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STATE BOARD *of* ELECTIONS

BOARD MEETING

Wednesday, April 23, 2014
General Assembly Building
Room C
10:00 AM

BOARD WORKING PAPERS

STATE BOARD OF ELECTIONS
AGENDA

DATE: April 23, 2014
LOCATION: General Assembly Building, Room C
TIME: 10:00 a.m.

I. CALL TO ORDER	*Charles E. Judd* *Chair*
II. APPROVAL OF MINUTES **December 26, 2013, March 19th & April 2, 2014**	*SBE Board Members*
III. SECRETARY'S REPORT	*Donald Palmer* *Secretary*
IV. REPORT FROM LEGAL COUNSEL	*Kristina Perry Stoney* *SBE Legal Counsel*
V. RESOLUTION PRESENTATION – Elwood Yates, Jr.	*SBE Board Members*
VI. OLD BUSINESS	
A. State Certification Guidelines	*Gary Fox* *Voting Technology Specialist*
VII. NEW BUSINESS	
A. Request for Full Time Status – Richmond County	*Edgardo Cortés* *Deputy Secretary*
B. Voter Photo Identification Card Application – Approval	*Myron McClees* *SBE Policy Analyst*
C. Campaign Finance Express Advocacy Definition	*Chris Piper* *Election Services Manager*
D. Campaign Finance Summary Updates – Approval to change reporting deadline	*Chris Piper*
E. Campaign Finance Yard Sign Proposed Policy	*Chris Piper*
F. Stand by Your Ad Violations	*Chris Piper*
G. Periodic Review of Chapters 40 & 70	*Martha Brissette* *SBE Policy Analyst*
H. Proposed Creation of Chapter 45	*Martha Brissette*
VIII. OTHER BUSINESS & PUBLIC COMMENT	
IX. GOOD OF THE ORDER	

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STATE BOARD *of* ELECTIONS

Call to Order

BOARD WORKING PAPERS

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STATE BOARD *of* ELECTIONS

Approval of Minutes
December 26, 2013
March 19, 2014
April 2, 2014

BOARD WORKING PAPERS
SBE Board Members

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STATE BOARD *of* ELECTIONS

Approval of Minutes
December 26, 2013

BOARD WORKING PAPERS
SBE Board Members

MINUTES

The State Board of Elections Board Meeting was held on Thursday, December 26, 2013. The meeting was held in the Washington Building, Room B27, in Richmond, Virginia. In attendance, representing the State Board of Elections (SBE) was Charles Judd, Chair; Donald Palmer, Secretary; and Matt Abell, Election Services Lead. Chairman Judd called the meeting to order at 10:00a.m.

The first order of business was the Ballot Position Drawing for the Senate District 33 Special Election on January 21, 2014. Matt Abell, Election Services Lead, explained the process. Chairman Judd drew the first position of the Democratic Party and Secretary Palmer drew the second position of Republican Party. Chairman Judd declared that the ballot order had been determined with the Democratic candidate listed first and the Republican candidate listed second.

Chairman Judd asked if there were any other comments and there were none. Chairman Judd moved *to adjourn*. Secretary Palmer seconded the motion and the Board approved the motion to adjourn. The meeting was adjourned at approximately 10:05 a.m.

The Board shall reconvene on January 8, 2014 at 10:00a.m. in the General Assembly Building, Richmond, Virginia, Room C.

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Secretary

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Chair

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Vice-Chair

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STATE BOARD *of* ELECTIONS

Approval of Minutes
March 19, 2014

BOARD WORKING PAPERS
SBE Board Members

MINUTES

The State Board of Elections Board Meeting was held on Wednesday, March 19, 2014. The meeting was held in the General Assembly Building, Room C in Richmond, Virginia. In attendance, representing the State Board of Elections (SBE) was Charles Judd, Chair; Kimberly Bowers, Vice Chair; Donald Palmer, Secretary; Edgardo Cortés, Deputy Secretary; Anna Birkenheier, Assistant Attorney General and SBE Counsel; Susan Lee, Election Uniformity Manager; Chris Piper, Election Services Manager and Rose Mansfield, Executive Assistant. Chairman Judd called the meeting to order at 10:00AM.

The first order of business was the approval of the Minutes from the State Board of Elections Board Meetings held on February 26th, February 28th, and March 8th of 2014. Chairman Judd stated that each set of Board Meeting Minutes would be addressed separately. Chairman Judd asked if Board Members had any additions or corrections to the February 26, 2014 Board Minutes. Vice Chair Bowers noted that her name was missing from the list of attendees at the Board Meeting. Chairman Judd moved *that Vice Chair Bowers be added to the list of attendees.* Secretary Palmer seconded the motion and the Board unanimously approved the motion. Chairman Judd asked if Board Members had any additions or corrections to the February 26, 2014 Board Minutes. Chairman Judd moved *that the February 26, 2014 Board Meeting Minutes be approved as amended.* Secretary Palmer seconded the motion and the Board unanimously approved the Minutes. Chairman Judd asked if Board Members had any additions or corrections to the February 28, 2014 Board Minutes and there were none noted. Vice Chair Bowers moved *that the February 28, 2014 Minutes be approved as submitted.* Secretary Palmer seconded the motion. Chairman Judd asked if there was any discussion and with none the Board unanimously approved the Minutes. Chairman Judd asked if Board Members had any additions or corrections to the March 8, 2014 Board Minutes and there were none noted. Chairman Judd moved *that the March 8, 2014 Minutes be approved as submitted.* Vice Chair Bowers seconded the motion. Chairman Judd asked if there was any discussion and with none the Board unanimously approved the Minutes.

The second order of business was the Secretary's Report delivered by Secretary Palmer. Secretary Palmer stated that the Voter Implementation Plan was presented to Virginia Electoral Board Association (VEBA) at their annual meeting on March 8, 2014. On March 12, 2014 the plan was also presented to the Virginia Registrars Association of Virginia (VRAV) during a regional meeting in Heathsville, Virginia. Secretary Palmer stated that in the future there will be numerous training events, seminars, and webinars related to the Voter Implementation Plan. Chairman Judd inquired if the guidelines for the certification of voting equipment were still tabled. Secretary Palmer stated that this will be presented at the April 23, 2014 Board Meeting.

The next order of business was the Legal Report delivered by Anna Birkenheier, SBE Counsel. Ms. Birkenheier reported that the *discovery phase* in the federal case, *Page* v. *Judd* is continuing. This case is set to go to trial on May 20-22, 2014. Ms. Birkenheier requested an executive session prior to the conclusion of this scheduled meeting.

The next order of business was the request for temporary full-time status for the General Registrar of City of Galax, Virginia presented by Edgardo Cortés, Deputy Secretary. Deputy Cortés informed the Board Members that the Electoral Board submitted the required request in a timely manner. Deputy Cortés stated that the request is authorized under Chapter 890, 2012 Acts of Assembly and recommended approval of the submitted request for the period of March 21, 2014 through May 9, 2014. Vice Chair Bowers moved *that the Board approve the request from the Electoral Board of the City of Galax for a temporary full-time general registrar for the period of March 21, 2014 through May 9, 2014.* Secretary Palmer seconded the motion and Chairman Judd asked if there were any questions. Chairman Judd stated that this is a necessary action because the General Assembly decided not to allow the part-time general registrars to become full-time therefore, this is the exercise that SBE must perform. The Board Members unanimously approved the motion.

The next order of business was the campaign finance policy proposal on final report penalties present by Chris Piper, Election Services Manager. Mr. Piper stated that often a campaign believes that they have filed a final report when in fact that action is incomplete. The result is that a campaign will be subject to civil penalties for not filing reports. The large dollar amount often serves as detraction to committees who wish to

close out their accounts who have had an error in their action of filling a final report. Mr. Piper stated that the SBE Staff requests the Board adopt a policy which will allow for staff and local electoral boards to accept a late final report and asses a $100.00 penalty, but not require staff and local electoral boards to assess the penalties against the committees for the missing reports filed in the interim period prior to the filing of a final report. Chairman Judd asked if there were any comments and there were none. Vice Chair Bowers moved *that the Board adopt staff recommendation to assess a one-time penalty for late final report penalties.* Secretary Palmer seconded the motion. Vice Chair Bowers asked if the one-time penalty policy will be communicated to the field. Mr. Piper stated that the SBE Staff would notify the outstanding committees about the new policy. Chairman Judd asked if this policy affects both the SBE Staff and the local electoral boards. Mr. Piper stated that this was a correct statement. Vice Chair stated that placing this on the SBE Website as a new policy or under the frequently asked questions. Mr. Piper stated that this would be added to the COMET system. Chairman Judd asked if there were any other comments and there were none. The Board unanimously passed the motion.

The next order of business was the Voter ID Implementation Plan update presented by Susan Lee, Election Uniformity Manager. Ms. Lee reported that SBE Staff developed a flyer that would be available for the general registrars and officers of elections if approved by the Board Members. The flyers would be handed out to voters who vote in the May and June, 2014 elections. The flyers would be posted in the general registrars' office and any location that receive public exposure. Ms. Lee stated that the voter identification workgroup vetted this flyer and approval. Chairman Judd asked who would be responsible for printing the flyers. Ms. Lee stated that SBE would be responsible for the cost and the funding would be available under the voter outreach program. Chairman Judd asked if there were any comments. Chairman Judd asked: "Who was in the work group?" Ms. Lee replied: "The group included general registrars, electoral board members and SBE Staff." Chairman Judd asked if there were any outside groups involved in the work groups. Ms. Lee stated that updates are sent to the groups on a regular basis. Vice Chair Bowers asked that a phone number be added to the flyer for

those that do not have access to the website. Chairman Judd asked if there were any other comments and there were none.

The next order of business was the Public Comment portion of the Board Meeting. Robin Lind, Secretary of the Goochland Electoral Board, approached the podium. Mr. Lind stated that he was pleased to hear that the flyer was a work in progress and would suggest that the stars shapes on the flyer be replaced with images of identification cards. Chairman Judd asked if there were any other comments and there were none.

The next order of business was the Good of the Order. Chairman Judd stated that the newspapers reported that SBE did not allow a period of public comment regarding the change of campaign finance deadline times. Chairman Judd stated: "SBE did not make the decision to change the deadline without public input; SBE discussed this issue in two Board Meetings. The Board Meeting on February 26, 2014 included the agreement to post for 21 days the suggested change of moving the deadline from 5:00p.m. to 11:59pm. That 21 day deadline is currently in affect and SBE looks forward to the comments and taking action accordingly." Chairman Judd inquired if there were any other comments and there were none. Chairman Judd then moved *to close the meeting to discuss actual and probable litigation matters and specific legal matters requiring the provision of legal advice by legal counsel as authorized by § 2.2-3711(A)(7) of the Code of Virginia.* Vice Chair Bowers seconded the motion and the Board unanimously carried the motion. Chairman Judd directed Edgardo Cortés, Deputy Secretary and Rose Mansfield, Executive Assistant, to remain with the Board during the closed session. Secretary Palmer seconded the motion and the Board went into Executive Session at 10:20AM.

At 10:30AM Chairman Judd *moved to reconvene in open session and a roll call vote was taken as required by § 2.2-3712(D) of the Code of Virginia, unanimously certifying that during the closed meeting (i) only public business matters lawfully exempted from open meeting requirements under this chapter, and (ii) only such public business matters as were identified in the motion by which the closed meeting was concerned were heard, were discussed or considered.* Vice Chair Bowers seconded the motion and the Board unanimously approved the motion. Rose Mansfield, Executive Assistant performed the roll call vote and all Board Members approved the motion.

Chairman Judd asked if there was any other business to come before the Board and there was none. Chairman Judd moved *that the Board adjourn.* Secretary Palmer seconded the motion and without further comment the Board voted to adjourn. The meeting was adjourned at approximately 10:35AM.

The Board shall reconvene on April 2, 2014 at 10:00AM in the Washington Building, Room B27.

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Secretary

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Chair

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Vice Chair

★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Approval of Minutes
April 2, 2014

BOARD WORKING PAPERS
SBE Board Members

MINUTES

The State Board of Elections Board Meeting was held on Wednesday, April 2, 2014. The meeting was held in the Washington Building, 1100 Bank Street, Room B27 in Richmond, Virginia. In attendance, representing the State Board of Elections (SBE) was Charles Judd, Chair; Donald Palmer, Secretary; Edgardo Cortés, Deputy Secretary; Kristina Perry Stoney, Senior Assistant Attorney General and SBE Counsel; Anna Birkenheier, Assistant Attorney General and SBE Counsel and Rose Mansfield, Executive Assistant. Chairman Judd called the meeting to order at 10:00AM.

The first order of business was the Secretary's Report delivered by Secretary Palmer. Secretary Palmer stated that SBE continues to meet and exceed the milestones associated with the implementation of the Voter Identification Card Program. Secretary Palmer stated that SBE and the Voter Identification Card work-group continues to make progress. Secretary Palmer noted that the procurement issues have concluded. The focus of the agency is the Voter Identification Card Program and SBE feels comfortable that by Mid-May, 2014 the Voter Identification Program effective July 1, 2014 would be successfully implemented.

The second order of business was the Legal Report delivered by Kristina Perry Stoney, Senior Assistant Attorney General and SBE Counsel. Ms. Stoney provided an update on the *FCDC* v. *Quinn* litigation. Ms. Stoney stated that the presiding judge was not satisfied with the existing trial dates and called a scheduling meeting on April 1, 2014. Ms. Stoney stated that as a result of that meeting the trial dates have been schedule for August 11-13, 2014. Ms. Stoney stated that a *motion to dismiss* will be heard on May 19, 2014.

The next order of business was the ballot drawing for the House of Representatives 8th District, Democratic Party to be held on June 10, 2014. Mr. Abell, Elections Services Lead, explained the process. The drawing of candidate names was conducted and Chairman Judd announced the ballot order:

- Position 1 – Donald S. Beyer, Jr.
- Position 2 – Lavern J. Chatman
- Position 3 – Alfonso H. Lopez

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- Position 4 – Mark Levine
- Position 5 – Charniele L. Herring
- Position 6 – Patrick A. Hope
- Position 7 – Senator Adam P. Ebbin
- Position 8 – Bruce B. Shuttleworth
- Position 9 – Satish W. Korpe
- Position 10 – William D. "Bill" Euille
- Position 11 – Derek S. Hyra

Chairman Judd stated that the determination of ballot order for the House of Representatives 8th District, Democratic Party was complete.

The next order of business was the proposed Voter ID Regulations approval to post for public comment presented by Myron McClees, SBE Policy Analyst. Mr. McClees stated that the proposed regulation, 20-40-90, relates to the Voter Identification Cards. Mr. McClees explained each section of the regulation noting that the "Definition" section should read: "Voter Identification Card" means the official "voter registration card[s] containing the voter's photograph and signature" referenced in § 24.2-404 should have the word "photo" inserted in between "voter" and "registration" to read "voter photo identification card". Mr. McClees stated that this change occurred after the delivery of the Board Materials. Chairman Judd asked if there were any questions and there were none. Chairman Judd moved *that the word "photo" be added to the definition of the regulation and be added to all portions of the regulations were applicable.* Secretary Palmer seconded the motion. Chairman Judd asked if there were any comments and there were none and the Board unanimously approved the motion. Secretary Palmer moved *that the Board seek public comment, for a period of 21 days, on the proposed regulation providing voter photo identification cards.* Chairman Judd seconded the motion. Chairman Judd asked if there were any comments and there were none and the Board unanimously approved the motion.

The next order of business was the Public Comment section and there were no public comments. Chairman Judd moved *that the Board adjourn.* Secretary Palmer seconded the motion and without further comment the Board adjourned. The meeting was adjourned at approximately 10:30AM.

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The Board shall reconvene on April 23, 2014 at 10:00AM in the General Assembly Building, Room C.

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Secretary

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Chair

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Vice Chair

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STATE BOARD *of* ELECTIONS

Secretary's Report

BOARD WORKING PAPERS

Donald Palmer
SBE Secretary

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Legal Report

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Kristina Perry Stoney
SBE Legal Counsel

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Resolution Presentation Elwood Yates, Jr.

BOARD WORKING PAPERS
SBE Board Members

VIRGINIA STATE BOARD of ELECTIONS

Virginia State Board of Elections Resolution

Commending Elwood F. Yates, Jr.

WHEREAS, Elwood F. Yates, Jr. will retire after 59 years, 11 months, and 29 days of outstanding service on the Powhatan County Electoral Board; and

WHEREAS, on March 2, 1954, Elwood F. Yates, Jr. began his tenure on the Powhatan Electoral Board, and has served as Secretary for the duration of his twenty consecutive three-year terms; and

WHEREAS, Elwood F. Yates, Jr. has developed many positive relationships and served well voters and candidates of Powhatan County by staying abreast of changes to state and local election laws and ordinances; and

WHEREAS, under his guidance, Powhatan remained committed to excellence and efficiency in the voting process and saw the progression from paper-based systems to new, automated technologies; and

WHEREAS, because of his expertise and exemplary ability to make decisions based on the best interests of the voters, Powhatan maintained an excellent reputation and commendable record during Elwood F. Yates Jr.'s tenure on the Electoral Board; and

WHEREAS, Elwood F. Yates, Jr., will retire from his position as Secretary of the Powhatan Electoral Board after nearly 60 years of dedicated service – a record in the Commonwealth of Virginia; and

WHEREAS, after his retirement, Elwood F. Yates, Jr. will have more time to spend with his loving wife, Vickie, and the rest of his family; now, therefore, be it

RESOLVED by the State Board of Elections, That the Virginia Election Community hereby commends Elwood F. Yates, Jr., a dedicated public servant and outstanding Virginian, and wishes him great happiness in his retirement; and, be it

RESOLVED FURTHER, That the Secretary of the State Board of Elections prepare a copy of this resolution for presentation to Elwood F. Yates, Jr. as an expression of the Virginia Election Community's appreciation for his outstanding service to Powhatan County and the Commonwealth.

