/functions).  |                    |                 |             |
| 29                                    |                            | Provide controlled, secure logical/administrative access.  |                    |                 |             |
| 30                                    |                            | Have full audit tracking capability of all transactions. Audit logs shall be encryption protected and data shall include timestamp and user identity.  |                    |                 |             |
| 31                                    |                            | Use data encryption equivalent to current industry standards.  |                    |                 |             |
| 32                                    |                            | Have redundant data storage devices, one of which must be removable (of current industry standards and readily available; i.e. USB type flash drive). All data on removable storage devices shall be protected with data encryption.   |                    |                 |             |
| 33                                    |                            | Be capable of being 'loaded' for an election via a removable data storage device (as opposed to being required to access a network or the Internet).   |                    |                 |             |
| 34                                    |                            | Include warranty and service agreement options (hardware, software, technical support—telephone helpdesk, on-site support).  |                    |                 |             |
| 35                                    |                            | Include comprehensive user training provided by the vendor.  |                    |                 |             |





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# Voter Photo ID Regulation

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BOARD WORKING PAPERS  
Myron McClees  
SBE Policy Analyst



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## Memorandum

To: Members of the State Board of Elections

From: Myron McClees, Policy Analyst

Date: May 14, 2014

Re: Feedback for Proposed Regulation for Voter Identification Card

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

Provide potential edits for inclusion in the final regulation to be presented before the Board during its June 11<sup>th</sup> meeting.

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

### **Attachments:**

Your Board materials include the following:

- Feedback received for Proposed regulation 20-40-90 Voter Identification Cards

### **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.

A proposed regulation was presented before the board during its April 2, 2014 meeting. It provides, *inter alia*, the situations where a voter could request the card and the requirements that one must meet prior to its issuance. The regulation gives general registrars the capability of soliciting applications for the ID outside of their general registrar's office, but does not require such action take place. It provides guidance for the issuance of a temporary identification document and for replacement cards. The regulation also contains a provision stating that a person's inclusion in the Department of Motor Vehicle's database will not exclude such person from receiving a Voter Identification Card.

Statements received during the comment period are being provided to the Board in hopes of alerting its membership to public sentiment. Staff asks that the Board provide guidance as to suggested edits

for the final version of the regulation, which will be presented during the board meeting scheduled for June 11, 2014.



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STATE BOARD *of* ELECTIONS

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# Voter Registration Drive Guidelines Approval of Revisions

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BOARD WORKING PAPERS  
Garry Ellis  
NVRA/Voter Registration Coordinator



## Memorandum

To: Members of the State Board of Elections  
From: Garry E. Ellis, NVRA/Voter Registration Coordinator  
Date: May 14, 2014  
Re: Proposed changes to Guidelines for Conducting Voter Registration Drives

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

I move that the Board approve staff's proposed changes to the Guidelines for Conducting Voter Registration Drives.

**Applicable Code Sections:** §§ 24.2-416.6

### **Attachments:**

Revised Guidelines for Conducting Voter Registration Drives (Rev. 7/14)

### **Background:**

Due to the upcoming change establishing the Department of Elections as well as photo ID requirements, staff has updated the Guidelines for Conducting Voter Registration Drives.

The proposed changes to the Guidelines for Conducting Voter Registration Drives are as follows:

Introduction Page:

Agency Logo

Updates references to State Board and/or State Board of Elections to Department of Elections where appropriate

Page 8: Adds photo identification requirements taking effect on July 1, 2014.



## **GUIDELINES FOR CONDUCTING VOTER REGISTRATION DRIVES**

### **Introduction and Notice of Training Requirement**

These guidelines outline the several requirements imposed by the Code of Virginia as well as instructions and best practices as prescribed by the State Board of Elections (SBE) on how to effectively and lawfully conduct a voter registration drive. Helping voters register – like driving or filing taxes – is a serious undertaking. Training and reviewing these guidelines before launching your registration drive will ensure compliance with the law and success in your efforts.

State law requires any group or individual which requests 25 or more voter registration applications from SBE or a local general registrar's office to register and complete SBE certified training (see page 3 for more information). Groups which print and distribute their own voter registration applications when conducting drives are also strongly encouraged to complete the training to protect both applicants and the individuals working on the drive.

Voter registration applications can be requested in person at the local general registrar's office or by calling [SBEthe Department of Elections](http://www.sbelections.virginia.gov) at 1-800-552-9745. Training classes are offered online, at the local voter registration office or by signing up for an in-person class which are held at [SBE'sthe Department's](http://www.sbelections.virginia.gov) offices. Please visit [SBE'sthe Department of Elections'](http://www.sbelections.virginia.gov) website ([www.sbelections.virginia.gov](http://www.sbelections.virginia.gov)) for information on upcoming training sessions.

**Please read these instructions carefully as failure to follow the requirements laid out by state law may result in criminal penalties.** Do not hesitate to contact the [State BoardDepartment](http://www.sbelections.virginia.gov) of Elections (~~SBE~~) or a local voter registration office if you are uncertain on the laws and proper procedures. ~~The~~**Both the** State Board of Elections (SBE) ~~thanksand the~~ [Department of Elections thank](http://www.sbelections.virginia.gov) you for your efforts to increase voter registration and participation in the Commonwealth of Virginia.

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## Registration and Training Requirements for Drives

✓ The law requires training and registration for some individuals and groups conducting voter registration drives. Specifically groups and individuals which obtain 25 or more voter registration applications from SBE or a ~~local~~general registrar's office must register with SBE or in person at the general ~~registrar~~registrar's office and take training (Va. Code § 24.2-416.6). Groups printing their own registration applications and engaging in registration drives are also strongly encouraged to register and receive this training.

✓ Both the registration process and training can be completed online or in-person at the State Board~~Board~~Department of Elections or a local voter registration office.

✓ At least one agent of the organization seeking to obtain applications must complete the training and certify that the organization will require training for all persons collecting completed voter registration applications from applicants on behalf of the organization. However, if any other individual requests more than 25 applications (even if they claim to represent a group which has already received the training), the individual is still required to complete the training prior to receiving the requested applications. Other groups and individuals conducting voter registration drives which obtain their registration applications through other means are strongly encouraged, but not required, to receive training prior to conducting a drive.

✓ Upon completion of the training, the group or individual will receive a certificate stating ~~that~~ they have completed the required training for conducting voter registration drives in the Commonwealth. The certification is valid until June 30<sup>th</sup> each year upon which time the training must be completed again in order to renew the certification.

✓ For more information on the training requirements please contact your local voter registration office or ~~SBE~~the Department of Elections at 1-800-552-9745. The registration and training module can be accessed at [www.sbeelections.virginia.gov/](http://www.sbeelections.virginia.gov/).

## Rules of the Road: Best Practices Overview

1. Make sure the organization you represent is (1) registered with the State Board of Elections (this can be checked by contacting [SBEthe Department of Elections](http://www.sbelections.org) at 1-800-552-9745), and (2) has taken state approved training. For training and registration requirements see page 3 ~~and~~ of these guidelines as well as the forms at the end of this document.— These requirements apply if an individual or an organization receives 25 or more applications from the State Board of Elections or a local voter registration office.- Other groups are encouraged to receive training.
2. When approaching individuals, introduce yourself and the organization you represent, explain your purpose, the qualifications to vote in Virginia, and whether you will deliver the completed application for the applicant. You should inform voters that Virginia now has online voter registration and address update available on the [SBEDepartment's](http://www.sbelections.org) website to those with a Virginia driver's license or DMV issued ID card. This information will be helpful to an applicant who wishes to ensure their application is delivered in real time directly to their local voter registration office.
3. Target only non-registered individuals who are qualified to vote or registered individuals who have outdated registration information such as those who moved and did not update their registration address.
  - ✓ Don't complete or accept applications for anyone who you know is not eligible to vote, such as a convicted felon whose rights have not been restored or a non-Virginia resident.
  - ✓ Don't attempt to re-register individuals who are registered and have up to date information. Registrants are able to check to their registration information and status online at [www.sbelections.org](http://www.sbelections.org).
  - ✓ You should leave the registration application with the individual if he/she is uncertain as to their registration status or his/her qualification to register to vote.