_____
Chairman

_____
Vice Chair

_____
Secretary

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STATE BOARD *of* ELECTIONS

Old Business

BOARD WORKING PAPERS

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STATE BOARD *of* ELECTIONS

State Certification Guidelines

BOARD WORKING PAPERS

Gary Fox
Voting Technology Specialist

Memorandum

To: Members of the State Board of Elections

From: Gary W. Fox, Voting Technology Specialist

Date: February 26, 2014

Re: Updates to State Certification

Suggested motion for a Board member to make:

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

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

Attachments:

Your Board materials include the following:

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

Background:

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

STATE CERTIFICATION OF VOTING SYSTEMS

Requirements and Procedures

~~STATE BOARD OF ELECTIONS~~
Department of Elections
1100 BANK STREET, 1ST FLOOR
RICHMOND VA 23219

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Revised: ~~*April 2012*~~*February 2014*

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Part 1: Introduction

1.1. Purpose of Procedures

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

1. Ensure conformity with state election laws relating to the acquisition and use of voting systems and equipment.

2. Provide an organized and consistent means of evaluating and certifying voting systems and equipment marketed by vendors for use in Virginia.

3. Provide an organized and consistent means of evaluating and certifying additional capabilities and changes in the method of operation for voting systems previously certified for use in Virginia.

4. Provide an organized and consistent means of decertifying voting systems and equipment.

5. Provide for the improvement of the electoral process by ensuring that all voting systems operate properly and are installed and tested in compliance with the State Board of Elections approved procedures.

6. Provide for the accurate reporting of all election results for any jurisdiction in which each certified system is used.

1.2. Specific Requirements

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

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

2. A modification to a voting system previously certified by SBE will be tested in a manner necessary to ensure that all changes meet applicable standards and that the modified system (as a whole) will function properly and reliably. If the system being modified has been tested or certified to a previous VVSG/VSS version, SBE may allow testing of modifications to the prior standards or require testing of the modification to the most current standards, at its discretion.

3. The voting system or equipment must comply with the provisions in the *Code of Virginia* relating to voting equipment (Article 3, Chapter 6 of Title 24.2).

4. The voting system or equipment must comply with any applicable regulations or policies issued by the State Board of Elections.

5. The vendor must ensure that the equipment and software can accommodate interactive visual and non-visual presentation of information to voters and alternative languages when required. (See HAVA, 42 USC 15481(a)(3), (4), §203 of the Voting Rights Act (42 USC 1973aa-1a) and Virginia Code Section 24.2-626.1)

1.3. Applicability

1. The procedures outlined in this document are applicable to all voting systems first used on or after the effective date of this document.

2. These procedures are intended to assist local jurisdictions in identifying voting systems that meet all federal and state requirements and are available for purchase based on individual locality requirements.

3. The requirements of these procedures are waived for any voting system or equipment previously certified for and in use in the Commonwealth of Virginia on or before June 28, 2005. The State Board of Elections reserves the right to require re-certification of these systems or equipment at a future date.

4. Any modification to the hardware, firmware, or software of an existing system which has been certified by the State Board of Elections in accordance with these procedures will, in general, invalidate the certification unless it can be determined by the State Board of Elections that the change does not affect the accuracy, reliability, security, usability or accessibility of the system.

5. The intent of these procedures is to ensure that voting system hardware and software have been shown to be reliable, accurate, usable, accessible and capable of secure operation before they are certified for use in the Commonwealth. Hardware and software products with performance proven in commercial applications may be deemed acceptable, provided that they are shown to be compatible with the operational and administrative requirements of the voting environment. Typically, the vendor will be required to provide documentation of a product's proven performance, such as test reports to comparable standards. Products not in wide

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

1.4. Decertification

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

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Part 2: Basis for Certification

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

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

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

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

2.1. Federal Compliance Testing

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

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

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

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

2.1.1. Voting System Hardware Elements

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

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

2.1.2. Voting System Software Elements

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

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

2.1.3. Reciprocity

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

2.2. State Certification Testing

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

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

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

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

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

a. Define ballot formats for a primary election, ~~and~~ a general election, and a recount including all voting options defined by the *Code of Virginia*,

b. Install application programs and election-specific programs and data in the ballot counting device,

c. Verify system readiness for operation,

d. Count ballots,

e. Perform status tests,

f. Obtain voting data and audit data reports,

g. Support recount or election audits, and

h. Address compliance with physical and language accessibility requirements

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

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

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

2.3. Acceptance Tests

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

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

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

a. Process simulated ballots for each precinct or polling place in the jurisdiction.

b. Reject overvotes and votes not in valid ballot positions.

c. Handle write-in votes.

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d. Produce an input to or generate a final report of the election, and interim reports as required.

e. Generate system status and error messages.

f. Comply with and enable voter and operator compliance with all applicable procedural, regulatory, and statutory requirements.

g. Produce an audit log.

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Part 3: Review and Approval Process

3.1. Summary of Process

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

3.2. Procedure for Certification

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

Step 1: Letter of Request for Certification and Certification Fee
The certification evaluation procedure shall be initiated by a letter from the vendor of the voting system to the Secretary of the State Board of Elections requesting certification for either a specific voting system or for a software, firmware, or hardware modification to a certified voting system. A response letter will be sent to the vendor requesting the certification fee if SBE finds no reason to deny the request for certification based on a preliminary review of the request.

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

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

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Step 2: Technical Data Package and Corporate Information
The vendor shall submit the Technical Data Package, Corporate Information, and other material described in the next section of this document to an evaluation agent selected by the Commonwealth. The vendor will be supplied with the contact information of the evaluation agent.

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

Step 3: Preliminary Review
The evaluation agent will conduct a preliminary analysis of the Technical Data Package, Corporate Information, and other materials provided and prepare an Evaluation Proposal containing the following information:

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1. Components of the voting system requiring evaluation.

2. Identification of any additional materials needed to ascertain financial stability and capabilities of the vendor to maintain support of the voting system.

3. Description of the activities required to complete the portion of the evaluation performed by the evaluation agent.

4. Estimate of time required to complete the portion of the evaluation performed by the evaluation agent.

Step 4: Authorization to Proceed
The vendor will review the Evaluation Proposal and notify the Secretary of the State Board of Elections, in writing, of the desire to continue or terminate the evaluation process. A copy of this notification will be sent to the evaluation agent.

Step 5: Evaluation
The vendor will arrange for any "Non-operating, Environmental" testing if required and submit the results of these tests to the evaluation agent. After any required "Non-operating, Environmental" tests have been successfully completed, the evaluation agent will conduct the evaluation described in the Evaluation Proposal and submit a report of the findings to the State Board of Elections.

Step 6: Test Election
The State Board of Elections will supervise a test use of the system in an actual election with the vendor present prior to final certification.

Step 7: Certification
Based on the information contained in the report from the evaluation agent, the test election, and any other information in their possession, the State Board of Elections will determine whether the proposed voting system will be certified for use in the Commonwealth of Virginia and notify the vendor of the decision.

3.3. Supporting Information

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

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

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

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

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2. Copies of documents substantiating completion of federal compliance testing, including whether the proposed voting system has been certified under the most recent version or versions of the VVSG/VSS currently accepted for testing and certification by the EAC in another state or by a VSTL.

3. Whether the proposed voting system has ever been denied certification or had certification withdrawn in any state or by the EAC.

4. A brief overview description of the voting system. Typical marketing brochures are usually sufficient for this description (8 copies).

5. Whether the proposed voting system or a version of the proposed voting system is currently used in Virginia or elsewhere. (List all locations where the system is used.)

6. A check or money order for the non-refundable certification fee must be included with this request before any certification work begins.

Technical Data Package

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

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

1. *Hardware Schematic Diagrams*. Schematic diagrams of all hardware.

2. *Hardware Theory of Operations.* Documentation describing the theory of operation of the hardware.

3. *Customer Maintenance Documentation.* Documentation describing any maintenance that the vendor recommends can be performed by a customer with minimal knowledge of the system.

4. *Operations Manual.* Operations documentation that is normally supplied to the customer for use by the person(s) who will operate the equipment.

5. *Recommended Use Procedures.* Specific election administration procedures recommended for use with the system.

~~5.~~6. Definition of Marked Oval. Define the system thresholds used to declare a readable mark in an oval to be read by the scanner.

~~6.~~7. *Software License Agreement.* The software license agreement must be perpetual. An annual renewable support fee may be included as an option.

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

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

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

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

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

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

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

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

Transfer of Certification (Reciprocity)

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

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

Corporate Information

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

The Corporate Information shall contain the following items:

1. History and description of the business including year established, products and services offered, areas served, branch offices and subsidiary and/or parent companies.

2. Management and staff organization, number of full time employees by category, number of part-time employees by category, resumes of key employees who will assist Virginia localities in acquiring the system if it is authorized for use.

3. Audited Report of the business' most current fiscal year. Multiple reports may need to be submitted depending on the business' fiscal calendar and the length of time to complete the certification process. Certification can take as long as a year.

4. Comfort letter from the business' primary bank. If the business uses more than one, multiple comfort letters must be submitted.

5. Financial history of the business including a financial statement for the past three (3) fiscal years. If the vendor is not the manufacturer of the equipment for which application is made, include a financial statement for the manufacturer for the past three (3) fiscal years.

6. Gross sales in voting products and services for the past three (3) years and the percent that is representative of the total sales of the business and its subsidiaries.

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7. The location and manufacturing capability of each manufacturing facility that is used to fabricate and assemble all or any component part of the voting and/or tabulating system being submitted for certification.

8. The location and servicing capability of each service facility that will be used to service the voting and/or counting system for certification and the service limitation of the facility.

9. If publicly traded, indexes rating the business debt.

10. Quality assurance process used in the manufacturing of the voting system.

11. Configuration management process used with the voting system.

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

Proprietary Information

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

3.4. Audit and Validation of Certification

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

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

3.5. Time Frame

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

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The certification process is also terminated when:

a. SBE issues a determination regarding certification;

b. The Vendor withdraws from the process; or

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

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

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

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Part 4: Appendix A - Glossary

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

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

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

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

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

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

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

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Part 5: Appendix B - Contacts

The State Board of Elections

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Richmond, Virginia 23219-3497

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STATE CERTIFICATION OF VOTING SYSTEMS

Requirements and Procedures

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

Revised February 2014

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Part 1: Introduction

1.1. Purpose of Procedures

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

1. Ensure conformity with state election laws relating to the acquisition and use of voting systems and equipment.

2. Provide an organized and consistent means of evaluating and certifying voting systems and equipment marketed by vendors for use in Virginia.

3. Provide an organized and consistent means of evaluating and certifying additional capabilities and changes in the method of operation for voting systems previously certified for use in Virginia.

4. Provide an organized and consistent means of decertifying voting systems and equipment.

5. Provide for the improvement of the electoral process by ensuring that all voting systems operate properly and are installed and tested in compliance with the State Board of Elections approved procedures.

6. Provide for the accurate reporting of all election results for any jurisdiction in which each certified system is used.

1.2. Specific Requirements

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

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

2. A modification to a voting system previously certified by SBE will be tested in a manner necessary to ensure that all changes meet applicable standards and that the modified system (as a whole) will function properly and reliably. If the system being modified has been tested or certified to a previous VVSG/VSS version, SBE may allow testing of modifications to the prior standards or require testing of the modification to the most current standards, at its discretion.

3. The voting system or equipment must comply with the provisions in the *Code of Virginia* relating to voting equipment (Article 3, Chapter 6 of Title 24.2).

4. The voting system or equipment must comply with any applicable regulations or policies issued by the State Board of Elections.

5. The vendor must ensure that the equipment and software can accommodate interactive visual and non-visual presentation of information to voters and alternative languages when required. (See HAVA, 42 USC 15481(a)(3), (4), §203 of the Voting Rights Act (42 USC 1973aa-1a) and Virginia Code Section 24.2-626.1)

1.3. Applicability

1. The procedures outlined in this document are applicable to all voting systems first used on or after the effective date of this document.

2. These procedures are intended to assist local jurisdictions in identifying voting systems that meet all federal and state requirements and are available for purchase based on individual locality requirements.

3. The requirements of these procedures are waived for any voting system or equipment previously certified for and in use in the Commonwealth of Virginia on or before June 28, 2005. The State Board of Elections reserves the right to require re-certification of these systems or equipment at a future date.

4. Any modification to the hardware, firmware, or software of an existing system which has been certified by the State Board of Elections in accordance with these procedures will, in general, invalidate the certification unless it can be determined by the State Board of Elections that the change does not affect the accuracy, reliability, security, usability or accessibility of the system.

5. The intent of these procedures is to ensure that voting system hardware and software have been shown to be reliable, accurate, usable, accessible and capable of secure operation before they are certified for use in the Commonwealth. Hardware and software products with performance proven in commercial applications may be deemed acceptable, provided that they are shown to be compatible with the operational and administrative requirements of the voting environment. Typically, the vendor will be required to provide documentation of a product's proven performance, such as test reports to comparable standards. Products not in wide

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

1.4. Decertification

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

Part 2: Basis for Certification

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

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

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

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

2.1. Federal Compliance Testing

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

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

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

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

2.1.1. Voting System Hardware Elements

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

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

2.1.2. Voting System Software Elements

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

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

2.1.3. Reciprocity

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

2.2. State Certification Testing

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

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

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

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

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

a. Define ballot formats for a primary election, a general election, and a recount including all voting options defined by the *Code of Virginia*,

b. Install application programs and election-specific programs and data in the ballot counting device,

c. Verify system readiness for operation,

d. Count ballots,

e. Perform status tests,

f. Obtain voting data and audit data reports,

g. Support recount or election audits, and

h. Address compliance with physical and language accessibility requirements

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

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

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

2.3. Acceptance Tests

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

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

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

a. Process simulated ballots for each precinct or polling place in the jurisdiction.

b. Reject overvotes and votes not in valid ballot positions.

c. Handle write-in votes.

d. Produce an input to or generate a final report of the election, and interim reports as required.

e. Generate system status and error messages.

f. Comply with and enable voter and operator compliance with all applicable procedural, regulatory, and statutory requirements.

g. Produce an audit log.

Part 3: Review and Approval Process

3.1. Summary of Process

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

3.2. Procedure for Certification

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

Step 1: Letter of Request for Certification and Certification Fee

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

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

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

Step 2: Technical Data Package and Corporate Information

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

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

Step 3: Preliminary Review

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

1. Components of the voting system requiring evaluation.

2. Identification of any additional materials needed to ascertain financial stability and capabilities of the vendor to maintain support of the voting system.

3. Description of the activities required to complete the portion of the evaluation performed by the evaluation agent.

4. Estimate of time required to complete the portion of the evaluation performed by the evaluation agent.

Step 4: Authorization to Proceed
The vendor will review the Evaluation Proposal and notify the Secretary of the State Board of Elections, in writing, of the desire to continue or terminate the evaluation process. A copy of this notification will be sent to the evaluation agent.

Step 5: Evaluation
The vendor will arrange for any "Non-operating, Environmental" testing if required and submit the results of these tests to the evaluation agent. After any required "Non-operating, Environmental" tests have been successfully completed, the evaluation agent will conduct the evaluation described in the Evaluation Proposal and submit a report of the findings to the State Board of Elections.

Step 6: Test Election
The State Board of Elections will supervise a test use of the system in an actual election with the vendor present prior to final certification.

Step 7: Certification
Based on the information contained in the report from the evaluation agent, the test election, and any other information in their possession, the State Board of Elections will determine whether the proposed voting system will be certified for use in the Commonwealth of Virginia and notify the vendor of the decision.

3.3. Supporting Information

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

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

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

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

2. Copies of documents substantiating completion of federal compliance testing, including whether the proposed voting system has been certified under the most recent version or versions of the VVSG/VSS currently accepted for testing and certification by the EAC in another state or by a VSTL.

3. Whether the proposed voting system has ever been denied certification or had certification withdrawn in any state or by the EAC.

4. A brief overview description of the voting system. Typical marketing brochures are usually sufficient for this description (8 copies).

5. Whether the proposed voting system or a version of the proposed voting system is currently used in Virginia or elsewhere. (List all locations where the system is used.)

6. A check or money order for the non-refundable certification fee must be included with this request before any certification work begins.

Technical Data Package

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

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

1. *Hardware Schematic Diagrams*. Schematic diagrams of all hardware.

2. *Hardware Theory of Operations.* Documentation describing the theory of operation of the hardware.

3. *Customer Maintenance Documentation.* Documentation describing any maintenance that the vendor recommends can be performed by a customer with minimal knowledge of the system.

4. *Operations Manual.* Operations documentation that is normally supplied to the customer for use by the person(s) who will operate the equipment.

5. *Recommended Use Procedures.* Specific election administration procedures recommended for use with the system.

6. Definition of Marked Oval. Define the system thresholds used to declare a readable mark in an oval to be read by the scanner.

7. *Software License Agreement.* The software license agreement must be perpetual. An annual renewable support fee may be included as an option.

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

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

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

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

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

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

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

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

Transfer of Certification (Reciprocity)

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

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

Corporate Information

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

The Corporate Information shall contain the following items:

1. History and description of the business including year established, products and services offered, areas served, branch offices and subsidiary and/or parent companies.

2. Management and staff organization, number of full time employees by category, number of part-time employees by category, resumes of key employees who will assist Virginia localities in acquiring the system if it is authorized for use.

3. Audited Report of the business' most current fiscal year. Multiple reports may need to be submitted depending on the business' fiscal calendar and the length of time to complete the certification process. Certification can take as long as a year.

4. Comfort letter from the business' primary bank. If the business uses more than one, multiple comfort letters must be submitted.

5. Financial history of the business including a financial statement for the past three (3) fiscal years. If the vendor is not the manufacturer of the equipment for which application is made, include a financial statement for the manufacturer for the past three (3) fiscal years.

6. Gross sales in voting products and services for the past three (3) years and the percent that is representative of the total sales of the business and its subsidiaries.

7. The location and manufacturing capability of each manufacturing facility that is used to fabricate and assemble all or any component part of the voting and/or tabulating system being submitted for certification.

8. The location and servicing capability of each service facility that will be used to service the voting and/or counting system for certification and the service limitation of the facility.

9. If publicly traded, indexes rating the business debt.

10. Quality assurance process used in the manufacturing of the voting system.

11. Configuration management process used with the voting system.

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

Proprietary Information

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

3.4. Audit and Validation of Certification

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

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

3.5. Time Frame

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

The certification process is also terminated when:

a. SBE issues a determination regarding certification;

b. The Vendor withdraws from the process; or

c. The system fails the certification test. Or

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

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

Part 4: Appendix A - Glossary

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

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

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

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

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

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

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

Part 5: Appendix B - Contacts

The State Board of Elections

Gary Fox, Voting Technology Coordinator

Telephone: (804) 864- 8919
Email: gary.fox@sbe.virginia.gov

Susan Lee, Manager of Election Uniformity

Telephone: (804) 864-8928
Email: susan.lee@sbe.virginia.gov

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

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Requests for Full Time Status Richmond County

BOARD WORKING PAPERS
Edgardo Cortés
SBE Deputy Secretary

Memorandum

To: Members of the State Board of Elections
From: Edgardo Cortés, SBE Deputy Secretary
Date: April 23, 2014
Subject: Electoral Board Request for Full-Time Status for General Registrar

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Suggested motion for a Board member to make:

Move that the Board approve the request from the Electoral Board of Richmond County for the period of May 1, 2014 through June 30, 2014.

Applicable Code Sections: Chapter 890, 2011 Acts of the Assembly, Item 80(C)

Attachments:
Your Board materials include the following

- Signed request for temporary full-time status from Richmond County Electoral Board

Background:

The Virginia Budget authorizes and funds general registrars with a population in most counties under 10,000 and cities under 7,500 to work on a part-time basis for most of the year. While the Budget does provide funding for the registrars to be compensated to work full-time for the months surrounding each year's May General Election (March through May), the Budget does not account for other elections, including local elections and primaries.

Chapter 890, 2012 Acts of the Assembly, Item 80(C) (the "Budget") does include an appropriation from the general fund to provide temporary full-time status for part-time general registrars. Specifically, the Budget states:

> C. Included in the appropriation for this Item is $30,900 the first year and $30,900 the second year from the general fund to provide temporary full-time status for part-time general registrars. Such temporary full-time status may be granted by the Board of Elections, upon request of the Local Electoral Board, in recognition of temporary or permanent increases in workload. In making its determination, the Board of Elections shall consider elections, if any, required to be conducted by the locality during January through July, and evidence submitted by the Local Electoral Board to document increases in workload. Such evidence shall include specific data with comparisons, by transaction type and by month experienced, of

past and present workloads. Temporary full-time status, if granted, may include all or part of the time normally worked on a part-time basis.

SBE staff recommendation is to approve the request from Richmond County. The request is reasonable and reflects the timeframe in which the obligations for the May General Election reach the point where a part-time registrar should be in the office full-time. Part-time registrars have the same obligations as registrars in larger localities, including meeting important absentee ballot deadlines, administering in-person absentee voting and all the other assorted duties and responsibilities associated with properly administering an election.

VOTER REGISTRATION-RICHMOND COUNTY

Martha A. Packett, General Registrar

101 Court Circle
PO BOX 1000
Warsaw, VA 22572
804-333-4772 fax: 804-333-4641
Email: govote159@co.richmond.va.us

Electoral Board: Mabel W. Lewis, Chairman,
Vacant, Vice Chairman, L. Wayne Pierson, Secretary

M E M O R A N D U M

TO: Donald Palmer, Secretary State Board of Elections

FROM: L. Wayne Pierson, Chairman Richmond County Electoral Board

DATE: March 6, 2014

SUBJECT: Request for temporary full-time status for May 1, through June 30, 2014

Please grant temporary full-time status May and June 2014, to Martha Packett, Registrar, Richmond County to enable her to carry out the increased workload due to the June 10, 2014 Primary.

Chapter 847, 2007 Acts of Assembly, Item 1-86, paragraph C, states SBE may grant temporary full-time status upon the request of the local electoral board, in recognition of temporary or permanent increase in workload.

Workload will include:

- Town election May 2, 2014
- Preparation for the Primary Election on June 10, 2014
- Absentee voting for the primary election will begin on April 26, 2014 with duties and absentee voting overlapping with the town election.

I would appreciate your approval of the temporary full-time status to assure each voter has an equal opportunity and is not disenfranchised by our limited office hours. We attempt to provide the best service possible to our community; we feel it is impossible to do this on a part-time basis.

Thank you for your consideration and if you have any questions please feel free to contact me.

Respectfully,

L. Wayne Pierson

L. Wayne Pierson
Secretary

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STATE BOARD of ELECTIONS

Voter Photo Identification Card Application Approval

BOARD WORKING PAPERS

Myron McClees
SBE Policy Analyst

Memorandum

To: Members of the State Board of Elections

From: Myron McClees, Policy Analyst

Date: April 23, 2014

Re: Proposed Form for Acquiring a Voter Identification Card

Suggested motion for a Board member to make:

I move that the Board adopt the proposed Voter Photo Identification Card Application.

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

Attachments:

Your Board materials include the following:

- Proposed wording for Voter Identification Card Application
- Summary of comments received and staff recommendations
- ID application raw feedback

Background:

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

The proposed form currently being presented before the board is offered in anticipation of the upcoming implementation date. The Board, at its February 26, 2014 meeting, voted to allow a 21 day comment period on the original version of the form, which ended on March 24, 2014. Over 200 comments were received on the original version of the form. The version before the board today is reflective of the helpful suggestions received during the comment period.

Multiple substantive changes are reflected within the version of the form before the Board today, including:

- Removal of a felony warning (wording in Va. Code § 24.2-1016 did not allow for its inclusion)
- Simplified affirmation of the voter
- Inclusion of a Privacy Notice
- Changed wording to alert the voter of the method of receiving the ID
- Format changes to help create a clear document synonymous with the registration application

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DEPARTMENT *of* ELECTIONS

Commonwealth of Virginia Voter Photo Identification Card Application

Unless otherwise indicated, all items on this form are required.

Photo IDs will be mailed to the applicant's address on file in the Commonwealth of Virginia voter registration system upon approval.

Your Name

1

First Name _____ Last Name _____

Middle Name _____ ☐ None Suffix _____ ☐ None

Additional Information

2 Birth date M M / D D / Y Y Y Y

3 Social Security Number ___ - ___ - ____ (Last 4 Digits Required)

4 Telephone (optional) ___ - ___ - ____

5 Email (optional) _____

Swear/Affirm

6

The Commonwealth of Virginia Photo Identification Card may only be used for voting purposes, and may only be issued to registered voters that do not have acceptable photo identification. Other acceptable forms of photo identification include:

- Valid Virginia driver's license
- DMV issued photo identification card
- Valid United States passport
- Government issued photo identification
- Valid college or university student photo identification card (issuer must be institution of higher education located in Virginia) or
- Valid Employee photo identification

I swear/affirm that the information provided on this form is true.

Signature _____ M M / D D / Y Y Y Y

Privacy Act Notice: This form requires the last four digits of your social security number for identification and to prevent fraud. Your application may be denied if you fail to provide the last four digits of your social security number or any other information necessary to determine your qualification to vote. Federal law (the Privacy Act and Help America Vote Act) and state law (the Virginia Constitution, Article II, § 2, Title 24.2 of the Code of Virginia and the Government Data Collection and Dissemination Support Act) authorize collecting this information and restrict its use to official purposes only. This application will only be open to public inspection if the social security number is fully removed.

For Internal Purposes Only:

Processed by: _____ Date: M M / D D / Y Y Y Y Voter ID #: _____

COMMENT SUMMARIES

Virginia Voter Photo Identification Card Application

Recommendation	#	Agency Recommendation
The form should ask for less information from the voter	3	No action. The information requested is necessary to identify the proper voter within the voter registration system
The fraud warning should be removed or altered	164	The mention of felony penalty should be removed, as the legal justification to require the warning does not exist
The list of acceptable forms of identification needs to better state which IDs need to be valid and unexpired	7	All mention of whether the ID needs to be "valid" or "unexpired" will be directly taken from the underlying statute
The check box for the fraud warning should be removed	1	Check box will be removed
The wording "I do not have" in the list of acceptable forms of identification should be in bold	1	This section of the form has been edited so that the wording no longer appears. Recommended action unnecessary
The phrasing for government IDs is ambiguous because some IDs specifically say they cannot be used for identification purposes	1	No action taken
The fraud warning should remain intact	8	Felony penalty wording has been removed
The notification that the photo ID can only be used for voting purposes is redundant and might be confusing to persons that are not already registered. It should be revamped	1	Wording will be changed to be clearer
The social security number should not be required, and a Privacy Act Notice is necessary	2	Social Security Number will still be requested. Privacy Act Notice will be added.
The middle name/suffix requirement should be relaxed	5	The checkbox will be removed
Voters should confirm that they are not registered in other states	1	No action. Registration process handles this concern.
The form should also be in Spanish	1	Spanish version will be based on the version finalized by the current process
The form should explicitly state that the card is free	1	No action taken
There should be a print line next to the signature line	1	No action taken
People should only be able to get the ID from their specific registrar	2	No action taken
The title should read Commonwealth of Virginia Voter Photo Identification Card Application	1	Recommendation followed
Reference the felony penalty section in the statement	2	No action taken, the felony warning has been removed

Capitalize the “L” in Driver’s license	1	In lieu of following the recommendation, the “D” has been converted to lowercase.
Place the entire False Statement Warning and Privacy Act Disclaimer on the form	2	No action taken
Change the disclaimer wording to read as follows “I understand that the photo identification card will be provided to me after my registration record has been verified and is to be used for the sole purpose of voting.”	1	Wording has been edited to somewhat follow that which has been recommended
The statement that the card is only to be used for voting should be moved up higher on the form	1	No action taken
The font should be changed to Verdana so it is more easily read by the visually impaired.	1	

Please provide the line number on the "Commonwealth of Virginia Voter Identification Card Application" that you would like to edited.	Please provide your comments or edits to the "Commonwealth of Virginia Voter Identification Card Application".
1 to 29	I am writing on behalf of Advancement Project, a national civil rights organization. Thank you for permitting me to submit comments on the proposed application for photo ID pursuant to Act of March 25, 2013 ch. 725, (photo ID requirements) (the "Act"). While we appreciate the attempt of the State Board of Elections to create as simple a form as possible, we question whether any application form is authorized or necessary. Under the Act, the Board of Elections has certain enumerated duties none of which include the development or dissemination of an application form. Further, there is nothing in the Act that requires voters to affirm that they lack an acceptable photo ID. While it is arguable that the Board could develop such an application form pursuant to its duty to promulgate regulations, those regulations have not been circulated for public comment yet. This extra application form could deter voters because it is an additional step in the voting process. To the extent that an application form is necessary, the form should gather only enough information to allow the registrar to obtain the voter's photograph and signature for transmission to the Board as specified in the Act. This information should mirror the look-up form currently on the State Board of Elections website, namely, name, address, city or county, birth date, last 4 digits of the voter's social security number or voter ID number. Any additional information appears to be unnecessary and could lead to confusion. For example, at the top of the proposed form, on lines 5 and 7, the voter is asked to provide a middle name or suffix or to check a box if the voter has none. The layout is confusing and it is not clear what happens if a voter simply forgets to check the box. Moreover, it does not appear as if such information is necessary to verify the voter's registration status. The middle of the form requires an affirmation that the voter is providing truthful information, subject to "felony perjury" and that the voter does not have "any acceptable form of identification required to vote in person." (Lines 10-12) The form then contains a partial list of acceptable IDs. (Lines 13-19) The affirmation language itself is prominently located on the form and is unduly harsh, given that the purpose of the form is to allow the registrar to capture a photograph and signature for identification purposes after verifying the voter's registration. Since the Act does not provide for an affirmation, and registered voters have already affirmed their registration information, this unnecessary second affirmation should be omitted. Moreover, the affirmation is tied to a partial list of acceptable IDs raising the possibility that voters may unwittingly commit fraud because they have an acceptable ID, but not one that is specified on the list. We recommend that the incomplete list be deleted entirely in favor of a citation to the law. Alternatively, the Board should include a complete list of all possible acceptable IDs. This list should be located ideally on the back of the form.
10 to 12	Request that lines 10-12 be eliminated. The statement is unnecessary, unwarranted, intimidating, and not required by the legislative language.
3, 5, 7, 10-21	The Lawyers' Committee for Civil Rights Under Law ("Lawyers' Committee") writes to offer comments regarding the Department of Elections' proposed Commonwealth of Virginia Voter Identification Card Application. The Lawyers' Committee is a nonpartisan, nonprofit organization, formed in 1963 at the request of President John F. Kennedy to involve the private bar in providing legal services to address racial

	discrimination. The principal mission of the Lawyers' Committee is to secure equal justice under law, particularly in voting rights, criminal justice, community development, employment, educational opportunities, fair housing and fair lending, and immigration. The Lawyers' Committee has three concerns regarding the application form for a Virginia Identification Card: (1) the check boxes accompanying the required fields for an applicant's middle name and suffix can be easily missed, creating a significant risk that the voter could inadvertently submit an invalid application; (2) the sworn statement both includes an unnecessary checkbox (which again, if missed, invalidates the form) and risks intimidating voters by asking them to swear that they do not have an acceptable form of identification; and (3) the list of acceptable forms of identification fails to include necessary details, such as whether the identification must be unexpired and which government bodies can issue acceptable identification. Given these challenges to successfully completing the form, the Lawyers' Committee suggests several changes. First, the Lawyers' Committee suggests that the boxes after the "middle name" and "suffix" fields not be mandatory. The form currently indicates that all fields are required "unless noted." Therefore, an applicant who has no middle name or suffix, but forgets to check the box indicating that that is the case, is at risk of having their application rejected based on a mere oversight. The State Board of Elections should indicate on the form that the voter is not required to write anything in the middle name or suffix fields if they do not have a middle name or suffix as part of their name. The Lawyers' Committee believes voters should not be denied a Voter Identification Card based on a failure to check a box indicating that information responsive to one or both of those fields does not exist. Second, the Lawyers' Committee suggests that the State Board of Elections edit the sworn statement/affirmation as follows: (1) move the first clause of the statement that reads, "I swear/affirm, under felony penalty for making willfully false material statements or entries, that the information provided on this form is true" to the end of the form, just above the signature block; (2) delete the checkbox before the sworn statement as it is unnecessary, given that the applicant is signing directly below the sworn statement; and (3) keep the remainder of the sentence where it currently is (above the list of acceptable forms of identification), but change it to read, "To the best of my knowledge, I do not have: [followed by the list of acceptable forms of identification]." This would make clear that the voter was swearing to the truth of everything on the form, prevent applications from being rejected on the basis of missing a checkbox when an applicant is signing their name, and avoid possible intimidation of voters who may be unsure of whether they have acceptable identification and are seeking a Voter Identification Card because of that uncertainty. Third, the Lawyers' Committee urges the State Board of Elections to edit the list of acceptable forms of identification so that it more accurately reflects what is acceptable under Virginia law. Specifically, the list should note, under the second bullet point, that the "DMV issued photo identification card" must be from the state of Virginia (i.e. change this language to "A Virginia DMV issued photo identification card"). In addition, the fourth bullet point should be changed so that it specifies that the "government issued photo identification" can be issued by the Commonwealth of Virginia, one of its political subdivisions, or the United States (i.e. change this language to "Other government photo identification issued by the Commonwealth of Virginia, one of its political subdivisions, or the United States."). Finally, given that the list specifies that a Virginia driver's license must be unexpired, the State Board of Elections should also note whether the other listed forms of identification (DMV issued photo identification card, U.S. passport, government issued photo identification, student identification, and employee identification) must be unexpired. The Lawyers' Committee appreciates the opportunity to offer these comments and