### **The Qualifications to Vote in Virginia:**

- ✓ Citizen of the United States.
- ✓ Resident of Virginia (residency requires both domicile and a place of abode, i.e., an intention to remain indefinitely and a physical place to live.) Voters must provide a current residence address when completing the application. Note: special rules apply to military and overseas voters.
- ✓ Must be at least 18 years old on or before the date of the next general election.
- ✓ Unless rights have been restored, must not have been convicted of a felony nor have been judged by a court to be mentally incapacitated (either in VA or another state). Restoration required as to each disqualifying conviction or adjudication.

4. Instruct individual that the application **must** be completed **neatly, accurately,** and in its **entirety.**
  - ✓ Failure to provide the required information, including citizenship status, will result in ~~the~~ rejection of an applicant's registration.
  - ✓ Applicants are also required to list their previous registration address to help prevent registration in more than one jurisdiction or duplicate registrations. An applicant who is already registered in Virginia may update his record using an application which is completed with the changed information and signed by the voter. A registrant may also update his or her address online with the online registration portal at the

~~SBE~~[Department of Elections](#)' website if the registrant has a Virginia driver's license or DMV ID card.

- ✓ **Intentionally** making a materially false statement on the registration application may result in felony prosecution or other penalties.

5. Unless specifically directed by the applicant, do not complete the blanks on the registration application.
6. Respect the wishes of those who decline to register. It is unlawful to, by use of threats or force, interfere with, or attempt to interfere with a person applying or declining to register to vote. Va. Code § 24.2-1002.
7. Those registering should be reminded they are required to provide ~~their~~[photo](#) identification at the polls. Please encourage individuals to contact their local registration office or visit [www.sbeelections.virginia.gov](#) for more information on Virginia's ~~voter~~[photo](#) identification requirements.
8. If you offer to deliver the application, you must complete and provide a receipt to the applicant upon his/her completion of the application. Va. Code § 24.2-418.1.
9. You must deliver completed applications to the local voter registration office or to ~~SBE~~[the Department of Elections](#) within 10 days of signature date or by 5:00pm on the day of the next election's registration deadline, whichever date comes first. Va. Code § 24.2-1002.01.
10. To ensure the timely and accurate processing of registration applications please provide the appropriate local voter registration office with an alphabetical list detailing the name on every application delivered.
11. You may be subject to criminal penalties if you fail to give the applicant a receipt to document your timely delivery of completed applications.

Individuals have the ability to complete their application directly on ~~SBE's~~[the Department of Elections](#)' website ([www.sbeelections.virginia.gov](#)). The application can be completed by the individual on a tablet or laptop.

**Questions or Concerns?** Please contact ~~SBE~~[the Department of Elections](#) at 1-800-552-9745 or by email at [Info@Sbeinfo@elections.virginia.gov](#).

## The Do's: Basic Instructions and Guidelines

### 1. **Register with election officials, complete official training, and ensure training of volunteers and staff:**

- ✓ Please see Registration and Training Requirements on page 3 and forms at the end of the guidelines.
- ✓ **When obtaining 25 or more voter registration applications from SBE or a local registrar's office, such individuals or groups are required to register with SBE (this is done by completing the required training either online, in the local voter registration office or in person at [SBE's the Department of Elections'](#) offices). Groups printing their own registration applications are also strongly encouraged to register and receive this training. Va. Code § 24.2-416.6**
- ✓ If you are the organizer, manager, or supervisor of your organization's voter registration drive, ensure your volunteers and staff are trained on and knowledgeable about these guidelines and Virginia law on voter registration drives.
  - ✓ Voter registration drives are serious undertakings and it is imperative you follow the laws. These guidelines are designed to protect both the third party and the applicant. It is essential that all participants in your organization's voter registration drive are made aware of the rules, regulations, and guidelines related to voter registration drives as well as the legal consequences for failure to comply with Virginia and federal law.
  - ✓ When conducting drives your volunteers and staff should, at a minimum, keep the two page "Best Practices and Overview for Volunteers" document on pages 4 and 5 of this document with them for quick reference.
  - ✓ Each section of the registration application asks for information the applicant must provide in order for the voter registration office to accept the application and register the individual. It is important that you familiarize yourself with the application. Official training materials and these guidelines should answer any questions you may have regarding the registration application; however, if questions remain please contact [SBE the Department of Elections](#) or a local voter registration office.

### 2. **You should only seek to register eligible Virginia residents who are not currently registered and those whose registration information is not up to date:**

- ✓ Please review the FAQ section below as it relates to qualifications to register to vote in Virginia. Individuals ineligible to vote should not be instructed to complete registration applications.
- ✓ Individuals should complete a new application only to apply to register to vote or notify their local voter registration office of a change to their existing voter registration record such as a change in residence address or name.
- ✓ You should not seek to re-register individuals who are already registered to vote and whose information is current. You should also not offer applications to individuals who indicate they are not residents of Virginia. Please see "The Don'ts" #1 below for additional information.

### 3. **Drives must complete and provide applicants a receipt if offering to deliver a completed application:**

- ✓ If you offer to deliver the application, Virginia law requires voter registration drives

to provide applicants a receipt upon his/her completion of the voter registration application. Va. Code § 24.2-418.1.

- ✓ Attached to the registration application is a receipt which requests and/or displays the following information:
  - The receipt requests the individual to provide the name of the applicant, the name of the group or individual receiving the application, an email address and daytime telephone number of the group or individual delivering the application, and the date the application was completed.
  - The form also provides contact information for [SBEthe Department of Elections](#) and notes that individuals should contact [SBEthe Department](#) if the voter has not been notified of their registration status within 30 days. You may also wish to refer individuals to the contact information for local registration offices located on the back of the registration application instruction form.
- ✓ Your group may also prepare receipts which request and include the same information on the receipt on the registration application listed above.
- ✓ The receipt shall be completed by the person or group receiving the completed form from the applicant.
- ✓ **You may be subject to criminal penalties if you fail to give the applicant a receipt to document your timely delivery of completed applications.** Va. Code §§ 24.2-418.1, 24.2-1002.01, 24.2-1017 and 24.2-1018.

**4. Completed applications must be delivered to the appropriate local voter registration office or to [SBEthe Department of Elections](#) within 10 days of the signature date or by 5:00pm the day of the next election's registration deadline, whichever is sooner:**

- ✓ **Please note: It is more important that the applications be delivered *even if they are late*. Discarding voter registration applications is punishable as a misdemeanor under § 24.2-1002.01.**
- ✓ Best practices dictate delivery of the completed applications to the appropriate local voter registration office. Virginia state law requires that individuals receiving completed applications timely deliver the application to the local voter registration office, [SBEthe Department of Elections](#), or designated voter registration agency. Va. Code § 24.2-1002.01.
- ✓ The mailing or delivery of an application is timely if it is mailed or delivered within 10 days of the applicant's signature on the application or by 5:00pm on the voter registration deadline for the next election, **whichever comes first**.
- ✓ Please be mindful of upcoming voter registration deadlines when circulating applications.

**\*\*\*Failure to deliver completed applications is punishable as a Class 1 misdemeanor and can result in the failure of individuals to be timely registered and, consequently, disenfranchised.\*\*\***

- ✓ To the extent possible, please sort and deliver the registration applications to the voter registration office of the locality designated on the registration application. For example, one should not deliver a voter registration application for a Virginia Beach resident to the City of Richmond. Doing so delays the processing of the voter registration application and results in unnecessary costs to the registrar. If your drive is engaged in delivering voluminous numbers of registration applications on behalf of individuals residing in multiple localities, please contact [SBEthe Department of](#)

[Elections](#) to discuss the possible delivery of applications directly to [SBEThe Department](#).

- ✓ Please also be considerate of not “dumping” voluminous numbers of voter registration applications on the registrar offices immediately prior to the registration deadline. Doing so makes it difficult for local election officials to process the applications in a timely manner prior to the election. We ask that you submit applications to the appropriate voter registration office. Waiting until the applicable deadlines risks delaying the processing of applications and may result in insufficient time to resolve any problems with registration applications.

**5. Drives Should Provide Alphabetical Listing of Applications with Registrar:**

- ✓ [SBEThe Department of Elections](#) requests voter registration drives provide the appropriate local voter registration office with an alphabetical list detailing the name on every application delivered to the registrar. Such a list protects you and your applicants.

**6. Be Aware of and Communicate “New” Voter Identification Requirements to Applicants:**

- ✓ Virginia law requires all voters to provide [photo](#) identification at the polling place.
- ✓ ~~There are several forms~~ [Below is a list of ID that are](#) [Some acceptable forms of photo ID’s](#) permitted at the polling place ~~and they~~ include [\(all must be valid\)](#):
  - ~~a Virginia voter identification card;~~
  - a ~~valid~~ Virginia driver's license;
  - [a federal photo ID, for example a passport or a U.S. military ID](#));
  - [a DMV issued identification card](#);
  - [an official Virginia photo Voter Identification Card \(for voting purposes only\)](#);
  - [a college or university student photo identification card \(institution must be located in Virginia\)](#);
  - any Federal, Virginia state or local government-issued [photo](#) ID; and
  - ~~many~~ employer issued photo ID card.
- ✓ [Photo identification is available at local voter registration offices free of charge if the applicant/voter does not possess a satisfactory photo identification.](#) Please ~~encourage~~[have](#) applicants ~~to~~ contact ~~the State Board of Elections or~~ their local voter registration office ~~for~~[should they need a photo identification, or if they have](#) questions on identification requirements ~~to vote~~[for voting](#) in Virginia ~~as recent changes in law may have impacted those requirements.~~

**7. Instruct volunteers that all voter registration applications must be completed neatly, accurately and in their entirety:**

- ✓ Registration applications must be completed in their **entirety**. Incomplete applications may be rejected by the local voter registration office. It is important that applicants closely follow the instructions on the application to ensure all required fields are completed.
- ✓ Please instruct applicants to print as **neatly** as possible. Illegible handwriting on applications is a common reason for rejection of applications and keying errors when entering the individual’s data into the statewide registration database.

- ✓ The information provided must be **accurate**. There are criminal penalties for intentionally making a materially false statement on the application. Examples of materially false statements could include falsely affirming United States citizenship, legal age, and not disclosing a prior felony conviction, residence address, or registration status in another state.
- ✓ **It is extremely important that volunteers and registration drive participants understand the legal qualifications to vote in the Commonwealth and that they convey that information to applicants when completing the voter registration application.** Please see the FAQ's below addressing qualifications to register to vote in Virginia.

8. **Any person who assists an applicant in completing the application must be identified if he/she provides assistance to the applicant by signing the application (per signature line on the application) for an individual that is unable to sign due to physical disability. Va. Code § 24.2-418.**

## The Don'ts: Prohibitions and Penalties

### 1. Drives must not intentionally solicit multiple applications from any one person or seek to re-register a voter whose registration information is current:

- ✓ Virginia law explicitly prohibits an individual from soliciting multiple registrations from any one person or intentionally falsifying a registration application. Violations are punishable as a Class 5 felony. Va. Code § 24.2-1002.01.
- ✓ You should also make every effort to avoid handing in duplicate registrations or re-registering individuals whose registration information is current. Some practical solutions to avoid re-registering current voters include:
  - If a voter believes that he/she may already be registered to vote and that his/her information may be current, you should leave the registration application with the voter for the individual to mail in or inform the voter about the new online voter registration option after the individual has confirmed his/her status. Be sure to remind the applicant of upcoming registration deadlines.
  - Encourage the individual to verify his/her voter registration information online at <http://www.sbeelections.virginia.gov/register>.
  - Asking the voter if he/she has his/her voter registration card available and to have the voter review the card and verify the information is up to date.
  - Contact SBEthe Department of Elections during normal business hours at 1-800-552-9745 or their local voter registration office. Staff can immediately confirm the voter's registration information.
  - Obtain lists of registered voters from SBEthe Department of Elections to cross-check potential registrants. Please see FAQ below.

**\*\*\*Intentionally submitting duplicate registrations may be a felony and delays the processing of new registration applications.\*\*\***

- ✓ A registration application can be used to notify a local voter registration office of a change to the voter's record, including a change of address or a change of name. Please do accept applications from registered voters wishing to update their registration records.
- ✓ **It is a Class 1 misdemeanor to communicate false information to a registered voter, including false information regarding the voter's registration status.** Va. Code § 24.2-1005.1. It is unlawful to inform a voter that he/she needs to re-register after the individual affirms that his/her registration information is up to date. Please review the registration laws and requirements and do not convey false information to voters. If you do not know, please refer potential registrants to the [SBEthe Department of Elections](#) or any local general registrar for information.

### 2. Do not complete or accept applications for anyone that you know is not eligible to vote:

- ✓ Please read the FAQ section to become familiarized with the qualifications to vote in Virginia.
- ✓ Do not offer applications to felons whose rights have not been restored, non-residents of Virginia, and others you know are ineligible to vote.
- ✓ Do not provide advice that an individual can legally be registered to vote in multiple states.

- ✓ Under no circumstances should you knowingly accept an application from someone using a fictitious name or alias.
  - ✓ **Any willfully false material statement or entry made by any person in a voter registration application constitutes election fraud and is punishable as a Class 5 felony.** Va. Code § 24.2-1016.
  - ✓ **Persuading a voter to provide false information on his/her voter registration application may also constitute the felony crime of solicitation.** Va. Code §§ 18.2-29 and 24.2-1004.
- 3. Do not destroy, make changes to, or alter in any way a completed voter registration application:**
- ✓ Virginia state law expressly prohibits an individual from intentionally destroying a completed registration application. Va. Code § 24.2-1002.01 (Class 1 misdemeanor).
  - ✓ Virginia also expressly prohibits an individual from intentionally falsifying a registration application. Va. Code § 24.2-1016 (Class 5 felony).
  - ✓ Completed applications cannot be changed without signed permission from the applicant. See 1 VAC 20-40-70(F).
  - ✓ **Changing an application to accomplish fraud is a Class 5 felony.** Va. Code § 24.2-1009.
- 4. Do not pre-populate the registration blanks with information and, unless the individual is physically disabled, you must not sign the application:**
- ✓ **Virginia law expressly prohibits third parties from pre-populating the application with information the applicant is required to provide, unless directed by the applicant. § 24.2-418.**
  - ✓ Individuals providing assistance to the applicant **must** include their name and address if they sign for the applicant.
  - ✓ Print neatly and legibly if you do offer assistance.
- 5. Voter registration is a public accommodation like a bus or restaurant: You cannot discriminate illegally:**
- ✓ It is a violation of federal law to refuse to provide a registration application to an individual because of his/her race, religion, or other suspect classification.
  - ✓ Conducting a partisan registration drive that discriminates based on political party affiliation could endanger your organization's tax-exempt status. Please review the applicable Internal Revenue Service (IRS) guidelines and/or consult with legal counsel regarding registration drives and tax-exempt status.
  - ✓ Once you accept a completed registration application, you **must** deliver that application in a timely manner to the appropriate voter registration office.
- 6. Must not misuse personal information contained on the registration application:**
- ✓ **Warning: Unauthorized disclosure of all or part of an applicant's social security number is a felony. Unauthorized use of any personal information to defraud also is a crime.** Va. Code §§ 18.2-186.3, 24.2-1002.1.
  - ✓ Virginia law contains specific prohibitions regarding the use of personal information without permission of the person who is the subject of the identifying information. Please review Va. Code § 18.2-186.3 to ensure any proposed retention of registration information is in compliance with Virginia law.
  - ✓ State law allows the release of lists of registered voters for a reasonable price to

certain organizations for political purposes and/or to promote voter registration. We encourage you to contact the [State Board Department](#) of Elections if you or your organization would like to purchase a list of registered voters. Please see FAQ section below for more information.