	looks forward to working with the Virginia State Board of Elections to ensure that the form is clear and accessible for all Virginia voters. If you have any questions, please feel free to contact Arusha Gordon at agordon@lawyerscommittee.org or at (202) 662-8306.
1	blahblahblah
Line 10	The below statement is also available as a signed letter with the following signatories: Delegate Mark Sickles Delegate Kaye Kory Delegate Robert Brink Delegate Jennifer McClellan Delegate Betsy Carr Delegate Robert Krupicka Delegate Micheal Futrell Delegate Scott Surovell Delegate Lionell Spruill Sr. Delegate Johnny Joannaou Delegate T. Montgomery Mason Delegate Kenneth Plum Delegate David Bulova Delegate Luke Torian Delegate Joe Morrisey Delegate Eileen Filler-Corn Delegate Alfonso Lopez Delegate Jeion Ward Delegate Matthew James Delegate Mamie BaCaote Delegate Marcus Simon We the undersigned are alarmed by the State Board of Election's (SBE) proposed rule relating to photographic identification (ID) needed to vote after July 1, 2014. To inform a voter that it is a felony to willfully ask for a free picture ID if you may otherwise already own, or have owned at one time, a drivers license, any State or local government ID, a United States government issued ID, including but not limited to a Passport, any valid student ID issued by an institution of higher learning in the Commonwealth, or any employer issued ID, is an unwarranted and outrageous potential deterrent to a person that needs access to this new ID in order to exercise his or her franchise to participate in our democracy. It assumes a level of knowledge by the voter that is unreasonable on its face. Not only does the language require that individuals know all of the available legal forms of photographic identification, but also that he or she does not currently have one available. Furthermore, it does not provide an answer on how individuals with suspended and revoked licenses proceed. The language goes far beyond that required in Voter Registration and Absentee Ballot applications. Despite the caveat "willingly," a voter could be excused if he or she is not sure whether he or she has, somewhere in her possession, a currently valid ID. The implied threat is unacceptable and beyond similar requirements elsewhere. The proposed rule also fails to account for those who have their driver's license suspended, revoked, or misplaced. Last year alone the DMV suspended 524,338 licenses, 20,610 were surrendered, and 20,927 were reported lost. This proposed affidavit does not make it clear if those individuals will be eligible for a new free ID from SBE. All of the above mentioned reasons make it unreasonable to ask individuals to sign the proposed statement. These new IDs need to be universally accessible to all voters that have a reasonable assumption that they need it to vote.
1	There has not been voter fraud and is just one more way to limit and stifle voters.
10 to 12	these lines are unnecessary, unwarranted, intimidating and not required by the legislative language.
10	Including this language, which threatens felony charges, is just another way for Republicans to intimidate and ultimately disenfranchise voters.
12	"I do not have" should be in bold type.
10 to 12	The statement required on lines 10 through 12 should be eliminated because the statement is unnecessary, unwarranted, intimidating and not required by the legislative language. In my opinion it will discourage people who need photo ID in order to vote from completing the application because they fear committing a crime.
10 to 12	A statement that one does not have a photo ID does not have to rise to the level of a legal document. The person could just say "to the best of my belief". There is no way to prove that someone intended to deceive when signing the statement, so there is not way to prove a felony. Since there is no way to do so, the implied threat of felony

	prosecution should be removed. It is intimidating.The legislation does not require such a statement. Lines 10-12 should be eleiminated.
10 to 12	The statement is unnecessary, unwarranted, intimidating and not required by the legislative language.
10	The statement is unnecessary, unwarranted, intimidating and not required by the legislative language.
8	Social security numbers need to be checked and the person applying should not get a photo ID until they are found to be a United States CITIZEN.
10 to 12	Recommended that lines 10-12 be eliminated. The statement is unnecessary, unwarranted, intimidating, and not required by the legislative language.
10 to 12	Recommended that lines 10-12 be eliminated. The statement is unnecessary, unwarranted, intimidating, and not required by the legislative language."
10 to 12	Recommended that lines 10-12 be eliminated. The statement is unnecessary, unwarranted, intimidating, and not required by the legislative language."
10 to 12	It appears to be overkill to make a request a felony. Even a misdemeanor seems unwarranted unless some degree of fraud is demonstrated.
10 to 12	The request to remove felony penalty . A vote may have gotten a job or attending a college of higher education before the election. Question if a person driver permit is suspended will that keep him from voting?
10 to 12	Should be deleted This is unwarranted and intimidating.
10 to 12	The felony penalty in the line 10 statement is a blatant attempt to intimidate voters and should not be included in the statement: I swear/affirm, under felony penalty for making willfully false material statements or entries, that the 11 information provided on this form is true, and that I do not have any acceptable form of identification required 12 to vote in-person.
10 to 12	I request that the SBE immediately delete the language in lines 10-12 of the voter ID application which make reference to it being a Felony - as this is unnecessary and will present a deterrent for those seeking to obtain an official ID for voting purposes.
10 to 12	Recommended that lines 10-12 be eliminated. The statement is unnecessary, unwarranted, intimidating, and not required by the legislative language.
10 to 12	Eliminate these lines. The statement is unnecessary, unwarranted, intimidating and not required by the legislative language. If the intent is to discourage unnecessary requests to keep costs down, a polite request should suffice. Speaking from the point of view of an election officer, I find the subject lines outrageous.
10 to 12	Virginia Organizing is a statewide non-profit organization that is committed to supporting voting regulations and procedures that encourage citizens to register to vote and to cast their vote. We have great concerns that the photo ID requirement enacted by the 2013 session of the Virginia General Assembly will create a serious barrier to citizens who want to vote but do not have a photo ID. Therefore, we believe the process for obtaining a free photo ID should not create barriers of any kind to the process. Unfortunately, the following statement on lines 10-12 does just that: "I swear/affirm, under felony penalty for making willfully false material statements or entries, that the information provided on this form is true, and that I do not have any acceptable form of identification required to vote in-person." We believe that the statement above will serve to intimidate potential voters and significantly reduce the likelihood that they will apply for the photo ID necessary for them to vote. It may be that the individual has lost a permissible photo ID and is unable to find it. The statement to which they must swear that they "do not have any acceptable form of identification" may make them believe that having lost an ID is not an acceptable reason to submit the request. Therefore, they will not do so and will be unable to vote. There is no justifiable reason to include a statement that can only

	serve to intimidate an individual enough that they will decide not to submit the application and, therefore, be unable to vote. We ask that the language on lines 10-12 be removed from the form.
10 to 12	These lines are unnecessary and intimidating to the applicant, and should be deleted.
10 to 12	These lines should be eliminated. The statement is unnecessary, unwarranted, intimidating and not required by the legislative language. Some people might stop the process because they can't remember if they have a photo ID already.
10 to 12	Do not make this application harder than it needs to be.
10 to 12	I recommend that lines 10-12 be eliminated. The statement is unnecessary, unwarranted, intimidating, and not required by the legislative language.
10 to 12	These lines are unnecessarily intimidating and may keep some eligible voters from completing their applications.
10 to 12	Delete these lines, other wise people who have lost their ID will not know how long they must search for it before they can get a new one without fear of committing a felony.
10 to 12	"Recommended that lines 10-12 be eliminated. The statement is unnecessary, unwarranted, intimidating, and not required by the legislative language."
10 to 12	Recommended that lines 10-12 be eliminated. The statement is unnecessary, unwarranted, intimidating, and not required by the legislative language."
10 to 12	Felony? Are you serious? Voting, our most precious right, cannot be made intimidating in this way. What country are we living in?
10 to 12	I do NOT believe the language on line 10 through 12 is necessary for a form of ID that is usable only for the purpose of voting. Further, the language is unnecessarily intimidating toward the applicant.
10 to 12	Lines 10-12 should be eliminated. This is outrageous -- a person could simply FORGET whether or not they already have a photo id! The statement is unnecessary, unwarranted, intimidating, and not required by the legislative language.
10	It is recommended that these lines be eliminated because the statement is unnecessary, unwarranted, intimidating and not required by the legislative language.
16	This is an extremely ambiguous requirement. I have a Virginia DMV issued Armed Forces Veteran's Photo ID that states it CAN NOT be used for official identification. So not all gov't issued photo IDs are valid for voting.
10 to 12	I believe such a declaration is unnecessary, unwarranted, intimidating and not required by the legislative language.
10 to 12	such language is unwarranted, unnecessary and intimidating and not required by the language of the bill or statute.
12	all forms of ID on the list should say "unexpired". E.g., "I do not have an unexpired:"
10 to 12	It is recommended that these lines be eliminated because the statement is unnecessary, unwarranted, intimidating and not required by the legislative language.
10 to 12	The lines/language SHOULD BE INCLUDED. They shoud NOT be altered or deleted. I just retired as an FBI Supervisor, where I worked for 30 years. Voter Fraud is a major problem in this country. This is not unreasonable language. It is APPROPRIATE and should be kept INTACT.
10 to 12	Since when has memory (or intelligence) been a legal requirement for voting? This is something out of fascism.
10 to 12	How would it be a felony to ask for a photo ID and why would it make any difference if a voter wanted a better picture or didn't know what kind of ID is needed? Dumb, annoying, harmful, embarrassing.
10	To require such a declaration is unnecessary, unwarranted, intimidating and not required by the legislative language. The "elephant" in the room is that it is clearly

	racially motivated.
10 to 12	I am puzzled by the reference to it being a felony to request a photo id if I already have one. Why? What? My college education doesn't help. Omit it.
10 to 12	The statement contained within lines 10-12 is unnecessary, unwarranted, extremely intimidating and not required by the legislative language. Why was this statement added when it wasn't required by the legislation that created this form of voter ID? It's yet another attempt by certain parties to make it extremely difficult to vote in Virginia and must be removed from the form it's contained on.
10 to 12	I think this statement needs to be eliminated and revised as follows: I assert that, to the best of my knowledge, I do not have any of the following identifications necessary to vote in person. I do not have ..." However, thought needs to be given to the voter by absentee ballot. Are we requiring these id's to vote by absentee, too? That probably is a different process. The lines as they stand are unnecessarily overbearing and intimidating and punative to people who may have lost previous cards, or in the case of forgetful seniors, may not remember what they have or where they are.
10 to 12	These lines should be removed. They are unnecessary, unwarranted, intimidating and not required by the legislative language.
10 to 12	the statement is unnecessary, unwarranted, intimidating and not required by the legislative language.
1	The entire form should be tossed into the trash as it discriminates against the very poor, the elderly and the disabled. These groups deserve to have their voice heard without having to spend their precious few resources applying for a discriminatory photo id. Please reconsider this entire piece of legislation, for as it stands, is a prime example of gerrymandering.
10 to 12	I fully recommend that these lines be eliminated, as they are unnecessary, and not required by legislative language. They sound threatening, and may dissuade potential voters from acquiring the proper identification. Each individual should have the right to vote and be able to do so without fear.
10 to 12	Who are the moronic legislators we ;paid to come up with this? There is no good reason for making it a felony to get a second form of acceptable ID. I really want to know who was responsible for this travesty so I can work against this person's re-election or, if this person is a bureaucrat, to urge that person to be reprimanded or demoted. Absolute stupidity. Are we now going to throw people in jail for cussing or spittin on the sidewalk?
10 to 12	These lines 10-12 should be eliminated.
10 to 12	This is a waste of needed tax dollars. Spending state funds for a problem that exists only in the politics of voter suppression is unconstitutional and undemocratic. Photo IDs should not be needed to vote in Virginia!
10 to 12	The proposed form states that requesting a photo ID when you may already have one is a felony and requires those requesting the free ID to swear that they do not have one: The reference to a felony is intimidating and not required by the statute. It should be eliminated.
10 to 12	Delete.
10	The felony language seems intended to intimidate. I recommend any mention of a felony penalty be eliminated. We want more eligible people to vote--let's make it easier, not more difficult.
10 to 12	These lines should be eliminated because the statement is unnecessary, unwarranted, intimidating and not required by the legislative language.
10 to 12	Second, note lines 10 through 12. It is recommended that these lines be eliminated because the statement is unnecessary, unwarranted, intimidating and not required by the legislative language

10 to 12	Lines 10 through 12 should be eliminated because the statement is unnecessary, unwarranted, intimidating and not required by the legislative language.
10 to 12	Unnecessary, intimidating, confusing to the average voter. I worked as an election official almost 10 years, never saw anyone trying to falsely or illegally vote.
10 to 12	It should not be a felony if someone does request a new photo ID and they may already have one. Sometimes people may even forget that they have an old ID.
10 to 12	
10	I swear under penalty of a FELONY? Come on. That's language designed to intimidate and discourage people who genuinely need help from applying!
10 to 12	This declaration is unnecessary, unwarranted, intimidating and not required by the legislative language. Please delete these lines.
10	Unnecessary, unwarranted, and intimidating -- should be eliminated.
10	I do not see anything wrong with the form, sorry
10 to 12	Why is this a felony?? Our jails are overloaded with extreme cost to taxpayers. We do not need frivolous felonies!!
10 to 12	This is unnecessary and wrong-headed. First of all, it is intimidating. Someone may not be sure whether s/he has an old photo ID stuck away somewhere? Such a person might be intimidated by the threat and not apply. Second, what if a person is 60 or 70 years old and has a very old photo ID whose picture no longer resembles them in a recognizable way? Is that a usable photo ID? Please drop this threat.
10	The form should not have a penalty, and particularly not a FELONY penalty, for accidentally filling it out when you already have another photo ID. The voter ID card is for people who have life circumstances that mean that they do not have photo ID - those kinds of life circumstances (poverty, sudden relocation, changing your name, institutionalization/mental health issues, victim of crime, and so on) also mean that they wouldn't be sure whether they had ID or not. The possibility of a penalty would only keep people from voting, which is morally wrong.
10	The language is intimidating and undermines the good intentions of the applicant. Strike out "under felony penalty".
10 to 12	Swearing under penalty of perjury that one does not have particular kinds of identification is unnecessary. Such an affirmation constitutes an impediment to the right to vote. It should suffice that voter swears or affirms that he/she lacks such identification.
10	getting a photo ID should not entail the fear of a felony. Strike this condition from the application. I would prefer my tax dollars be spent on verifying the voters record rather than threatening with a felony. That would be ridiculous, I would consider it harassment of a individuals right to vote. The likely hood of social/cultural profiling for individuals would be very high. With a culture that tolerates a 75% lifetime chance of black men going to prision, I do not trust people in power to be fair.
10 to 12	In Virginia this is one of many rights taken from a convicted felon even long after they have paid their debt. Abolish this language from the form you are interfering with the due process rights of citizens. In my opinion felons especially those with non aggravated cases where they have long ago paid their debt should have this right restored automatically without petitioning the governor.
10 to 12	This is unnecessary and intimidating and I believe is written this way to suppress voter registration and voting. I have seen no evidence in the media that Va has a vote fraud problem.
SB1246	Lines 10 through ... recommend that these lines be eliminated because the statement is unnecessary, unwarranted, intimidating, and not required by the legislative language.
10 to 12	These lines should be eliminated because the statement is unnecessary, unwarranted, intimidating and not required by the legislative languag

General Comment	Why can't the DMV issue IDs for free? After all, they accept the DMV issue photo identification card as a form of ID. Any registered voter who does not have a photo ID, should be able to walk into any DMV and get a photo ID. That may raise issues with verifying existing voters, but there is absolutely no reason that DMV cannot issue these to new registrants. It makes no sense that someone would go to a DMV and register to vote for the first time and essentially have that registration useless unless they make a second trip to the Registrar's office. When someone comes to the DMV specifically to register they should be given a form to verify that they currently posses at least one of those required forms of ID. If they say don't, they should have their photo taken and be issued a free ID card on the spot. If someone is updating a drivers license and registers at that time, it is not an issue. But it simply can't be that difficult to put a process in place for those people who come in specifically to register or update their registration to be presented with the form and given the opportunity to get a photo. Frankly, it seems to be to be a violation of at least the spirit the National Voter Registration Act, since they really cannot complete an effective registrations at the DMV without having to pay for the photo ID, which is a poll tax.
20	I don't see the purpose of any part of lines 20 and 21. Line 10 already addresses the affect of signing. Line 20 almost does not make sense because it implies that everyone getting these already has a registration record that they need to look up. I would assume if a new voter walks in with a complete form and hands it to the registrar, they can get their picture taken on the spot, right? Someone like that has no record to verify. The "sole purpose" language is irrelevant and potentially intimidating. Is someone going to not want to get one because they are going to fear that if they accidentally use it for something else there will be repercussions? There is no point at all to that language.
10 to 12	Ridiculous! Would this not be intimidating to some simply wanting to vote. Need to stop using these methods to skew voting! Virginia is the laughing stock of intelligent citizens in US.
8	Requiring SSN or any part therof is almost certainly a violation of the privacy act. Even if it is not, a privacy statement is required.
10 to 12	This is heavy-handed and unnecessarily intimidating. It should read: "I swear/affirm that the information provided on this form is true, and that I do not have any acceptable form of identification required to vote in-person including:
10 to 12	unnecessary, intimidating
10 to 12	Strike - I swear/affirm, under felony penalty for making willfully false material statements or entries, that the information provided on this form is true, and that I do not have any acceptable form of identification required to vote in-person
5	The middle name field should not be required and failure to check the box should not be a material omission. The form prescribes that all fields are required unless noted. Two fields are required that don't apply to all voters: the middle name and the suffix. If a voter has neither one of these, they are required to check the boxes next to the field. Failure to check the box could subject the application to rejection. This is a common problem on other SBE forms, most notably the voter registration form - for example, failure to check box 7 subjects that voter registration application to rejection.
10 to 12	Requiring voters to show a photo ID disenfranchises voters and thus undermines their participation in our shared democracy. Voter fraud is not the issue here. Unconstitutional voter disenfranchisement is. I oppose the inclusion of the felony statement. I believe such a declaration is unnecessary, unwarranted, intimidating and not required by the legislative language.
10 to 12	These lines are unnecessary and hint strongly of voter intimidation.
10 to 12	This should include a statement that the individual is not registered to vote in another

	state. Finger prints should be required to avoid multiple IDs issued to the same person.
10 to 12	The word felony is unnecessary; the state can/will ascertain the validity of the request in any case. I suggest that we keep our current system of ID.
10 to 12	This language will dissuade eligible people from applying as it is threatening in nature. It serves no purpose, please remove it.
10 to 12	The government should do everything possible to eliminate voter fraud. These are useful provisions.
10 to 12	The inclusion of the "under penalty of felony" language only underscores the true purpose of the voter ID requirement: to discourage otherwise qualified voters from exercising their right to vote. Numerous studies have shown that the kind of voter fraud remediable via photo ID requirements is vestigial at best. The photo ID requirement thus addresses a phantom problem by imposing sometimes burdensome requirements on the poor, minorities, elderly, and disabled. Adding vague language about "penalty of felony" to the application requirement furthers the discouragement by adding intimidating language. It's way past time for this state, and other Republican-dominated states, to cease efforts to deprive citizens of their right to vote via unnecessary and discriminatory Jim Crow-type impediments. We're mad as hell and we're not going to take it anymore.
10 to 12	These lines should be eliminated because the statement has the potential to intimidate persons from completing the form.
10	The reference to "felony" penalty is unnecessary and intimidating. Unless the point of the form is to discourage voting, drop the reference.
10 to 12	This sounds too intimidating and is totally unnecessary. May be confusing to some when they see word "felony."
10 to 12	These lines are intimidating.
10 to 12	Reference to a felony is intimidating and unnecessary. Please eliminate this language. Photo id is an attempt to limit voting. Other means of id can be developed easily.
10 to 12	These lines are unnecessary and intimidating. If anything, revising to "I swear/affirm that the information provided on this form is true" is acceptable.
10 to 12	Please remove "felony penalty", the punishment does not seem to fight the crime.
10 to 12	If this requirement is not mandated by the law, it's purpose must be to intimidate voters. I have more than one form of acceptable identification (driver's lic., passport, voter id card) and I haven't had to sign such a statement).
10 to 12	I approve of requiring applicants to swear. Virginia has had too much voter fraud.
10 to 12	Eliminate this language which is unnecessary, unwarranted, intimidating and not required by the legislative language.
10 to 12	The use of the term "felony" is scary to many people and has no place in a voter application process. A statement saying "the information provided is true to the best of my knowledge" should be sufficient. No one wants to be threatened with jail time, which is what the felony statement does. Do people in third world countries and those new to "democracy" have to go through such machinations to vote? Why not just put a "mark" on each person as they vote so they can only vote once per election.
10 to 12	
10	This affirmation (lines 10-12) is unnecessary and may discourage people who need such an ID from getting one -- and thus exercising their right to vote. There was nothing in the legislative text requiring this and it should be dropped.
10	So pleased to see that it's a felony!! As a person that does things the proper, legal, honest way, I'm tired of those who won't do the same . Where is their moral upbringing? The liberal bent of our country is leading it to ruin! So maybe we can intimidate these losers into being honest for a change!