7. **Must not bribe, threaten, coerce, intimidate, etc. voters into registering to vote:**
  - ✓ State laws prohibit the use of threat or force to interfere with or attempt to interfere with any person applying for or declining to register to vote. Va. Code § 24.2-1002.
  - ✓ Federal law prohibits an individual from using intimidation, threats, or coercion in urging or aiding a person in registering to vote. 42 USC § 1973gg-10.
  - ✓ Federal law also prohibits an individual from offering enticements or incentives for completing a voter registration application. 42 USC § 1973i(c).
  - ✓ Federal law also prohibits charging anyone for a voter registration application or charging for helping them to fill out the application. 42 USC § 1973i(c).
  - ✓ Conspiracies to interfere with free exercise of voting rights are subject to felony prosecution under state law. Va. Code § 24.2-1015.
  
8. **Do not write or attach anything to the voter registration application related to candidates or ballot measures.**

## Frequently Asked Questions

### Voter Registration Questions:

#### Q. Where do I obtain voter registration applications for my drive?

- ✓ The [State Board](#)~~Department~~ of Elections will make available to any individual or group a reasonable number of voter registration application forms. Va. Code § 24.2-416.3. Any group or individual seeking 25 or more registration applications is required to register with the State Board of Elections and take online or in-person training on the best practices and legal requirements for conducting registration drives. Please see page 3 above.
- ✓ **Blank** applications may be photocopied. However, an original signature is required on completed applications.
- ✓ A PDF of the voter registration application can be downloaded at [www.SBElections.virginia.gov](http://www.SBElections.virginia.gov).
- ✓ Please complete the Sworn Affidavit Form below to request registration applications for your drive.
- ✓ Online: ~~SBE now~~ [Virginia](#) offers the ability for individuals to complete and submit their voter registration application on-line.
  - To qualify for on-line submission of the application the individual must either already be registered (updating their registration) or have a DMV issued identification.
  - For unregistered individuals who do not have a DMV ID, the opportunity to complete the application is still available on-line, but the applicant will be required to print, sign and mail the application to the appropriate local voter registration office or to [SBE the Department of Elections](#).

#### Q. Who May Register to Vote in Virginia?

Below, please find the qualifications to register to vote in Virginia:

- ✓ **Citizen of U.S.:** Must be a citizen of the United States.
- ✓ **Resident of Virginia:** Must be a resident of Virginia. A person who has come to Virginia temporarily and intends to return to his/her state of residence is not considered a Virginia resident for voting purposes. Persons who legally reside in another state (for example, students who intend to return to their home state upon graduation) should register in their home state using the voter registration application for their home state, or the national application, not the Virginia application.

**\*\*\*Residency in Virginia is a prerequisite to be eligible to register to vote. Residency requires both domicile and a place of abode. To establish domicile, a person must live in a particular locality with the intention to remain indefinitely. A place of abode is the physical place where a person dwells.\*\*\***

- ✓ **18 Years of Age by Next General Election:** Must be at least 18 years old on or before the date of the next general election. (Seventeen- year olds who will be 18 by the next general election may register in advance and vote in any primary or special election in the intervening period prior to the general election. Seventeen year olds who will be 18 by the

next presidential election may register in advance and vote in any presidential primary or other primary held on the same day as the presidential primary.)

- ✓ **No Felony Conviction or Mental Incapacity Adjudication:** Unless voting rights have been restored, the applicant must have no felony conviction, nor have been judged by a court to be mentally incapacitated. (Please see FAQ below on felons.)
  - For felonies, the Governor or the convicting jurisdiction can restore voting rights.
  - For adjudications of incapacity, a court order is required to restore voting rights. Rarely, an adjudication order may specifically provide voting rights. Va. Code § 64.2-2000.
- ✓ Virginia law makes special provisions for some military and overseas voters. Please have individuals with questions contact the [State Board/Department](#) of Elections or their local registration office should they have questions regarding their registration eligibility.
- ✓ For more information please review Va. Constitution Article II, §§ 1-2; Va. Code §§ 24.2-101, 24.2-400, 24.2-417 and 24.2-418; and 1 VAC 20-40-10 through 20-40-60.

### **Q. How does a felon know if his/her rights have been restored?**

- ✓ Those convicted of a felony in Virginia must apply to the Governor or other appropriate authority to have their rights restored. Individuals convicted of a felony in a state other than Virginia should contact the appropriate authorities in that state to determine whether or not their rights have been restored. If a person has been convicted of a felony and would like to know eligibility requirements for restoration of civil rights, he/she should contact:
  - Restoration of Rights Director
  - Office of the Secretary of the Commonwealth
  - Post Office Box 2454, Richmond, Virginia 23218-2454
  - Phone: (804) 786-2441
- ✓ <http://www.soc.state.va.us/JudicialSystem/Clemency/clemency.efm>
- ✓ <https://commonwealth.virginia.gov/judicial-system/restoration-of-rights/>**Do not attempt to register felons whose voting rights have not been restored—you and the applicants could be prosecuted for felony voter fraud.** Va. Code § 24.2-1004(B).

### **Completing a Voter Registration Application:**

#### **Q. What information is required to be completed on the application?**

- ✓ **All** required information asked for on the application **must** be provided; however the phone number and email address are not required. Please let the voter know that failure to include phone or email information may result in the inability of election staff to contact the applicant should the staff member need to verify information and may result in denial if they are otherwise unable to reach the voter where there is a lack of clarity. If any information requested on the application does not apply to the voter, he/she should write “none” or place a dash in the appropriate space. Va. Code § 24.2-418.
- ✓ It is required and important for an applicant to closely read and complete the section on the registration application which asks if the applicant is currently registered to vote in Virginia or another state. Completing this information allows the registrar to communicate with election officials in another state that the voter has registered in Virginia and their registration should be cancelled.

- ✓ The registrant must sign and date the application.
- ✓ If the volunteer signs the application for the applicant, the volunteer must include his/her name and address on the application. Please see “Signature Line” on the registration application.
- ✓ Failure to complete the form properly may result in a denial of the application.
- ✓ It is important that the applicant and/or individual providing assistance print neatly and legibly when completing the voter registration application.

**Q. Are applicants permitted to include a future address as their mailing or residence address?**

- ✓ A voter must provide his/her **current** residence address and mailing address when registering to vote. § 24.2-418.

**Q. Are applicants permitted to list a P.O. Box for their mailing address? If so, are they still required to list their street address?**

- ✓ All applicants are required to provide their residence address.
- ✓ Some individuals may be qualified to include a P.O. Box in addition to their residence address on the registration application. Individuals qualified to include a P.O. Box mailing address either (1) have a residence address that is not deliverable by the USPS; OR (2) meet the legal definition of protected voter in the Code of Virginia who may non-publish their residence address in voter lists. The list of protected voters set out in the Code is as follows:
  - Active or retired law enforcement officers.
  - Persons under protective order.
  - Persons who are threatened or stalked (must attach complaint to law enforcement).
  - Participants registered with the Attorney General’s Address Confidentiality Program.
  - Judges and attorneys employed by the U.S. or Virginia Attorney General (active or retired).
  - **Protected voters claiming eligibility to nonpublish their residence address must provide the appropriate three digit code on the registration application to certify they are legally eligible.**
  - These eligible voters **must** still provide a complete residence address. This is necessary to determine their ballot choices and the location of their polling place. Va. Code § 24.2-418.
- ✓ If the registrant has any questions about mailing addresses or address protection, they should contact their local voter registration office or the [State Board/Department](#) of Elections.

**Q. What about homeless people? How do they complete the registration application?**

- ✓ A homeless person can register to vote if he/she intends to remain in a locality indefinitely and provides some residence address indicating the primary place where he/she stays at night. This is necessary to determine for whom a person can vote and the location of the applicant’s polling place.
- ✓ A mailing address is required to ensure the voter receives his/her registration card and to avoid cancellation of voting eligibility due to returned mail. Some homeless shelters allow people to have their voter registration cards mailed to the shelter address. By providing this

service, the homeless person is able to pick up his/her card from the shelter address. Call the local voter registration office if you have questions about registering the homeless.

### **Q. Am I permitted to assist a voter in completing his/her application?**

- ✓ The law prohibits individuals from pre-populating the registration application for the individual unless directed by the voter. This does not prohibit you from assisting an individual with completing the application. All applications must be signed, either by the applicant or the assistant for a person unable to sign due to physical disability. Signing the form under felony penalty makes the person signing legally responsible for the truthfulness of all statements on the form. Any assistant must be identified if the applicant is unable to sign due to physical disability.
- ✓ A signature under a power-of-attorney is not permitted. Va. Code § 24.2-123.

### **Responsibility for Delivering and Timeliness of Delivery:**

### **Q. Who is responsible for delivering the completed voter registration applications and where should they be delivered?**

- ✓ If you offer to deliver or mail the completed registration applications to the local voter registration office or [SBEthe Department of Elections](#), then you must follow through on that offer or risk criminal penalties. Va. Code § 24.2-1002.01. Please see applicable deadlines below.
- ✓ Voter registration applications can be turned in to any local voter registration office or to the [State BoardDepartment](#) of Elections, 1100 Bank St, 1<sup>st</sup> Floor, Richmond, VA 23219.
- ✓ For timely processing of registration applications, [SBEthe Department of Elections](#) encourages you to sort and deliver the completed applications to the voter registration office of the locality indicated on the registration application. Applications are considered “on time” once they arrive at [SBEthe Department of Elections](#) or at any Virginia registrar’s office, or if they are mailed with a postmark on or before the final day of registration.
- ✓ Contact information for all voter registration offices can be found on the registration application and at the following website:  
<https://www.voterinfo.sbeelections.virginia.gov/PublicSite/Public/FT2/PublicContactLookup.aspx>

### **Q. Is there a deadline for delivering completed voter registration applications?**

- ✓ **Yes.** The coordinator of the voter registration drive has the responsibility for making sure all completed applications are mailed or delivered to ANY local voter registration office or the [State BoardDepartment](#) of Elections within 10 days of signature date or not later than 5:00pm on the due date (22 days before any General Election Day), **whichever is earlier.** – **The failure to timely deliver completed applications constitutes a Class 1 misdemeanor and can result in the failure of individuals to be timely registered and, consequently, disenfranchised.** [SBEThe Department of Elections](#) and local voter registration office will refer these violations to the appropriate Commonwealth’s Attorney and/or Office of the Attorney General for investigation and prosecution. Va. Code § 24.2-1002.01

- ✓ If mailed, registration applications must be postmarked no later than the voter registration deadline.
- ✓ If delivered in person, either by the applicant or a third party, the application must be received by 5:00pm on the deadline.
- ✓ Applications postmarked or received after the deadline will be held and processed after the election; these applications will be effective for the next election if the applicant is otherwise qualified.
- ✓ It is important to realize that failure to deliver applications even after the deadline for submission will result in disenfranchisement and potentially more serious consequences to the individual responsible for non-delivery.

**Q. When is the voter registration deadline?**

- ✓ For a general or primary election, the deadline is the close of business on the 22nd day before the election. Va. Code § 24.2-416.
- ✓ Limited exceptions may apply for certain military and returning overseas voters. Va. Code §§ 24.2-419 and 24.2-420.1.
- ✓ For a special election held at a time other than a General Election, deadlines are shorter (either thirteen or six days prior to the election). Va. Code § 24.2-416.
- ✓ ~~SBET~~ [The Department of Elections](#) encourages you to contact the agency or a local voter registration office if you have any questions or uncertainty regarding your obligations to return completed voter registration applications by the registration deadline for a particular election.

**Q. What if applicants wish to keep their voter registration applications and turn them in themselves?**

- ✓ If the applicant requests, you must allow him/her to take the voter registration application and return it him/herself.
- ✓ ~~SBET~~ [The Department of Elections](#) encourages this practice. It relieves the registration drives of the responsibility to timely deliver applications and provide a receipt, allows individuals to verify their registration status before submitting another application, and ensures that local voter registration offices are not inundated with large numbers of registration applications immediately prior to the registration deadline.
- ✓ The applicant can deliver the voter registration application through the postal system or in person to any voter registration office.
- ✓ It would be helpful for you to provide envelopes with postage stamps to individuals who wish to mail in their registration application.
- ✓ Allowing an individual to submit his/her own registration applications is particularly appropriate when the voter suspects that he/she is already registered and/or the registration information is up to date.

**Training:**

**Q. Is training available for my registration drive workers?**

- ✓ Yes. State approved training is required for individuals or organizations who obtain 25 or more voter registration applications from state or local elections officials. Training is available in several formats:
  - Online training is available and easily accessible at the [SBEthe Department of Elections'](http://www.sbeelections.virginia.gov) website ([www.sbeelections.virginia.gov](http://www.sbeelections.virginia.gov)).
  - Instructor led in-person training is available; the schedule for classes is can be found on [SBE'sthe Department of Elections'](http://www.sbeelections.virginia.gov) website ([www.sbeelections.virginia.gov](http://www.sbeelections.virginia.gov)).
  - Each local voter registration office will offer in-person training. Written training materials will be available. Please contact your local voter registration office for more information.
  - Please see page 3 above for additional information.

## **Other Questions:**

### **Q. How will individuals know if their registration was accepted?**

- ✓ The local voter registration office will determine registration eligibility. A voter registration card will be mailed to eligible registrants. Va. Code §§ 24.2-417 and 24.2-418.
- ✓ A denial letter will be mailed to any applicant determined not to be eligible.
- ✓ Any applicant who does not receive either a voter card or denial notice within 30 days should contact their local registration office.
- ✓ Any application received after the registration deadline will not be processed until after the election which follows the registration deadline. No voter cards or denial letters will be issued during this period. Va. Code § 24.2-416.

### **Q. What about the national voter registration application?**

- ✓ The national application is available at [www.EAC.gov](http://www.EAC.gov) and should be used for persons with legal residence outside Virginia.
- ✓ [SBEThe Department of Elections](http://www.sbeelections.virginia.gov) and the local voter registration offices strongly urge your registration drive to use the Virginia Voter Registration Application as it requests all information required to register to vote in Virginia. While this information is in the federal long-form instructions, the national application does not ask the applicant if he/she was convicted of a felony, information which is required for a complete registration application in Virginia.
- ✓ Active-duty military personnel should be encouraged to use the Federal Post Card Application, available at: [www.FVAP.gov](http://www.FVAP.gov).

### **Q. May I obtain a list of Virginia registered voters?**

- ✓ The Code of Virginia permits SBE to furnish, at a reasonable price, lists of registered voters to certain groups and individuals, including non-profit organizations which promote voter participation and registration.
- ✓ Please review Va. Code § 24.2-405 and contact [SBEthe Department of Elections'](http://www.sbeelections.virginia.gov) staff if you would like to request a list of registered voters.

### **Q. What if I have a question not addressed by these guidelines?**

- ✓ For questions concerning deadlines, completion of the application and voting on Election Day, call your local voter registration office or the [State Board Department](#) of Elections at (804) 864-8901, (800)-552-9745 or 1-800-260-3466 (TTY).

## **Criminal Penalty for Nondelivery or Late Application**

### **§ 24.2-1002.01. Destruction of, or failure to mail or deliver, voter registration application; penalty.**

If any person (i) agrees to mail or deliver a signed voter registration application to the voter registrar or other appropriate person authorized to receive the application and (ii) intentionally interferes with the applicant's effort to register either by destroying the application or by failing to mail or deliver the application in a timely manner, he shall be guilty of a Class 1 misdemeanor. The mailing or delivery of an application shall be deemed timely for the purposes of this section if it is mailed or delivered within 10 days of the applicant's signature or in accordance with the provisions of § 24.2-416.4 for processing before the closing of the registration records for the pending election whichever comes first. This section shall not apply to any state or local government employee acting in his official capacity. If any person intentionally solicits multiple registrations from any one person or intentionally falsifies a registration application, he shall be guilty of a Class 5 felony.

### **Other Code of Virginia statutes that could affect voter registration drive activities include:**

§§ 18.2-29, 18.2-186.3

§§ 24.2-101, 24.2-400, 24.2-416.3, 24.2-416.4, 24.2-416.6, 24.2-417, 24.2-418, 24.2-1001, 24.2-1002.1, 24.2-1004, 24.2-1005.1, 24.2-1009, 24.2-1015, 24.2-1016, 24.2-1017

Va. Constitution Article II, §§ 1-2.