10 to 12	felony reference is unnecessary and intimidating. There's no hyphen in "in person."You do not have the legal power to limit what I use the card for.
10	It is shocking to read line 10 and be threatened with a felony for having another form of photo ID. Since the free photo ID being applied for is useful only for voting purposes, it seems sufficient for the applicant to be expected to pay for, or be billed for the cost of the ID if another form of photo ID is found to be in the applicants possession. A legal system required to uphold a felony conviction for obtaining a photo ID for the sole purpose of voting when another form is available will be overburdened, excessively costly and unable to provide real justice in other areas.
10 to 12	Absolutely include lines 10-12 Unchanged. Be sure to get DNA samples from all applicants as well as fingerprints and palmprints.
3	Absolutely include the clause advising signers of their exposure to a felony if fraudulent, Please be sure to get DNA swabs from singners as well as finger and palm prints.
10 to 19	Those lines should be replaced with: I swear/affirm, that the information provided on this form is true,
10	the statement is unnecessary, unwarranted, intimidating and not required by the legislative language.
10 to 12	delete these lines as unnecessary. ANYTHING done to decrease voter participation is the wrong policy. Until voter fraud is proven to be a problem all efforts to make it harder to vote are the wrong legislation and policy. Show me the evidence of a problem, then propose solutions. These efforts are mostly underhanded intimidation of the lower-class voters.
10 to 12	Please remove this requirement from the form: "I swear/affirm, under felony penalty for making willfully false material statements or entries, that the information provided on this form is true, and that I do not have any acceptable form of identification required to vote in-person." This statement is unnecessary, unwarranted, intimidating and not required by the legislative language.
10 to 12	These lines need to be eliminated as they are unnecessary, unwarranted, intimidating, and not reuquired by the legislative language
10	Please remove lines 10-12. If voters want photo identification for voting, they should be allowed to obtain it without having to swear that they do not have an acceptable form of identification already.
10 to 12	These lines are unnecessary and intimidating.
10 to 12	These lines should be eliminated because the statement is unnecessary, unwarranted, intimidating and not required by the legislative language.
10	Lines 10-12 are unnecessary and will intimidate potential voters. These three lines could result in lower voter participation, particularly among low-income people and communities of color. Please remove this statement from the application.
10	not legally necessary
10 to 12	Why make it a felony to forget that you once had a photo ID. These lines should be eliminated as they are unwarranted and intimidating
10 to 12	Please eliminate liones 10-12. They are unncessary and really scary. Older residents may have no idea if they have had photo IDs in the past.
10 to 12	The LWV has it right: the statement is unnecessary, unwarranted, intimidating, and not required by the legislative language. Just the word FELONY could discourage people who aren't sure if they have one of the documents on the list!
10 to 12	Delete lines 10-12. Making it a felony to request a photo ID if one already has an acceptable one for voting is extremely intimidating. :"Other government issued ID" acceptable for voting is vague. Are a city Recreation Department photo ID or a Meals-on-Wheels photo ID acceptable? Elderly applicants who don't drive may forget

	they have an unexpired drivers license or passport; or, they may have early dementia. This looks like an attempt to intimidate classes of people who don't drive, travel, or work where photo ID is provided.
11 to 19	Line 10 and 11 (first half). Falsifying information on a voter ID application should be a felony. Lines 11 (2nd half) & 12. Requesting a photo voter ID should NOT be a felony under any circumstances other than the information was falsified. Lines 13 -19 are superflous when this is corrected.
10 to 12	delete the following language [in quotes/brackets] and substitute language inCAPS: ...,[" under felony penalty for making willfully false material statements or entries,"] ... ["any acceptable form of identification required"] ....["I do not have:"] AND THAT I DO NOT HAVE THE FOLLOWING ACCEPTABLE FORMS OF VOTER IDENTIFICATION TO VOTE IN PERSON:
10 to 12	Delete the words making a FELONY any statement a voter makes re having any voter ID that might be attributable to temporary loss, aged memory, etc.
13 to 19	The ACLU of Virginia opposes the law, Va. Code § 24.2-643(B) (effective July 1, 2014), requiring registered voters to present an approved photo ID to vote. To mitigate the burden the law will impose on voters who do not have an approved photo ID, the implementation of the law should be clear, concise, and accessible to voters. The acceptable photo IDs listed on lines 13-19 do not designate which IDs must be valid. According to the law, the following photo IDs are required to be valid: Virginia driver's license; U.S. passport; student photo ID from a Virginia institute of higher learning; and employee photo ID. The only exception to the requirement is "any other photo identification issued by the Commonwealth, one of its political subdivisions, or the United States" (IDs listed on lines 14 and 16). Further, the proposed draft does not clarify what is a valid approved photo ID. Line 13 "an unexpired Virginia Driver's license" implies that the ID is valid as long as it has not expired. Lines 15, 17, and 18 do not provide any clarification regarding the criteria for determining whether a photo ID approved on these lines is valid. The Voter Identification Card Application should explicitly list all forms of approved photo ID, whether it are required to be valid, and what constitutes a valid approved photo ID. Violation of this law can subject an individual to a felony, and thus the Commonwealth should leave no ambiguity when defining the requirements under this law.
1	The ACLU of Virginia opposes the law, Va. Code § 24.2-643(B) (effective July 1, 2014), requiring registered voters to present an approved photo ID to vote. To mitigate the burden the law will impose on voters who do not have an approved photo ID, the implementation of the law should be clear, concise, and accessible to voters. It is important that all voters without an approved photo ID understand that they may obtain a photo ID free of charge. The top of the Voter Identification Card Application should explicitly state in bold lettering that the photo ID card is FREE to the voter. Additionally, the Voter Identification Card Application should be translated into languages other than English that are spoken in Virginia. At minimum, the Department of Elections should translate the form into Spanish so that monolingual Spanish speaking voters clearly understand that the Commonwealth will provide a free voter photo ID if needed.
10 to 12	This requirement is not required by the legislative language. It is unnecessary, unwarranted, and intimidating.
10 to 12	Delete these lines. Whoever wrote them cannot be over 30 years old and therefore does not understand that older people may have any of the listed forms of identification somewhere in the house. The identification may be very out of date, but to posses even one and apply for a voter application card would apparently be a felony. I am in my 70's and over the past 60 years have held both private sector and

	government jobs and gone to at least three Virginia institutions of higher education. In the 1960's, I had a diplomatic passport. It's entirely possible that one or more of these identification cards might be tucked away in a box. And convicted felons in Virginia lose the right to vote!
10 to 12	It is not necessary to make asking for a photo ID if you already have one a felony, and the wording would scare many people who legitimately need a free photo ID. This wording sounds like a scare tactic that is inappropriate for a government entity.
10	It is crazy to make it a felony to request another photo ID when one might already exist. It will frighten off potential voters unnecessarily. For example, someone who no longer drives but might have an unexpired license in a drawer somewhere.
11 to 19	I don't understand the requirement that voters swear they don't have an alternate form of ID. In particular, if your ID is a college ID or from an employer, it might expire/be revoked before election day. Why complicate the form more than absolutely necessary?
8	I don't see a need to provide the last 4 of SS or a need for date of birth. You already will have this information on your record when the person first applied to vote. And, if this is not the case, I don't see a reason to request the last four (especially with IDENTITY THEFT). DOB only would be legitimate to ask for.
10 to 12	The threat of a felony penalty seems overbearing and intimidating. This would be better handled as a footnote, if it must be included at all.
1	As a registered Democrat, I'm offended by the graphic on the form (the red & blue box with a checkmark). There is no reported voter fraud in Virignia. The photo ID requirement is simply a GOP tactic to make it harder for the poor, young and seniors to vote. Why not just make the box all red...that would better reflect this GOP mandated roadblock to voting.
1	Does VA plan to mail a form to every single person in the state? What is your information outreach plan? Are you going to provide transportation service for seniors, the poor, etc., to obtain their "free" voter ID?
`	Virginia should be making it easier for ALL citizens to vote, not harder. How do you expect those that don't have a vehicle to obtain their photo id? VA should continue to allow student ID's, pay stubs, power bills, etc. as means of identification. There is no voter fraud in VA, so adding extra roadblocks to voting is unconstitutional.
10 to 12	It is bad enough that we are requiring totally unnecessary photo id's, at taxpayer expense, to combat non-existent voter fraud. There is no reason to threaten applicants with a felony conviction. Just list the acceptable forms of ID (lines 13-19) with a preceeding statement that the application is unnecessary if they have any one of these IDs.
5 to 7	Thank you for the opportunity to submit written testimony on the proposed Commonwealth of Virginia Voter Identification Card Application. I write today on behalf of my organization, the Fair Elections Legal Network. The Fair Elections Legal Network (FELN) is a nonpartisan organization based in Washington, DC, with a focus on election administration policy and practice. Since our founding in 2006, we have provided information and materials to voter registration and civic engagement groups across the county and have advocated for policy and practices that make the ballot box accessible for all eligible voters. We work with registrars in Virginia and have met with the Board of Elections on numerous occasions to address election administration issues. Additionally, I am a Virginia licensed attorney and serve as an election officer in Fairfax County. FELN applauds the simplicity of the proposed application form and is pleased to see only the final four digits of the voter's Social Security number be required for utilizing this form. By only requiring the final four digits, the Department of Elections has made the identities of voters much less

	susceptible to fraud and theft. While this will benefit voters, FELN has concerns about a few issues of usability in the form as written. First, the form prescribes that all fields are required unless noted. Two fields which would therefore be required are middle name and suffix. Voters who do not have a middle name or suffix are required to check the boxes next to the field for providing a name. Those who do not have a suffix, which would presumably be a large portion of voters using this form, could face rejection of their application for ID for failure to check a box. This is a common occurrence on the Virginia Voter Registration Application Form as voters neglect to complete a checkbox for question seven. It is common for forms to require fields that do not apply to all using them, but the typical requirement is to leave those fields which do not apply to an applicant blank. Voters are operating under their normal habits and therefore may not realize that the check boxes for lack of middle or suffix are required. FELN believes the boxes for lack of a middle name or suffix should not be considered mandatory for completion of the application to streamline the application process and reduce inadvertent errors by voters in completing the form. Additionally, the oath stating that a voter does not possess the requisite ID is unduly vague when listing the acceptable IDs. Voters who do not closely follow political news or action in the General Assembly may have the false belief of a more restrictive list of IDs than is permissible under Virginia law and often believe "government issued ID" to be only issued by their state or the United States. The listing of "other government issued photo identification" is therefore unnecessarily vague. Voters may be unaware that political subdivisions of the Commonwealth may issue these photo IDs and could swear to lacking ID under the false assumption that "government issued" implies that the ID be issued by the Commonwealth or United States. The listing of a photo identification obtained from the DMV is also misleading, as it does not state that it must be a Virginia ID card. New Virginia residents may falsely believe that an ID obtained from their prior state's DMV would serve as acceptable ID. The listing of permissible IDs that a voter is affirming they lack should either be expanded or provided in full with examples on the back of the form. The Commonwealth should do everything to ensure this form is not creating an opportunity for citizens to inadvertently commit a felony under false pretenses. Finally, while the form is easy to use, an application is only as useful as it is accessible. FELN believes this form should be available at a broad array of locations and online. The form should be accessible through various government websites, at offices of local registrars, DMV locations, as well as in local government buildings and courthouses. Voters who require a free ID are often reliant upon public transportation due to their lack of a driver's license. Local registrar offices are equipped to handle voter concerns and collect ID applications, but many locations are difficult to get to through public transportation. Voters with disabilities or low income voters who work multiple jobs may have limited resources to travel to their local registrar's office to obtain ID. Voters who require free ID should be provided as many opportunities as possible to obtain ID and the application process should reflect that fact. FELN commends the Department of Elections for designing a simple form for the proposed Voter Identification Card Application and for accepting comments on the proposal. We hope our concerns are addressed in future versions of the application and look forward to working with you on implementation of this new law. Thank you for your time and consideration. For further questions please contact: Courtney Mills Staff Attorney 202-331-0114 CMills@fairelectionsnetwork.com
2	testing This site is not working correctly. Additional comments can not be made. I plan to send a separate letter with my comments. Thank you. jayohai@cox.net
10	Do people need to bring some form of identification in order to fill out an application for a new photo vote identification card? Will a voter with a voter registration card

	without photo (mailed to us all last year) be able to vote in any fashion should they not have a photo I.D. In the November election?
2	Complete this application to receive a Photo ID for use in voting in Virginia. The Photo ID will be mailed to the address on the applicant's verified Voter Registration. PLEASE PRINT. This survey form does not advance to the next line I have comments on. I checked Yes, and that was the end of the survey. Please advise. jayohai@cox.net
2	Please
0	I believe the photos should be taken at DMV. That way you can help prevent fraud with this program. I think with all the fraud today, a photo ID on election day would be good to insure all are eligible to vote.
1	I oppose the requirement to show Photo ID Cards.
None	The form is appears to acceptably serve its intended purpose. Please make clear how the SBE intends to prevent fraud and duplications.
10 to 12	unnessesary and intimidating. if another ID is discovered, why would that be a problem since this ID is for voting purposes only?
25/26	Signature Line: Suggest there should be a line item area for the applicant to print their name. Signatures are usually not legible; a second opportunity to "print the applicants" name reconfirms the oath over a legible name.
10 to 12	It is recommended that these lines be eliminated because the statement is unnecessary, unwarranted, intimidating and not required by the legislative language.
10 to 12	threat of felony is intimidating, unnecessary, and not required by the language of the enabling legislation.
10 to 12	It is recommended that these lines be eliminated because the statement is unnecessary, unwarranted, intimidating, and not required by the legislative language. It appears to be another step to keep citizens from voting through intimidations.
10 to 12	these lines are an unnecessary threat and insult to the integrity of applicant. They serve no legal or legitimate purpose
n/a	Voter must be required to go the their own Registrar - not anywhere in the commonwealth.
6	What is the penalty and what class felony?
10 to 12	Since this statement is not required by Virginia legislative language, recommend that it be removed from the proposed application form. Further, an all-out effort should be made to ensure that all voters have easy access to obtaining the required Photo ID card. SBE should work with local organizations and schedule mobil ID units to visit high population areas (particularly where residents may not have easy access or ability to travel by private or public transportation to complete the registration process. Thank you.
1.11415E+11	Add the word "unexpired" between acceptable and form, add the word "unexpired" in front of each different form on ID after the bullet point.
11	add the word "unexpired" after the word acceptable and before the word form
13	It is a waste of time and money to provide "free" photo identification cards. Voting is the cornerstone of our democracy and this new requirement is ultimately a hurdle that the state of Virginia is trying to impose on poor, minority and older Virginians. It is despicable. Voter fraud is not an issue. Perhaps Virginia can require a "free" photo ID for gun purchasers rather than voters. After all there is much more gun violence in Virginia than there is voter fraud.
10 to 12	The felony statement appears on the form. Therefore, lines 10 through 12 are unnecessary as well as redundant, unnecessary and unduly intimidating, and likely will have the effect of discouraging qualified voters from obtaining an ID card. It does not appear to be required by the language of the law. The requirement of a sworn