Virginia's Constitution and Statutes can be accessed through the Legislative Information Services website, <http://lis.virginia.gov/> or public libraries.

**SWORN AFFIDAVIT\***

**\*Required if requesting more than 25 voter registration applications; 200 maximum.**

I, \_\_\_\_\_, state as follows:  
(full name)

1. I am requesting \_\_\_\_\_ (limit 200) voter registration applications from the State Board of Elections or local voter registration office for a voter registration drive.
2. I am requesting these forms as an (check as applicable)  
\_\_ Individual; or  
\_\_ an agent on behalf of an organization \_\_\_\_\_ (list the organization)
3. I will abide by all Virginia laws and rules regarding the registration of voters, including
  - I will provide a completed receipt to all applicants for whom I take applications.
  - I will return all completed applications no later than ten (10) days after the applicant signs or the close of registration for the next election if sooner.
  - I will not mark, add, change, or delete any information on the Voter Registration Application, nor will I destroy, or dispose of the application in any way.
  - I will not copy, duplicate, or distribute any social security number on any application.
4. If I am requesting these forms on behalf of an organization, I will use my best efforts to ensure that this organization will abide by all Virginia laws and rules regarding the registration of voters, which will include additional training and supervision of individuals working on behalf of my organization.
5. I have completed the training required annually available from the [State Board](#)~~Department~~ of Elections either online or in-person or locally through the voter registration office;
6. I understand that criminal penalties may result from noncompliance, intentionally falsifying or misrepresenting material information.

**I swear or affirm under penalty of perjury that the foregoing is true and correct.**

**Signature** \_\_\_\_\_  
**Name (First, MI, Last):** \_\_\_\_\_  
**Organization (if any):** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
**City/State/Zip:** \_\_\_\_\_  
**Telephone # Day:** \_\_\_\_\_ **Telephone # Evening:** \_\_\_\_\_  
**Email Address:** \_\_\_\_\_  
**Date:** \_\_\_\_\_

*Please return completed form to:*

*Fax # (804) 371-0194*

**STATE BOARD~~DEPARTMENT~~ OF  
ELECTIONS**

***Voter Registration Programs  
1100 Bank Street, 1<sup>st</sup> Floor  
Richmond, VA 23219-3497***

**Or at the local voter registration office. Contact  
information can be found on the [State](#)**

**Board**~~Department~~ of Elections' website at  
[www.sbelections.virginia.gov](http://www.sbelections.virginia.gov)



## Recommended Checklist for Voter Registration Drives

### I and my organization's volunteers and/or employees:

- Have read and are familiar with these voter registration drive guidelines.
- Have read and are familiar with the Virginia Voter Registration Application.
- Have read the applicable Virginia Code sections and understand the criminal penalties for failure to comply with Virginia law as it relates to voter registration activities.
- Have assured that my organization's volunteers receive the state approved training on the laws and best practices for conducting registration drives, including criminal penalties.
- Have distributed the Sworn Affidavit form and two-page Best Practices and Overview for Volunteers to my volunteers/staff (pages 4-5).
- Have ensured that applicants complete the voter registration applications in their entirety.
- Have included assistant's name and address on each application if assistant signed application due to applicant's physical disability. (Please read signature line on voter registration application.)
- Provided a receipt to all individuals completing voter registration applications for submission by me.
- Prepared an alphabetical listing of applications delivered to the local registrar.
- Delivered any completed voter registration applications to the appropriate registrar within 10 days of the applicant's signature or by the next registration deadline, whichever is sooner.
- Have completed state approved training on Virginia laws and SBE guidance concerning voter registration drives.



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# Stand By Your Ad Violations

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BOARD WORKING PAPERS  
Chris Piper  
Election Services Manager



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

Charles E. Judd  
Chairman

• Kimberly T. Bowers  
Vice Chair

• Donald L. Palmer  
Secretary

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## Memorandum

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

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

**Date:** May 14, 2014

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

---

**Defendant:** Chesterfield County Republican Committee

**Background:** On or about March 19, 2014, the staff received a complaint concerning a political advertisement appearing on a yard sign which was paid for by the Chesterfield County Republican Committee but did not contain the disclosure statement required by § 24.2-956.1.

**Relevant Statutory and Policy Provisions:** § 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.”

§ 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:

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." may be replaced by the statement "Authorized by ..... [Name of sponsor]."

On page 39 of the the *Political Party Committee Summary on the Laws and Policies* the document states, "The State Board is currently working on a regulation to define "yard sign".

**Analysis:** The advertisement appearing in the picture provided does meet the Board's standard for "express advocacy" as it is clearly advocates for the election of two candidates for local office. The sign fails to state whether it is authorized by either candidate mentioned on the sign; however, the Board's guidance document is unclear on yard signs. The Board is currently reviewing a proposed definition of yard sign to clear up this confusion.

**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:** § 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."

## Piper, Chris (SBE)

---

**From:** Abell, Matt (SBE)  
**Sent:** Wednesday, March 19, 2014 11:04 AM  
**To:** gary.reinhardt@kpmlaw.com  
**Cc:** Piper, Chris (SBE)  
**Subject:** FW: Legal sign?  
**Attachments:** photo (2).JPG; 2014March\_Chesterfield School Board Midlothian District.pdf

Mr. Reinhardt,

VA Code Section [22.1-57.3\(E\)](#) states, "In order to have their names placed on the ballot, all candidates shall be nominated only by petition as provided by general law pursuant to § [24.2-506](#)." Ms. Girvin would have qualified to appear on the ballot by filing a declaration of candidacy, petition of qualified voters (125 signatures), certificate of candidate qualification and statement of economic interest (§§ [24.2-501](#), [24.2-502](#), [24.2-503](#), [24.2-505](#), [24.2-506](#) and [24.2-507](#)). Ms. Girvin was not nominated by the Republican Party of Chesterfield County (§ [24.2-510](#) and [24.2-511](#)). I would presume that the [Republican Party of Chesterfield County](#) endorsed Ms. Girvin. The party retains the right of endorsement and the right of expression. Virginia's Campaign Finance Disclosure Act (CFDA) is not my area of responsibility at the State Board of Elections. I've copied Chris Piper on this email. He is the Manager of Election Services and oversees campaign finance in Virginia. He may shed more light on the CFDA issues with the sign, if any exist.

Sincerely,  
Matthew J. Abell  
Election Administration Lead  
State Board of Elections  
Commonwealth of Virginia  
800-552-9745 x8915  
804-864-8915  
804-371-0194 - Fax Number  
[matt.abell@sbe.virginia.gov](mailto:matt.abell@sbe.virginia.gov)

DISCLAIMER: This message is not legal advice, nor a binding statement of official policy. It is intended only for the use of the named addressee(s). Any other use is prohibited. If you received this message in error, please call me at: 800-552-9745, and delete the message and any attachments without forwarding, copying or otherwise disclosing them. This message, including any attachments, may summarize laws, regulations and policies. Furthermore, this message and any responses sent to this email address may be subject to public disclosure under FOIA.

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**From:** Gary Reinhardt [<mailto:Gary.Reinhardt@kpmlaw.com>]  
**Sent:** Wednesday, March 19, 2014 9:15 AM  
**To:** SBE - INFO (SBE)  
**Subject:** Legal sign?

School board elections are supposed to be nonpartisan. Doe this sign comply with the law?

Gary R. Reinhardt  
Kalbaugh, Pfund & Messersmith, PC  
901 Moorefield Park Drive  
Suite 200  
Richmond, Virginia 23236

# Chesterfield County Republican Party

Sheriff

SAMPLE BALLOT



Karl  
**LEONARD**

School Board — Midlothian District



Debra  
**GIRVIN**

## *Join the Party!*

Chesterfield County  
Republican Party

[www.chesterfieldgop.com](http://www.chesterfieldgop.com)

Paid for and Authorized by the Chesterfield County Republican Committee

BILL  
**COLGA**  
FOR MIDLOTHIAN SCH

2014



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# General Registrar & Electoral Board Survey

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BOARD WORKING PAPERS  
Edgardo Cortés  
Deputy Secretary

**HOUSE JOINT RESOLUTION NO. 22**

Offered January 8, 2014

Prefiled December 20, 2013

*Requesting the State Board of Elections to study the evolution of the duties of the general registrars. Report.*

-----  
Patrons-- Minchew and LaRock

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Referred to Committee on Rules  
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WHEREAS, the last study of the appropriate role and responsibilities of the general registrars was conducted in 1991; and

WHEREAS, in the last 20 years, the population of and the number of registered voters in the Commonwealth has increased; and

WHEREAS, in the last 20 years, the number and types of elections held each year have increased, and substantial advances have been achieved in the type and complexity of technological systems used for voter registration and election administration and management; and

WHEREAS, a primary responsibility of general registrars is voter registration, and a primary responsibility of electoral boards is election administration, but in some localities the general registrars are performing responsibilities designated to the electoral boards; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the State Board of Elections be requested to study the evolution of the duties of the general registrars.

In conducting its study, the State Board of Elections shall assemble a work group consisting of at least one member of the State Board; general registrars of localities representing a cross-section of the Commonwealth; members of the electoral boards of localities representing a cross-section of the Commonwealth; and such other persons as the State Board deems necessary. This work group shall meet at least three times.

The work group shall review the duties of the general registrars set out in the Code of Virginia and the Virginia Administrative Code and compare those statutory and regulatory duties with the duties currently undertaken by general registrars. The work group shall also identify any duties currently undertaken by the general registrars and concurrently designated to the electoral boards.

The work group shall evaluate the impacts of (i) increases in the overall population of the Commonwealth and the number of registered voters in the Commonwealth, (ii) increases in the number and types of elections, and (iii) changes in the manner in which votes in those elections may be cast on the workload of the general registrars.

The work group shall evaluate the impact of advances in technological systems utilized for voter registration and election administration processes on the educational and training requirements of general registrars.

All agencies of the Commonwealth shall provide assistance to the State Board for this study, upon request.

The work group shall complete its meetings by November 30, 2014, and shall submit to the Governor and the General Assembly an executive summary and a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as

provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the 2015 Regular Session of the General Assembly and shall be posted on the General Assembly's website

## HISTORY

- 12/20/13 House: Prefiled and ordered printed; offered 01/08/14 14102947D
- [12/20/13 House: Referred to Committee on Rules](#)
- [01/28/14 House: Assigned Rules sub: Studies](#)
- 01/30/14 House: Subcommittee recommends laying on the table by voice vote
- 02/12/14 House: Left in Rules

Patron: Sen. Jill Holtzman Vogel

- - **VIRGINIA ACTS OF ASSEMBLY -- CHAPTER**
  - *An Act to amend and reenact § [24.2-404](#) of the Code of Virginia, relating to elections; voter registration; duties of State Board of Elections.*
    - [S 315]
    - Approved
- 
- Be it enacted by the General Assembly of Virginia:
- 1. That § [24.2-404](#) of the Code of Virginia is amended and reenacted as follows:
- § [24.2-404](#). Duties of State Board.
- A. The State Board shall provide for the continuing operation and maintenance of a central recordkeeping system, the Virginia Voter Registration System, for all voters registered in the Commonwealth.
- In order to operate and maintain the system, the Board shall:
- 1. Maintain a complete, separate, and accurate record of all registered voters in the Commonwealth.
- 2. Require the general registrars to enter the names of all registered voters into the system and to change or correct registration records as necessary.
- 3. (Effective until July 1, 2014) Provide to each general registrar, voter registration cards for newly registered voters and for notice to registered voters on the system of changes and corrections in their registration records and polling places.
- 3. (Effective July 1, 2014) Provide to each general registrar, voter registration cards for newly registered voters and for notice to registered voters on the system of changes and corrections in their registration records and polling places and voter registration cards containing the voter's photograph and signature for free for those voters who do not have one of the forms of identification specified in subsection B of § [24.2-643](#). The Board shall promulgate rules and regulations authorizing each general registrar to obtain a photograph and signature of a voter who does not have one of the forms of identification specified in subsection B of § [24.2-643](#) for the purpose of providing such voter a registration card containing the voter's photograph and signature. The Board shall provide each general registrar with the equipment necessary to obtain a voter's signature and photograph and no general registrar shall be required to purchase such equipment at his own expense. Photographs and signatures obtained by a general registrar shall be submitted to the Board. The Board may contract with an outside vendor for the production and distribution of voter registration cards containing the voter's photograph and signature.

- 4. Require the general registrars to delete from the record of registered voters the name of any voter who (i) is deceased, (ii) is no longer qualified to vote in the county or city where he is registered due to removal of his residence, (iii) has been convicted of a felony, (iv) has been adjudicated incapacitated, (v) is known not to be a United States citizen by reason of reports from the Department of Motor Vehicles pursuant to § [24.2-410.1](#) or from the State Board based on information received from the Systematic Alien Verification for Entitlements Program (SAVE Program) pursuant to subsection E, or (vi) is otherwise no longer qualified to vote as may be provided by law. Such action shall be taken no later than 30 days after notification from the Board. The Board shall promptly provide the information referred to in this subdivision, upon receiving it, to general registrars.
- 5. Retain on the system for four years a separate record for registered voters whose names have been deleted, with the reason for deletion.
- 6. Retain on the system permanently a separate record for information received regarding deaths, felony convictions, and adjudications of incapacity pursuant to §§ [24.2-408](#) through [24.2-410](#).
- 7. Provide to each general registrar, at least 16 days prior to a general or primary election and three days prior to a special election, an alphabetical list of all registered voters in each precinct or portion of a precinct in which the election is being held in the county, city, or town. These precinct lists shall be used as the official lists of qualified voters and shall constitute the pollbooks. The State Board shall provide instructions for the division of the pollbooks and precinct lists into sections to accommodate the efficient processing of voter lines at the polls. Prior to any general, primary, or special election, the State Board shall provide any general registrar, upon his request, with a separate electronic list of all registered voters in the registrar's county or city. If electronic pollbooks are used in the locality or electronic voter registration inquiry devices are used in precincts in the locality, the State Board shall provide a regional or statewide list of registered voters to the general registrar of the locality. The State Board shall determine whether regional or statewide data is provided. Neither the pollbook nor the regional or statewide list of registered voters shall include the day and month of birth of the voter, but shall include the voter's year of birth.
- 8. Acquire by purchase, lease, or contract equipment necessary to execute the duties of the Board.
- 9. Use any source of information that may assist in carrying out the purposes of this section. All agencies of the Commonwealth shall cooperate with the State Board in procuring and exchanging identification information for the purpose of maintaining the voter registration system. The State Board may share any information that it receives from another agency of the Commonwealth with any Chief Election Officer of another state for the maintenance of the voter registration system.
- 10. Cooperate with other states and jurisdictions to develop systems to compare voters, voter history, and voter registration lists to ensure the accuracy of the voter registration rolls, to identify voters whose addresses have changed, to prevent duplication of registration in more than one state or jurisdiction, and to determine eligibility of individuals to vote in Virginia.
- 11. Reprint and impose a reasonable charge for the sale of any part of Title 24.2, lists of precincts and polling places, statements of election results by precinct, and any other items required of the State Board by law. Receipts from such sales shall be credited to the Board for reimbursement of printing expenses.
- B. The State Board shall be authorized to provide for the production, distribution, and receipt of information and lists through the Virginia Voter Registration System by any appropriate means including, but not limited to, paper and electronic means.
- C. The State Board shall institute procedures to ensure that each requirement of this section is fulfilled. As part of its procedures, the State Board shall provide that the general registrar shall mail notice of any cancellation pursuant to clause (v) of subdivision A 4 to the person whose registration is cancelled.
- D. The State Board shall promulgate rules and regulations to ensure the uniform application of the law for determining a person's residence.
- E. The State Board shall apply to participate in the Systematic Alien Verification for Entitlements Program (SAVE Program) operated by U.S. Citizenship and Immigration Services of the U.S. Department of Homeland Security for the purposes of verifying that voters listed in the Virginia voter registration system are United States citizens. Upon approval of the application, the State

Board shall enter into any required memorandum of agreement with U.S. Citizenship and Immigration Services. The State Board shall promulgate rules and regulations governing the use of the immigration status and citizenship status information received from the SAVE Program.