	statement should be eliminated.
10 to 12	This statement is unnecessary and may intimidate voters.
10 to 12	These lines only confuse and intimidate voters.
10 to 12	It is recommended that these lines be eliminated because the statement is unnecessary, unwarranted, intimidating, and not required by the legislative language.
10 to 12	These lines need to be eliminated. They are unnecessary and intimidating.
10 to 12	THere will be people who will not get a voting card and therefore will not vote bc they will be worried about committing a felony. Maybe add "knowingly" into the line. Also, why is it so important that they not have any other form of id? Once they vote, they cannot vote again even if they were to show another form of id. This is like saying people who have licenses and other forms of id have to get rid of one of them so they won't commit voter fraud.
10 to 12	Eliminate these lines - forget about mentioning a felony - totally un-necessary.
10 to 12	It is recommended that these lines be eliminated because the statement is unnecessary, unwarranted, intimidating, and not required by the legislative language.
10 to 12	I oppose the inclusion of the felony statement in SB1256. It is intimidating & unnecessary. Obviously the writer(s) of the bill is not elderly, hard of hearing, have a vision impairment, recently moved, or have other limitations that make it difficult to organize the heaps of mail that comes into a home on a daily basis. By the way, these limitations do not limit a person's ability to select a candidate or exercise the right to vote. We try to do the best we can & to threaten with a felony is coercion which may be illegal in itself.
10 to 12	It would seem that the more picture ID's one has the better for identifying yourself. I understood the problem was not having a picture ID.
10 to 12	The "felony penalty" language is not necessary under the statute and is unnecessarily intimidating. I believe the Board should delete from the comma following "affirm" to the comma after "entries."
10 to 12	unecessary,unwarranted,intimidating,not required by legislative language
10 to 12	unecessary,unwarranted,intimidating,not required by legislative language
10	Threatening a felony charge is completely out of line! It is unnecessarily intimidating and seems designed to prevent application for these IDs. It would seem you are trying harder to prevent people voting than facilitating their participation in a process that is their constitutional right!
10 to 12	Reference to felony penalty is not required by SB 1256, which does not even require an application form. It is intimidating, unnecessary and would be unenforceable.
5	ADD reference to middle initial in addition to middle name
10 to 12	REPLACE current wording on these lines with the following: I am requesting a free photo ID to use when voting in Virginia elections because I do not have
10 to 12	I feel te above lines are not necessary on the application. It seems unjust and intimidating
10 to 12	This will frighten off eligible voters who may be unsure if they've forgotten something that might qualify and thus get them in trouble. The people most likely to need this ID are also the most likely to be intimidated by language like this. The law passed by the General Assembly does not require this. Eliminate these lines from the form.
10 to 12	Lines 10 through 12. Recommended that these lines be eliminated because the statement is unnecessary, unwarranted, intimidating, and not required by the legislative language.
10 to 12	The statement in these lines is really unnecessary, and--worse yet--it is intimidating.
10 to 12	This statement is completely unnecessary and could definitely be intimidating to folks not that familiar with the system.
10 to 12	This language and the threat of a felony is overblown and will discourage prospective

	voters. With our abysmal voter turnout, we should do everything possible to make it easier, not harder or more intimidating, to vote. The hassle of having to get a photo ID at all will discourage prospective voters from overrunning registrars' offices; we don't need this verbiage. And are we really going to convict people for having more than one ID, or finding one they thought they'd lost? Ridiculous!
10 to 12	Eliminate these lines referring to "feloney"
10 to 12	Lines 10 through 12. Regarding the statement: " I swear/affirm, under felony penalty for making willfully false material statements or entries, that the information provided on this form is true, and that I do not have any acceptable form of identification required to vote in-person." Please eliminate these lines because the statement is unnecessary, unwarranted, intimidating, and not required by the legislative language.
1-12&20-22	1-12 are unnecessary and ridiculously opressive/threatening. Since most health providers require photo dis for insurance purposes restriction for voting has no legitimate --if there is one state it, but why felony?
10 to 12	these lines should be edited as they are not required bythe legislative language. a request for a second photo ID should not be a felony.
10	Lines 10-12 are unnecessary, intimidating, and have a discriminatory basis and would totally discourage potential voters from completing the form. Eliminate it.
10 to 12	Line 10 should read: I swear that I do not have any acceptable form of identification required to vote. I do not have: (#'s 13 - 19).
10 to 12	Lines 10 through 12. It is recommended that these lines be eliminated because the statement is unnecessary, unwarranted, intimidating, and not required by the legislative language.
10 to 12	These lines should be eliminated because the statement is unnecessary, unwarranted, intimidating, and not required by the legislative language.
13-19	if you will take the felony clause out of line 10 (previous comment submitted), then I am willing to have individuals to have to check off the documents they DO NOT HAVE or have them initial each line so you know that they paid attention to each line.
10	I strongly request that you take out the outrageous not needed words "…, under felony penalty for making willfully false material statements or entries,…" as they are much too heavy for obtaining a piece of paper with a photo on it to use for identification. It is intimidating. It is not needed as the statement without it is already a strong statement with a clear list below it. That language must be eliminated as the statement is not required by the legislative language.
10 to 12	The League opposes the inclusion of the felony statement. The League believes such a declaration is unnecessary, unwarranted, intimidating, and not required by the legislative language. Suggest deleting . . ." under felony penalty for . . . statements or entities, . . ."
10 to 12	The proposed application form states that requesting a photo ID when you may already have one is a felony, and requires those requesting the free ID to swear that they do not have one: "I swear/affirm, under felony penalty for making willfully false material statements or entries, that the information provided on this form is true, and that I do not have any acceptable form of identification required to vote in-person." The League of Women Voters opposes the inclusion of the felony statement. The League believes such a declaration is unnecessary, unwarranted, intimidating, and not required by the legislative language.
10 to 12	The language is not justified by the wording of SB1256 and is too oppressive and intimidating. There is no reason to make requesting a photo ID when one already exists a felony. Felony should be reserved for false voting. There are already far too many Virginian citizens incarcerated, at great expense and detriment to the

	Commonwealth. No-one should frivolously add to these numbers.
10 to 12	I recommend these lines be eliminated because the statement is unnecessary, unwarranted, intimidating, and not required by the legislative language.
10 to 12	These three lines are not required by law and can be intimidating to people trying to apply.
20 to 21	Does the person applying have to already be a registered voter? If they are not already a registered voter how can the citizens of VA be assured that this person is who they say they are?
10 to 12	Lines 10 through 12 ask the voter to swear under felony penalty that the information is true on the form. I request that you eliminate these 3 lines. Registered voters are simply coming to get a photo ID and do not need to be intimidated by a threat of a penalty. What statute, if any, requires this statement on this form? What cause would a voter possibly have to willfully make a false material statement or entry? Without any likelihood that there would be an investigation of a hint of a false statement why include the statement? Does the swearing portion apply to every item on the form or just those fields requiring name, SS#, date of birth? Or does it also apply to the section beginning with "I do not have:...."? Beyond the form itself what records will a registrar be required to keep for those who apply for a photo ID? Is the voter's information entered into a new database and sent to the SBE?
10	Delete this line regarding making a false statement. The applicant, who is already a registered voter, is merely getting a voter photo ID card with a signature. This is not a change of address or name so what fraud could possibly result?
1	I think it's great!! No changes needed.
1	To help people understand that this photo ID can only be used for voting, I think the title should be: Commonwealth of Virginia Voter Photo Identification Card Application
5	Word
	Would we want to have the actual section of the Code noted by that affirmation? Based on the questions I get each and every election it'd be nice to have the section of Code right there when hear, "I want to see it in black and white!" If § 24.2-1016 is right there, it'd save us all a lot of time.
	Good Work!!
	I realize the form is for statewide use, but would it be helpful to have a line in which the applicant says something like: "I am a resident of the County (City) in which I am making this application." I would imagine the registrar's staff will ask whether he/she is a resident, but given the propensity of people to go to the handiest polling place in the county rather than the one where they reside, it seems to me that we might get people asking for Voter ID cards at the Registrar's office closest to their work, etc. On the other hand, this may be a non-problem. Although non-citizens should be weeded out when registering, it might be good to hammer the message home again by using this statement: "I swear/affirm under felony penalty of law that I am a citizen of the United States of America and that I reside in the County/City where I am making this application for a Voter ID card." Finally, I would suggest the use of "felony penalty of law" rather than just "felony penalty."
	Since Driver's is capitalized, should not license also be capitalized? Can you add the Code citation next to the phrase about the felony in the affirmation?
	Seeing as Photo ID is a touchy issue, SBE may want to strongly consider placing the full text of the False Statement Warning and Privacy Act Disclaimer on the proposed Photo ID Request Form just to cover all of our bases. This same language is included on both the Virginia Voter Registration and Absentee Ballot Applications.
	Affirmation: Is it necessary to include the list of forms of ID the voter "does not"

	have? If it is necessary, then the term "valid or unexpired" should be used for all forms of ID; e.g. a United States Passport and most spouse military IDs have an expiration date as do some college and employment IDs.Change of wording to affirmation sentence: I understand that the photo identification card will be provided to me after my voter registration records has been verified and is to be used for the sole purpose of voting.
	Privacy Act Notice is good but we really need to have False Statement Warning clearly spelled out. There will be people that are going to willfully cross the line on this issue. If anyone ever raises an issue over this that eventually results in prosecution, we need to have this information spelled out.
	Thank you for providing an opportunity to provide some comments on the form. I've attached a PDF of suggested edits. In the bulleted list I added semicolons, as suggested by 6.125 of the Chicago Manual of Style.
	My board and I reviewed the draft application that was posted. We all thought the application looked nice and simple in appearance. Two board members offered the following suggestions: 1) Move the statement up that says…" the ID card is for the sole purpose of voting and not a valid ID for other purposes" 2) Encourage obtaining a DMV ID if they plan to use it for multiple purposes
	On the voter ID card application, in #6 section, I would suggest bolding the words **do not have** as well as **any....**
	I urge you not to include the following information in the procedures & rules governing Photo IDs. Even for me this is intimidating. I don't believe it is necessary. I see it as a barrier to voting. "I swear/affirm, under felony penalty for making willfully false material statements or entries, that the information provided on this form is true, and that I do not have any acceptable form of identification required to vote in-person."
	I have been unsuccessful using the recommended SurveyMonkey to offer comments on the proposed Photo ID Application. Multiple comments are not being accepted by the survey. Because of this glitch, I opted to write to you instead. (If these remarks should be directed to someone else, please let me know.) I reviewed the form from the perspective of ensuring that elderly voters and voters with any visual impairment are able to accurately complete the Photo ID Application, and to do so without apprehension. I understand that only comments on the content were requested, as it has not yet been given to a designer. However, I want to convey the importance that the designer be familiar with ways to make the application readable by people of all ages and abilities. So my comments include both content and layout. The 2011 National Health Interview Survey (NHIS) Preliminary Report established that an estimated 21.2 million adult Americans (or more than 10% of all adult Americans) reported they either "have trouble" seeing, even when wearing glasses or contact lenses, or that they are blind or unable to see at all. There are all types of considerations to be made in the design of the form to ensure readability. Foremost among them is the choice of type. Verdana is the recommended typeface. (This is Verdana.) And 12 pt size is suggested by The American Printing House for the Blind (APH), the world's largest company devoted solely to researching, developing, and manufacturing products for people who are blind and visually impaired. Here are my line-by-line comments: • Heading: The 2 side-by-side headings should instead be on top of one another. As they are now, the eye jumps from one to another without focusing on either. • Line 1: Is the title missing? o "Photo Identification Application

	for Voters in the Commonwealth of Virginia" or something similar might be appropriate. o (If the second head at top about the Voter Identification Card Application is the title, then that in itself indicates how confusing the layout is. The title should be centered in large, bold print, not on the right side as it is now.) • Line 2: (not centered as it now is, but all justified left, per APH guidelines.) o Complete this application to receive a Photo ID for use in voting in Virginia. o (next line) The Photo ID will be mailed to the address on the applicant's verified Voter Registration. o (next line) PLEASE PRINT. • Line 5 and 7: …. Delete the word "check" before the boxes for having no middle name and no suffix. Not necessary and perhaps confusing. Keep the box area close to the horizontal lines they affiliate with, not as a second column (per APH Guidelines). • Line 8: Include LARGE boxes for the purpose of people writing their SSN. Boxes should be large so people with difficult-to-read writing, or who have difficulty writing neatly, can fit numbers easily in the boxes. • Under the line for Date of Birth, include in large type "MM/DD/YYYY", as many cultures write dates in a different manner.. • Line 14: …. DMV-issued… (A hyphen needs to be inserted between "DMV" and "issued".) • Line 24: Add: "MM/DD/YYYY" beneath the date line. Thank you for allowing me this opportunity to comment on the proposed Photo ID Application.
	Lines 10-12 should be deleted. I am very concerned that lines 10-12 will be very intimidating for some people who wish to apply for a photo ID. In particular, I object to making it a felony for applying for a photo ID if the applicant already has an acceptable one for voting, the statement "and that I do not have any acceptable form of identification required to vote in-person." It is easy to forget or not realize that one already has an acceptable form of ID. "Other government issued photo identification" is such a case where the voter may forget or be uncertain. Are a photo ID provided by a city Recreation Department or a Meals-on-Wheels photo ID acceptable for voting? I don't know for sure and would be reluctant to depend on them for voting. The election officer might not know. Elders who no longer drive may forget they posses an unexpired drivers license or passport. Citizens with early dementia or other mental problem may overlook acceptable voter ID they have. It would be a horror to charge innocent applicants with a felony. This language will deter certain classes of citizens from applying--the elderly, those who don't drive or travel, the unemployed or those working without employer photo ID, and anyone uncertain about acceptability of "other government issued photo ID." It does not promote democracy.
	On behalf of the Fairfax County Democratic Committee, we write to express our serious concerns regarding the Proposed Application for Voter Identification. Our specific comments are set forth below: First, Lines 10 through 19 on the application form require the applicant swear under "felony penalty" that he or she does not have an "acceptable form of identification required to vote in-person." In the legislation authorizing the photo identification, there is NO requirement that the application include such threatening language. Moreover, including the threat of a felony is unnecessary, unwarranted and harassing. This unnecessary threatening language should be removed. Second, Lines 20 through 21 suggest that the applicant may only use the photo identification card for the "sole purpose of voting." Once again, there is nothing in the legislative language to warrant such a limitation and this restrictive, intimidating language should be removed.
7	The suffix field should not be required and failure to check the box should not be a

	material omission. The form prescribes that all fields are required unless noted. Two fields are required that don't apply to all voters: the middle name and the suffix. If a voter has neither one of these, they are required to check the boxes next to the field. Failure to check the box could subject the application to rejection. This is a common problem on other SBE forms, most notably the voter registration form - for example, failure to check box 7 subjects that voter registration application to rejection.
10-12	The oath affirming that a voter does not possess one of the acceptable forms of ID creates an opportunity for the voter to inadvertently commit a felony, especially when coupled with the list of acceptable forms of ID. The listing of "other government issued photo identification" is unnecessarily vague. Voters may be unaware what political subdivisions may issue photo IDs and could swear to lacking an ID under the false assumption that the photo ID must be issued by the Commonwealth or the United States.
8	Date of birth. This is a public document so you cannot require people to submit PII. The year should be sufficeint.
10	the section "under felony penalty....statements or entries" should come out. This is unnecessary intimidation.
21	I don't see the purpose of any part of lines 20 and 21. Line 10 already addresses the affect of signing. Line 20 almost does not make sense because it implies that everyone getting these already has a registration record that they need to look up. I would assume if a new voter walks in with a complete form and hands it to the registrar, they can get their picture taken on the spot, right? Someone like that has no record to verify. The "sole purpose" language is irrelevant and potentially intimidating. Is someone going to not want to get one because they are going to fear that if they accidentally use it for something else there will be repercussions? There is no point at all to that language.
13-19	I find it interesting that it says "unexpired" for drivers license but nothing else. Does the code allow you to use an expired passport or other document? Perhaps it is silent on those forms of ID but specifically requires that the drivers license be "unexpired" or "current." If they can't use any expired documents, it should be explicit in this form.
11	Lines 10 to 19 should be eliminated from this form. People have multiple forms of ID all the time - it should not be a problem to just GIVE people a photo voter ID if they need one. For instance, I have a voter ID card (non-photo), a DMV ID card, a US passport, and two different university-issued IDs. Yet somehow my situation is fine and normal, yet other people who need ID to vote need to elaborately prove that they don't have any ID? Instead, the form should list appropriate ID for voting and say at the top: "Stop! You do not need to fill out this form if you have:" and then the list of IDs.
20	Why is it to only be used for voting? Once they have it shouldn't it be useable to get a check cashed or....??
20-21	Delete as unnecessary.
0	Voter Identification Card Application at the tope should be at the very top of the paper. Many places (BOS) office usually place these forms in wall pockets, and you cannot identify the form by looking at it without pulling the form out. Same with Absentee Forms and VR Forms.
21	Line 2 should be repeated after line 21 to avoid confusion. I assist voters with their forms almost daily, and understand how important messages can be skipped.

★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Campaign Finance Express Advocacy Definition

BOARD WORKING PAPERS
Chris Piper
SBE Election Services Manager

Memorandum

To: Members of the State Board of Elections

From: Chris Piper, Election Services Division Manager

Date: April 23, 2014

Re: Request to Post Revised Definition of "Express Advocacy" for Public Comment

---

Suggested motion for a Board member to make:
I move that the proposed regulation on the definition of "Express Advocacy" be placed on the SBE website for public comment for a period of 21 days.

Attachments: Proposed Regulation for definition of "Express Advocacy"

Background: Per the Board's request, staff has worked with the Office of the Attorney General as well as the Division of Legislative Services to draft a definition of "express advocacy".

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

The Board's concern with the current definition is that it proved to be too broad in its application and did not consider intent. The new definition does not attempt to define intent, but rather states that any advertisements which refer to a candidate and their office as well as the election date should be deemed to be expressly advocating the election or defeat of the candidate while maintaining the "magic words" standard used in the current definition.

Virginia Administrative Code

CHAPTER 90
CAMPAIGN FINANCE AND POLITICAL ADVERTISEMENTS

1VAC20-90.10 Definitions. 1

1VAC20-90.10 Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Express advocacy" means a direct or indirect contribution, in-kind contribution, independent expenditure or loan made to a candidate or political committee for the purpose of influencing the outcome of an election; an advertisement which refers to a party or candidate(s) by name which references the date of election or nominating event for the office sought by the candidate or uses words or phrases which specifically urge support or opposition of a clearly identified candidate, such as "Vote for…"; "Support"; "Elect…"; "Smith for Congress"; "Send Him Home"; "Oppose". Advertisements which indicate the name of the candidate and the office for which they are seeking shall also be determined to be expressly advocating the election or defeat of a candidate.

DRAFT

★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Campaign Finance Summary Updates Approval to Change Reporting Deadline

BOARD WORKING PAPERS

Chris Piper
SBE Election Services Manager

Memorandum

To: Members of the State Board of Elections

From: Chris Piper, Election Services Division Manager

Date: April 23, 2014

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

---

Suggested motion for a Board member to make:

I move that the Board approve the change from 5:00pm to 11:59pm for the campaign finance reporting deadline and apply this change to all Summaries on the Laws and Policies of the Campaign Finance Disclosure Act of 2006.

Applicable Code Sections: § 24.2-946

Attachments:
Your Board materials include the following:

- A copy of the Candidate Campaign Committee Summary (an example of the changes which will be reflected in the various committee summaries rather than overwhelm the Board with several 50+ page documents).
- Comments submitted by the public on SBE's website between March 5 and March 26, 2013.

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

After posting the proposed changes to the State Board of Elections website, the comments submitted (attached) are overwhelmingly in support of the proposed change. Of the 61 comments submitted, 15 opposed the proposed changes while 46 supported the changes.

Staff recommends Board approval to change the deadline from 5pm to 11:59pm.

CANDIDATE CAMPAIGN COMMITTEES

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

Summary of Laws and Policies
for
Candidate Campaign Committees

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

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

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

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CHAPTER 1 – General Information

Section 1.1 - Purpose of *Summary*

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

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

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

Section 1.2 - Campaign Finance Staff

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

Chris Piper, Manager, Election Services: chris.piper@sbe.virginia.gov

Tina Edmonds, Compliance Specialist: tina.edmonds@sbe.virginia.gov

Rise Miller, Service Specialist: rise.miller@sbe.virginia.gov

Section 1.3 - Related Publications

If your committee is required to file its campaign finance reports electronically, or if you have chosen to file electronically, please refer to the *COMET* User Manual found online at SBE's website: http://www.sbe.virginia.gov/cms/documents/CF/COMET_User_Manual.pdf

Candidates will also need to familiarize themselves with the appropriate candidate bulletin for the office they seek. These can be found online at SBE's website: http://www.sbe.virginia.gov/cms/Cidate_Information/Cidate_Bulletins_Forms.html

Section 1.4 - Elections Not Covered

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

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

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

Section 1.5 - Federal Laws and Requirements

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

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

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

800-424-9530 (toll-free) or 202-694-1000 (within the Washington, D.C. area)
www.fec.gov – Internet address
999 E. Street, NW, Washington, DC 20463-0002 – U.S. Mail

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

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

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

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

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

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

Section 1.7 - Definitions

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

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

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

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

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

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

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

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

Candidate Types:

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

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

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

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

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

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

Debt – Any and all outstanding financial obligations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- Federal Political Action Committee,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 2 – Statement of Organization

Section 2.1 - Becoming a "Candidate"

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

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

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

Compliance with Reporting Requirements as a Requirement for Candidacy

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

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

Section 2.2 - Establishing a Candidate Campaign Committee

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

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

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

Naming the Campaign Committee

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

Candidate Campaign Committee Information

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

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

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

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

Candidate Information

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

Treasurer Information

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

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

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

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

Establishing a Campaign Depository

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

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

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

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

Establishing Secondary Depository Accounts

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

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

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

Filing Method - Electronic or Paper?

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

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

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

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

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

Where to File the Statement of Organization

- Candidates for Constitutional or local offices must file their Statement of Organization and any amended Statements with the local electoral board of their county or city of residence and electronic filers file a copy with the State Board of Elections.

- General Assembly candidates must send the original, signed version, and any amended Statements, to the State Board of Elections. A copy of their Statement of Organization is to be sent to the local electoral board of their county or city of residence.

- Statewide office candidates must send their Statement of Organization and any amended Statements to the State Board of Elections.

Amending the Statement of Organization

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

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

Section 2.3 – Candidate Committees After the Election

Candidates Seeking the Same Office in Successive Election Cycles

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

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

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

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

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

Section 2.4 - Exempt Candidates

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

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

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

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

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

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

Section 2.5 – Campaign Committee Treasurer

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

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

Duties and Responsibilities of Treasurers

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

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

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

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

Disposal of Records

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

Records

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

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

CHAPTER 3 – Schedule A: Cash contributions

Section 3.1 – Limits on Contributions

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

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

Contributions to political campaigns in Virginia are tax deductible. Please visit www.tax.virginia.gov for more information.

Section 3.2 – Types of Cash contributions

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

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

Section 3.3 – Itemized Contributions vs. Unitemized Contributions

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

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

Designated Contributions

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

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

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

Anonymous Contributions

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

Committees Must NOT Accept Anonymous Contributions

Section 3.4 – Contributor's Required Information

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

Name of the Contributor

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

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

Address of the Contributor

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

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

Occupation of the Contributor (Individuals Only)

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

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

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

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

Principal Type of Business (Contributions from Businesses)

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

Date Received

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

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

Section 3.5 – Soliciting Contributions

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

Recording Contributor's Information

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

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

Solicitation Form

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

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

John Doe for Virginia

Name: _____

Street Address: _____

City, State, Zip Code: _____

Occupation: _____

Employer: _____

Place of Employment: _____

Contribution Amount: $_____

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

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

Best Efforts Policy

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

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

Section 3.6 – Other Contribution Policies

Joint Checks

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

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

Returned Checks

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

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

Contributions by Credit Card

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

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

Contributions During a Legislative Session

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

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

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

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

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

Section 3.8 – Fundraisers

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

Contributions vs. Expenditures

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

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

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

Joint Fundraisers

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

Common Fundraising Scenarios

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

Pass the Hat

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

Golf Tournaments

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

Raffles

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

CHAPTER 4 – Schedule B: In-Kind Contributions

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

Section 4.1 - Types of In-Kind Contributions

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

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

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

Example 1:

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

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

Example 2:

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

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

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

Section 4.2 – In-Kind Contribution vs. Independent Expenditures

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

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

Section 4.3 – Reporting In-Kind Contributions

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

Date Received

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

Service or Goods Received

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

Basis Used to Determine Value

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

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

Fair Market Value:
This basis is used when an actual cost is not able to be determined.

Aggregate-to-Date

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

CHAPTER 5 – Schedule C: Refunds, Rebates and Interest

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

Section 5.1 - Types of Miscellaneous Receipts

Bank Interest

Treasurers are allowed to establish depositories that accrue interest. At the end of every month, the bank will report to the committee the amount of interest accrued on the statement. Bank interest is required to be reported on each committee's campaign finance report.

If the treasurer establishes a secondary depository for the purpose of earning interest, such as a money market account, it is required that all interest accrued from that account be reported on Schedule C as well.

*Please note that interest income exceeding $100 in a calendar year may be subject to federal tax. Please contact the IRS for more information.

Refunded Expenditures

There are situations when a committee issues a check and it is returned to the committee or it is not cashed. In these instances, the committee must report the expenditure (see Chapter 6) and report the income back into the committee on Schedule C.

Rebates

If a committee receives a rebate on a previous expenditure, then it is to be reported on Schedule C. For example, if a committee purchases a computer and the manufacturer rebates the committee $100 after the purchase, then the receipt of this income must be reported on Schedule C.

CHAPTER 6 – Schedule D: Expenditures

Section 6.1 - Reporting Expenditures

It is the treasurer's responsibility to ensure that all required information is retained at the time that the expenditure is made. The following is what is required to be reported on the committee's schedule of expenditures:

- **Full Name of Payee** - The report must contain the full name of the entity to which the expenditure was paid. For individuals, businesses and persons the full name is required. Entries containing acronyms for companies are not acceptable (unless the entity is more commonly recognized by its acronym [e.g. AARP].

- **Mailing Address of Payee** - The report must contain the full mailing address of the entity to which the expenditure was paid.

- **Item or Service** - The committee should make every effort to be as descriptive as possible when reporting the item or service that was provided for the expenditure. Vague or incomplete descriptions should be avoided.

- **Date Paid** - The report must list the expenditures in order by the date that the expenditure was made (earliest first). It is not acceptable to report the expenditure on the date that the expenditure cleared the bank account.

Section 6.2 - Other Types of Expenditures

Independent Expenditures

Every person, campaign and political committee who makes an independent expenditure in an aggregate amount of $1,000 or more for a statewide campaign or $200 or more for any other election within an election cycle for the candidate supported or benefiting from the expenditure, must file an Independent Expenditure Form within 24 hours of making the expenditure or within 24 hours after the expenditure is disseminated, whichever is first.

Any independent expenditure made by a committee must also be reported on Schedule D of the committee's next required campaign finance report.

Credit Card Expenditures

The Campaign Finance Disclosure Act requires that a committee itemize all credit card expenditures on its campaign finance report. It is not acceptable to report a single expenditure to the credit card company. Each individual item must be reported on the date that the expenditure was made.

The committee should not report the payee as being the credit card company. The payee should be listed as the entity which actually received the funds through use of the credit card. For example, if the

candidate uses a credit card to purchase a hotel stay, the report should list the name of the hotel as the payee and NOT the candidate or the credit card company.

Reimbursements

The treasurer may only reimburse authorized members of the campaign committee's staff with a check from the committee's primary depository if the staff member has used their personal funds for an expense made on behalf of the committee. It is the treasurer's responsibility to ensure that proper records for reimbursements are kept.

A reimbursement should not occur if the staff member does not provide the treasurer with a complete record of the expenditure including receipts that identify the nature of the expense and the names and addresses of each entity paid by the staff member who is being reimbursed.

To report a reimbursement, the committee may list the entity which was paid initially on the date that the expenditure was made. For example, on October 1st, Joe Staffer uses his personal credit card to purchase office supplies from "Office Warehouse." On October 9th, Mr. Staffer requests a reimbursement from the treasurer for $50 providing a receipt for the expenses. On October 12th, the treasurer writes a check for $50 to Mr. Staffer. In this case, the treasurer would report an expenditure paid on October 1st of $50 to "Office Warehouse" and not an expenditure of $50 to Mr. Staffer.

In the case of reimbursements to a single person which account for multiple expenditures of the same nature by said person, it is proper to report the single expenditure made by the campaign committee. For example, if Joe Staffer pays for parking for the month of June at $6 per day for 20 days, it is proper for the campaign to reimburse Joe Staffer $120 and report the payee as "Joe Staffer" with the item or service indicated as "Parking for the Month of June."

Entering "reimbursement" in the item or service column is not considered proper disclosure.

Reimbursements for mileage should be valued at the current state rate. The state rate can be found on Virginia's Department of Accounts' website: http://www.doa.virginia.gov

Petty Cash Fund

A treasurer may establish a petty cash fund up to $200. These monies are inclusive of the committee's total expendable funds. The fund should be used for the purpose of making expenditures or reimbursing credit card expenditures of less than $200. Receipts must be kept and the expenditure made for reimbursement must be reported on the date the expenditure was made and not the date that the reimbursement was provided. The treasurer may replenish the petty cash fund as needed provided the total balance of the fund never exceeds $200.

CHAPTER 7 – Schedule E: Loans

Section 7.1 – Types of Loans

Loans are funds advanced to a committee that must be repaid sometime in the future. Loans must be recorded on Schedule E of the campaign finance report.

Section 7.2 - Reporting Loan Receipts and Repayments

Loans received and loans repaid are reported on Schedule E only.

When reporting loan payments list the:

- Date the loan was made;
- Name and address of the person making the loan and any co-borrower, guarantor, or endorser of the loan;
- Amount of the loan; and
- Date and amount of any repayment of the loan.

Schedule E – Part I (Income)

Part I of the form requires the disclosure of loans received (income).

Unpaid loans are reported on Schedule F (see Chapter 8) as an unpaid debt until the loan is fully repaid or forgiven.

Schedule E - Part II (Repayment)

Part II of the form requires the disclosure of loans repaid.

Requires the disclosure of loans repaid (expenditure). An expenditure for a loan repayment should never be reported on Schedule D.

Section 7.3 – Candidate Interest Payments

If a candidate loans the campaign money, then the campaign committee shall not pay interest on any loan to the committee made by the candidate or by a member of his immediate family. Paying interest to a candidate will result in civil penalties to the campaign.

Section 7.4 - Forgiving Loans

If there is an outstanding loan to the campaign, the contributor has the option of forgiving the loan and converting it into a contribution. The campaign finance report must show the conversion of the loan to a

contribution by listing the outstanding amount on Schedule A as a cash contribution and on Schedule E as a loan repayment.

CHAPTER 8 – Schedule F: Debts Remaining Unpaid

Section 8.1 Types of Reportable Debts

Any obligation for payment for a good, a service or a loan should be listed on Schedule F until the obligation is paid in full.

Virginia's campaign finance system operates on a cash-basis reporting system. Therefore, it is not necessary to report debts for outstanding bills from utility companies, etc.

Loans

As soon as a committee receives a loan, the campaign finance report must report the amount of the loan remaining unpaid on Schedule F.

Section 8.2 - Reporting Outstanding Debts

It is required that the committee enter the full name and mailing address of the creditor, the date that the debt was incurred and the remaining balance of the debt. The committee must continue reporting any debt on Schedule F on each subsequent report until the debt is fully repaid.

Purpose of Obligation

The committee should make every effort to be as descriptive as possible when reporting the purpose of the debt's obligation. Vague or incomplete descriptions must be avoided.

CHAPTER 9 – Schedules G and H: Summary Pages

Schedule G is a statement of the information on contributions, receipts, expenditures and loan transactions for the reporting period.

Schedule H contains a summary of the total of contributions, receipts, expenditures of the current election cycle (current reporting year for committees).

Schedules G and H are used to summarize the data contained in the campaign finance report. Be sure to follow the instructions on each form to accurately complete the schedules.

Negative Balances and Outstanding Debts and Loans

SBE will not accept a report if the report shows a negative balance. Negative balances do not occur with correct reporting. A negative balance is usually due to a failure to report all income or a failure to report or properly disclose in-kind contributions.

CHAPTER 10 – Schedule I: Disbursement of Excess Funds

Section 10.1 - Filing a Final Report

All committees are required to file a Final Report when the committee disbands or closes, in order to discontinue filing campaign finance reports for a committee. The Final Report must be received by the appropriate receiving office (reference "*Where to File the Final Report*" on the Final Report cover sheet for the appropriate receiving office). The Final Report cover sheet is located on SBE's website.

A candidate must file a Final Report when he or she:

- No longer seeks election to the same office in a successive election; or
- Seeks election to a different office; or
- Is deceased. In this case, the campaign treasurer must sign the Final Report. If the deceased candidate was serving as his/her own treasurer, the executor of the candidate's estate should file and sign the Final Report.

The receiving office will close a campaign committee only if:

- There is no balance, deficit, outstanding debts, or outstanding loans (including loans from the candidate); and
- Surplus funds have been properly disbursed and reported; and
- There are no outstanding reports or civil penalties due.

Negative Balances, Outstanding Debts and Loans

Neither SBE nor a locality's Electoral Board will accept a Final Report if the report shows a negative balance. In this case, the campaign must first amend the appropriate reports and resolve the problem before the Final Report will be accepted. A negative balance is usually due to a failure to report all income (including money from the candidate) or a failure to report or properly disclose in-kind contributions.

If there is an outstanding loan to the campaign, the lender has the option of forgiving the loan and converting it to a contribution. The campaign finance report must show the conversion of the loan to a contribution by listing the outstanding amount on Schedule A as a cash contribution and on Schedule E as a loan repayment.

Outstanding debts to the campaign must be repaid prior to filing a final report.

Section 10.2 – How to Dispose of Surplus Funds

Once a campaign has decided to submit a Final Report, the committee must no longer be active in fund-raising. If there is no debt, any money remaining is considered surplus funds and must be properly disposed of by one or any combination of the following methods:

- Transferring the excess for use in a succeeding election or to retire the deficit in a preceding election;
- Returning the excess to a contributor in an amount not to exceed the contributor's original contribution;
- Donating the excess to any organization described in §170(c) of the Internal Revenue Code;
- Contributing the excess to one or more candidates or to any political committee that has filed a statement of organization;
- Contributing the excess to any political party committee; and
- Defraying any ordinary, non-reimbursed expense related to his elective office.

It is be unlawful for any person to convert any contributed moneys, securities, or like intangible personal property to his personal use or to the use of a member of the candidate's "immediate family" as that term is defined in § 30-101.

Disbursement of Tangible Items of Value

Gifts of goods to the committee must also be disbursed. The disposition of this type of contribution may be carried out as follows:

- The tangible item may be sold to any buyer for fair market value. The proceeds of the sale must be reported as a rebate on Schedule C and used to pay off the debts of the campaign or as part of a surplus distribution.
- If the committee is indebted to the candidate, the items may be transferred to the candidate to satisfy any or all of the debt.
- The items may be distributed as non-cash surplus to any eligible recipient described above.
- If any item is leased, the campaign committee should simply return the item and discontinue the leasing agreement. If any item is loaned to the campaign committee, it should discontinue use and return the item.