- *F. The State Board shall report annually by August 1 for the preceding 12 months ending June 30 to the Committees on Privileges and Elections on each of its activities undertaken to maintain the Virginia voter registration system and the results of those activities. The Board's report shall encompass activities undertaken pursuant to subdivisions A 9 and 10 and subsection E and pursuant to §§ [24.2-404.3](#), [24.2-404.4](#), [24.2-408](#), [24.2-409](#), [24.2-409.1](#), [24.2-410](#), [24.2-410.1](#), [24.2-427](#), and [24.2-428](#).*

## HISTORY

- 01/06/14 Senate: Prefiled and ordered printed; offered 01/08/14 14102842D
- [01/06/14 Senate: Referred to Committee on Privileges and Elections](#)
- [01/21/14 Senate: Reported from Privileges and Elections with substitute \(14-Y 0-N\)](#)
- 01/21/14 Senate: Committee substitute printed 14104250D-S1
- [01/23/14 Senate: Constitutional reading dispensed \(37-Y 0-N\)](#)
- 01/24/14 Senate: Read second time
- 01/24/14 Senate: Reading of substitute waived
- 01/24/14 Senate: Committee substitute agreed to 14104250D-S1
- 01/24/14 Senate: Engrossed by Senate - committee substitute SB315S1
- [01/27/14 Senate: Read third time and passed Senate \(39-Y 0-N\)](#)
- 01/31/14 House: Placed on Calendar
- 01/31/14 House: Read first time
- [01/31/14 House: Referred to Committee on Privileges and Elections](#)
- [02/06/14 House: Assigned P & E sub: Campaign Finance](#)
- [02/26/14 House: Subcommittee recommends reporting \(4-Y 0-N\)](#)
- [02/28/14 House: Reported from Privileges and Elections \(20-Y 1-N\)](#)
- 03/03/14 House: Read second time
- 03/04/14 House: Read third time
- 03/04/14 House: Passed House (97-Y 1-N)
- [03/04/14 House: VOTE: PASSAGE \(97-Y 1-N\)](#)
- 03/06/14 Senate: Enrolled
- 03/06/14 Senate: Bill text as passed Senate and House (SB315ER)
- 03/06/14 House: Signed by Speaker
- 03/09/14 Senate: Signed by President
- 03/31/14 Governor: Approved by Governor-Chapter 452 (effective 7/1/14)
- 03/31/14 Governor: Acts of Assembly Chapter text (CHAP0452)



COMMONWEALTH OF VIRGINIA  
HOUSE OF DELEGATES  
RICHMOND

R. STEVEN (STEVE) LANDES  
POST OFFICE BOX 12  
VERONA, VIRGINIA 24482  
  
TWENTY-FIFTH DISTRICT

COMMITTEE ASSIGNMENTS:  
EDUCATION (CHAIRMAN)  
APPROPRIATIONS (VICE CHAIRMAN)  
PRIVILEGES AND ELECTIONS  
RULES

April 10, 2014

Mr. Robin Lin  
Hope Springs  
Manakin-Sabot, Virginia 23103

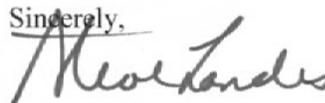
Dear Robin:

Thank you for your letter regarding the request for a review of the duties of the general registrars and their compensation. Although I do support the concept of a study, I misunderstood the mechanism of how this would take place. Delegate Minchew's House Joint Resolution 22, asked for the study to be conducted by the State Board of Elections, with a work group consisting of a member of the State Board, general registrars of localities, and members of electoral boards of localities.

Generally, when a request for a study is to be made, the General Assembly will request the study to be made through a legislative agency or body.

HJR 22 required assembling a work group which would meet and submit its report to the General Assembly by November 30, 2014, and have an agency be responsible. It was my understanding they could accomplish the goal without authorization or a resolution. The Rules Committee, as you know, decided not to move the resolution forward.

Thank you for your letter, and I am sorry I misunderstood the mechanism that was decided to accomplish your goal.

Sincerely,  
  
R. Steven Landes

RSL/jww

1 WHEREAS, 24.2-404 of the Code of Virginia enumerates the Duties of the  
2 State Board of Elections, and

3 WHEREAS, these duties include the responsibility for providing for the  
4 continuing operation and maintenance of a central recordkeeping system, the  
5 Virginia Voter Registration System, for all voters registered in the  
6 Commonwealth, and

7 WHEREAS, this responsibility directs the State Board to require actions by  
8 general registrars who are appointed by local electoral boards rather than the  
9 State Board, and

10 WHEREAS, a primary responsibility of general registrars is voter  
11 registration, and a primary responsibility of electoral boards is election  
12 administration, but in some localities the distinctions are blurred or not  
13 uniformly applied, and

14 WHEREAS, the State Board recognizes that the duties and responsibilities  
15 of both general registrars and members of local electoral boards have vastly  
16 increased in scope and complexity over the past 20 years with radical  
17 changes in technology, communication, registration and voting systems as  
18 the number of registered voters has increased by almost 30%, and

19 WHEREAS, the State Board is mindful of the imposition of a requirement in  
20 24.2-404-F that “*The State Board shall report annually by August 1 for the*  
21 *preceding 12 months ending June 30 to the Committees on Privileges and*  
22 *Elections on each of its activities undertaken to maintain the Virginia voter*  
23 *registration system and the results of those activities;”* now therefore, be it

24 RESOLVED, the State Board of Elections directs that a study be undertaken  
25 of the evolution of the duties and responsibilities of the general registrars  
26 and local Electoral Boards, with recommendations, if any, that may clarify  
27 the lines of authority, reduce duplication of responsibilities, restore  
28 efficiencies, establish uniformity of access and exercise of the franchise, and  
29 ensure the integrity of the system for the voters of the Commonwealth and  
30 their posterity.

31 In conducting this study, the State Board of Elections shall assemble a work  
32 group consisting of at least one member of the State Board; general  
33 registrars of localities representing a cross-section of the Commonwealth;  
34 members of the electoral boards of localities representing a cross-section of

35 the Commonwealth; and such other persons as the State Board deems  
36 necessary. This work group shall meet at least three times.

37 The work group shall review the duties of the general registrars and electoral  
38 board members set out in the Code of Virginia and the Virginia  
39 Administrative Code and compare those statutory and regulatory duties with  
40 the duties currently undertaken by general registrars and electoral board  
41 members. The work group shall also identify any duties currently undertaken  
42 by the general registrars but concurrently designated to the electoral boards.

43 The work group shall evaluate the impacts of (i) increases in the overall  
44 population of the Commonwealth and the number of registered voters in the  
45 Commonwealth, (ii) changes in the manner in which votes in those elections  
46 may be cast on the workload of the general registrars and electoral board  
47 members, (iii) increased educational qualifications and training requirements  
48 of general registrars and electoral board members, (iv) efficiencies that may  
49 be achieved by uniform application of advances in technology utilized for  
50 voter registration and election administration.

51 All agencies of the Commonwealth shall provide assistance to the State  
52 Board for this study, upon request, as set forth in 24.2-404-A9.

53 The work group shall complete its meetings by November 1, 2014, and shall  
54 submit to the State Board of Elections by November 30, 2014, an executive  
55 summary and a report of its findings and recommendations for submission  
56 by the State Board to the Committees on Privileges and Elections in the  
57 discharge of its duties as required by 24.2-404-F.

58



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# Other Business & Public Comment

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BOARD WORKING PAPERS



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# Executive Session

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BOARD WORKING PAPERS  
SBE Board Members



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# Good of the Order

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# Adjournment

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BOARD WORKING PAPERS



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# BOARD MEETING

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Wednesday, May 14, 2014  
General Assembly Building  
Room C  
9:00 AM

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BOARD WORKING PAPERS  
Master Copy  
Prepared by Rose Mansfield  
Executive Assistant to the Board