CHAPTER 11 – Non-Regular Reports

Section 11.1 – Types of Non-Regular Reports

Candidate campaign committees will sometimes be required to file other reports in addition to the required regular campaign finance reports. These are called "non-regular reports."

Section 11.2 - Large Pre-Election Contribution Reports

A Large Pre-Election Contribution report is required to be filed by a candidate's campaign committee if they receive a cash or in-kind contribution or a loan if the contribution or loan amount is:

- $5,000 or more if a candidate for Statewide office; or
- $1,000 or more if a candidates for the General Assembly; or
- $500 or more if a candidate for any other office,

And the contribution or loan is received by the campaign committee between:

- The 12th day preceding any nominating event (e.g. primary, mass meeting, caucus, etc.) and the date of the nominating event unless the candidate is running unopposed for the nomination; or
- The 12th day preceding a November election and the election date; or
- The 11th day preceding any other election in which the individual is a candidate and the Election Day.

Nominating Events

A Large Pre-Election Contribution Report is not required if the candidate for the nomination is or has become, by virtue of withdrawal of the opponent(s), running unopposed for the nomination.

Nominating events include, but are not limited to: primary, caucus, mass meeting, or other event at which the party's nomination shall be finally determined or an event at which delegates are chosen who pledge their support of a specified candidate on a ballot at a subsequent convention.

Section 11.3 - Reporting Large Pre-Election Contributions

The information required on Large Pre-Election Contribution reports is the same as required for cash and in-kind contributions or for loans. All contributions and loans reported in this manner must also be reported on the committee's next required regular campaign finance report.

When to File Large Pre-Election Contributions

Large Pre-Election Contribution reports are due no later than ~~5:00 pm~~5pm on the next day after the committee has received the contribution.

If the large pre-election contribution is received on a Saturday then the report is not due until ~~5:00 pm~~5pm on the following Monday.

If the large pre-election contribution is received on the day before the election, then the report is due on that day.

Where to File Large Pre-Election Contributions

Candidates for local office which file electronically file Large Pre-Election Contributions electronically. Paper filers submit their reports with the county or city Electoral Board only. Faxed copies are not acceptable in order to meet this deadline. An original, signed copy must be submitted to the local Electoral Board in person.

General Assembly candidates, who report their regular campaign finance reports electronically, report their Large Pre-Election reports electronically with SBE only.

General Assembly candidates, who report their regular campaign finance reports on paper, report their Large Pre-election Contributions in writing via facsimile with SBE. An original, signed copy must also be sent to the State Board and must be postmarked no more than 24 hours after the contribution is received. A copy must also be delivered to the local electoral board of the county or city of the candidate's residence by the ~~5pm~~applicable deadline.

Statewide candidates report Large Pre-Election Contributions electronically with SBE only.

Section 11.4 - Independent Expenditure Reports

An Independent Expenditure report is required if the committee makes independent expenditures that support, oppose or benefit a candidate in excess of $1,000 or more to a candidate for statewide office or in excess of $200 or more to any other candidate in the aggregate during an election cycle.

The Independent Expenditure reporting form requires the filer to have the following information:

- Listing of the candidate(s) supported or opposed, including the office sought;
- Identifying the independent expenditures made, the payee, the amount and a description of the expenditure.

Any independent expenditure filed by the committee must also be reported on the committee's next required regular campaign finance report.

Where to File Independent Expenditure Reports

Independent Expenditure reports are only available to file on paper.

The Independent Expenditure Report is to be filed with the State Board of Elections if the candidate(s) supported or opposed is a candidate for statewide office or the General Assembly.

If the candidate supported or opposed is a candidate for local or constitutional office then the Independent Expenditure report must be filed with the local electoral board of that county or city.

In cases where multiple candidates are supported or opposed in multiple localities, one report must be filed in each candidate's locality which is supported or opposed.

Independent Expenditure Reports must be filed on paper and can be faxed to the appropriate office to meet the deadline with an original, signed copy sent and postmarked within 24 hours after the funds are expended.

When to File Independent Expenditure Reports

Independent Expenditure reports are due within 24 hours after the committee has made the expenditure or when the advertisement supporting or opposing the clearly identified candidate is disseminated, whichever is first.

CHAPTER 12 – Where and When to File Campaign Finance Reports

Section 12.1 - Filing Periods

Non-Election Year Reporting Schedule

Candidates for an office that is not being decided in the current calendar year must adhere to the following filing schedule:

ACTIVITY BEGINNING	ACTIVITY ENDING	REPORT DUE DATE*
Date of Inception or January 1	June 30	July 15
July 1	December 31	January 15

*Report due dates that fall on a holiday or weekend will be moved to the next business day.

November General Election Schedule

Candidates for an office to be decided at a November General Election during the current calendar year must adhere to the following filing schedule:

ACTIVITY BEGINNING	ACTIVITY ENDING	REPORT DUE*
January 1	March 31	April 15
April 1	13 Days Before a Primary	8 Days Before a Primary
12 Days Before a Primary	June 30	July 15
July 1	August 31	September 15
September 1	September 30	October 15
October 1	13 Days **Before** General Election	8 Days **Before** General Election
Last Regularly Filed Report	23 Days **After** General Election	30 Days **After** General Election
Last Regularly Filed Report	December 31	January 15

*Report due dates that fall on a holiday or weekend will be moved to the next business day.

May General Election Schedule

Candidates for an office to be decided at a May General Election during the current calendar year must adhere to the following filing schedule:

ACTIVITY BEGINNING	ACTIVITY ENDING	REPORT DUE*
January 1	***If Primary Called** 11 Days **Before** Primary	***If Primary Called** 8 Days **Before** Primary
January 1	March 31	Not Later than April 15
***If Primary Called** Last Regularly Filed Report	11 Days **Before** Election	8 Days **Before** Election
***If No Primary Called** January 1		
Last Regularly Filed Report	June 10	June 15
June 11	June 30	July 15
July 1	December 31	January 17

*Report due dates that fall on a holiday or weekend will be moved to the following next day.

Special Election Reporting Schedule

If a special election is held on a regular election date then the committee must adhere to the filing schedule for the regular election. However, candidates for nomination or election to an office to be filled by a Special Election held on a date other than a regularly scheduled general election for that office must adhere to the following schedule:

ACTIVITY BEGINNING	ACTIVITY ENDING	REPORT DUE*
Inception	11 days **Before** Special Election	Eight Days **Before** Special Election
10 Days **Before** Special Election	Election Day	30 Days **After** Special Election**

*Report due dates that fall on a holiday or weekend will be moved to the next business day.

**Winning candidates for an office decided in a Special Election held on a date other than a regular election date cannot take office until such time as their committee has filed a post-election report.

Immediately following the filing of the special election's post-election report, the candidate must refer to the normal filing schedule for that office's general election. For example, for a candidate who participates in a special election for the House of Delegates, the candidate will be responsible for filing campaign finance reports on the November election schedule for the next year in which that office is scheduled for election immediately after filing a post-election report.

Section 12.2 - Reports as Condition to Qualification for Office

No person will be allowed to take office until their committee has filed the required reports from the applicable schedule listed above. Further, no officer authorized by the laws of Virginia to issue certificates of election shall issue one to any person determined to be elected to any such office, until copies of the reports cited above have been filed as required.

However, a person who is elected to fill a vacancy at a special election held on a general election day (May or November) may qualify for the office and be issued a certificate of election in advance of filing the 30-day post-election report, upon the filing of that post-election report complete through the Election Day.

Section 12.3 - Where to File Campaign Finance Reports

- **Candidates for local office** that file electronically file with SBE only. Paper filers file with the county or city electoral board only. Faxed copies are not acceptable in order to meet the deadline. An original, signed copy must be submitted to the local Electoral Board in person.
- **General Assembly Candidates that file by paper** file the original report with SBE and a copy with the candidate's county or city electoral board in the county or city where the candidate resides.
    - **1VAC20-90-20. Filing Fee.**
        - This regulation requires all General Assembly members which file their campaign finance reports on paper with the State Board of Elections to pay a $25 administrative fee per report filed (to include large pre-election contribution reports). The payment is due by the deadline for filing the report or the report will not be considered timely filed. Indigent committees may request a waiver from the State Board of Elections.
- **General Assembly Candidates that file electronically** file with SBE.
- **Statewide Candidates** file electronically with SBE.

Section 12.4 – When to File Reports

When a report's due date falls on a weekend or holiday, or if the local office where the candidate committee files is closed on the report's due date, then the report is due the first business day immediately following the report's due date.

- **Reports filed with the Electoral Board** must be received in the office of the Electoral Board or General Registrar by the close of business on or before the due date. Faxed copies and postmarked dates are not acceptable.
- **Reports that are mailed to SBE** must be received in the office by the deadline for filing the report or faxed and received by close of business on the ~~5:00 p.m.~~ deadline for filing the report with the original copy of the report mailed to SBE and postmarked by the report's due date.
- **Reports that are electronically filed with SBE** must file their electronic reports no later than ~~5:00 pm~~11:59 on the report's due date.

Section 12.5 - Extension of the Filing Deadline

The Code of Virginia authorizes SBE or the local electoral boards to grant an extension of a filing deadline in certain situations. SBE or the local electoral boards will not impose civil penalties if an appropriate written request is received by the report's due date describing any of the following situations:

- If a candidate or treasurer who is required to file a report spouse, parent, grandparent, child, grandchild, or sibling dies within the 72 hours before the deadline. (The State Board or the local electoral board is authorized to grant an extension of the filing deadline for a period not to exceed five days for good cause shown by the filer and found by the Board or board sufficient to justify the granting of the extension.);

- In emergency situations that interfere with the timely filing of reports. The extension is limited in scope to the areas and times affected by the emergency. The extension will be applicable only in the case of an emergency declared by the Governor pursuant to Chapter 3.2 (§ 44-146.13 et seq.) of Title 44 or declared by the President of the United States and confirmed by the Governor by executive order as an emergency.;

- A candidate who serves as his own campaign treasurer and who is a member of a uniformed service of the United States called to active duty during a reporting period will be granted a reasonable period, to be set by The Secretary of the State Board.

- In the event of a failure of the computer or electronic filing system that prevents timely filing, the extension will not exceed a period of up to five days after restoration of the computer or filing system to operating order. A receipt stating the date of restoration is required (only the State Board can grant extensions in this instance).

The following excuses are not sufficient and will not be considered for granting an extension of the filing deadline. They include, but are not limited to:

- Inclement weather, without a declaration of a state of emergency by the Governor or the President of the United States ;

- The loss of data due to, but not limited to: failure to back-up database, creating multiple databases in VA Filing software or failure to transfer data to a new or different computer.

- Treasurer or committee officer transition that may result in a "paper shuffle;"

- Candidate committee's lack of knowledge of how to file, the need to file or due date of filing; or

- Candidate's failure to have copies of necessary forms.

Section 12.6 - No Activity Reports

All committees are required to file a report on the required deadlines even if there is no financial activity for the committee, except for bank interest or bank fees, during the reporting period. In such cases, a committee which files reports on paper can simply file a cover sheet and fill out the "No Activity" box indicating that there has been no financial activity, other than Bank Interest or Fees. The filer must

promise to report all interest and fees on the next required report in which the committee has financial activity.

Committees who file electronically can simply create the electronic report being sure to indicate in the required area that there is no activity for the reporting period.

CHAPTER 13 – Campaign Finance Reporting Penalties

Section 13.1 – General Provisions

Any person who violates, or aids, abets, or participates in the violation of, the Act shall be subject to a civil penalty not to exceed $100.

For purposes of establishing penalties, the *Code of Virginia* creates three categories of violations: (i) the failure to file reports (§24.2-953.1); (ii) the late filing of reports (§24.2-953.2); and (iii) incomplete reports (§24.2-953.3). In addition, a special category exists to provide for additional civil penalties that relate only to statewide campaigns (§24.2-953.4). As to each category, the Code provides for a specific range of civil penalties and, where appropriate, the type of notice that must be provided before a penalty may be imposed.

The sections relating to the failure to file reports (§24.2-953.1) and the late filing of reports (§24.2-953.2), do not require that notice be provided before the imposition of penalties. Thus, if the statutory filing deadline is missed, the penalty is automatically triggered.

The procedure to be filed for the assessment of penalties relating to incomplete reports is governed by §24.2-953.3. It provides, in part: "Prior to assessing a penalty …for the filing of an incomplete report, the Secretary of the Board, or the general registrar or secretary of the local electoral board, as appropriate, shall notify, by certified mail, the candidate and treasurer, or person or political committee required to file a report…No penalty shall be assessed if the information required to complete the report is filed within 10 days of the date of mailing the written notice."

In a similar fashion, §24.2-953.4, which provides for additional penalties relating to statewide races, also explicitly requires that a prior notice must be given before a penalty may be imposed. It provides, in relevant part: "Prior to assessing a penalty pursuant to this section the Secretary shall notify…the candidate and treasurer in writing that a report has not been filed or that a filed report has not been completed…No penalty shall be assessed pursuant to this section if the report or information required to complete the report is filed within seven days of the date of mailing the written notice."

It will be noted that the above analysis does not address the terms of §24.2-953, which does contain a 60 day notice provision. Said provision does not relate to the imposition of civil penalties. Instead, it relates solely to the steps that might be followed if the Board seeks to create a rebuttable presumption of willfulness as to the violation of campaign finance laws. The potential of a rebuttable presumption is only triggered, however, after actual receipt of the mailing and only after the passage of 60 days, a time period much greater than that necessary to impose a penalty under §24.2-953.3 (10 days) and §24.2-953.4 (7 days).

The State Board has formally adopted the following schedules for the assessments of civil penalties. To ensure uniformity throughout the state, this schedule must be followed when the filing officer is assessing civil penalties.

"Official Notification," or any variation of this phrase, as stated within this chapter refers to the letter sent via United States Postal Service Certified Mail to the committee's primary mailing address as reported on the committee's most recently filed Statement of Organization. The date of "official notification" is either

the date that the letter is received and signed for or the date on which the USPS returned the mail to SBE or the local electoral board. The notification is considered made even if the notification is not signed for, or was undeliverable, so long as the notification was sent to the committee's primary mailing address.

Section 13.2 - Procedure to Collect Civil Penalties for Campaign Finance Reports

Late Report = $100 civil penalty automatically imposed after the conclusion of the report's filing deadline. The State Board or the local electoral board will notify the committee of civil penalty and collection procedures via email or regular postal mail. If the payment is not received within 60 days of the deadline, the matter is referred to the appropriate Attorney for the Commonwealth for collection.

Failure to File Report = if no report is filed within 60 days of the due date, the State Board or the local electoral board will notify the committee via certified mail. The penalty will increase to $500 and the committee will be provided an additional 60 days to submit the report. If, after 60 days has passed, the committee has not filed the report, then the matter is sent to the appropriate Attorney for the Commonwealth for collection and determination as to whether the violation is willful. The penalty notification will increase from $500 to $1000 if second or subsequent violations.

If delivery of the certified letter to the committee's primary mailing address is returned undeliverable or the recipient refused to sign, then the matter shall immediately be referred to the appropriate Attorney for the Commonwealth.

The local electoral board of a county or city will notify the Commonwealth's Attorney for the county or city in which the electoral board has jurisdiction.

For candidates for the General Assembly, the State Board will notify the Commonwealth's Attorney of the county or city of the residence of the candidate in violation. For candidates for statewide office, the State Board will notify the Commonwealth's Attorney for the City of Richmond.

Candidates for the General Assembly or statewide office must make their checks payable to "Treasurer of Virginia" for deposit to the General Fund. Candidates for local office must make their checks payable to the treasurer of their locality for deposit to their General Fund.

Section 13.3 – Penalty Schedule for Incomplete Reports

Best Efforts Policy

Once reports are received, SBE and the local electoral boards are required to review the reports and provide requests for additional information to the committee within 21 days of the deadline. The committee's failure to file an amended report or late filing of an amended report will be assessed civil penalties.

In conducting its review, SBE and the local electoral board are required to review the following:

- the report is legible;
- there is no missing information in required fields or descriptions such as "N/A", "none", "unknown" etc. In fields where "requested" or "unable to obtain" is entered, verify that copies of letters to the contributors requesting this information have been filed;

- the beginning balance of the current report (Schedule H, Line 16) equals the ending balance of the previous period's report (Schedule H, Line 19);
- Line 19 and Line 29 on Schedule H match;
- contributions are reported in alphabetical order on Schedule A and Schedule B as required by § 24.2-947.4;
- expenditures are reported in chronological order (earliest first) on Schedule D; and
- expenditure descriptions are relevant.

If any required information is not included or the report is not completed properly, the report is deemed incomplete. However, SBE has determined that some missing information does not necessarily mean that a report should be considered incomplete. SBE has adopted this "Best Efforts" policy in order to comply with the requirements of § 24.2-953.3.

Therefore, Campaign Finance reports are not considered incomplete if:

- Less than 20% of contributors are missing required information on Schedule A or Schedule B; or less than 20% of any other itemized information does not include the required information.

  *For example, if there are 100 itemized contributors on Schedule A, then no more than 20 of those contributors can have missing information.

AND

- Letters requesting the required information from those contributors is filed with the report.

If these conditions are not met, then the report is considered incomplete and a letter requesting an amended report will be mailed to the committee. Failure to amend the report within 10 days of the date of the letter will result in a $100 civil penalty being assessed to the committee.

If the requested amended report is not filed within 120 days of the specified deadline then the violation is presumed willful and the matter will be forwarded to the appropriate Attorney for the Commonwealth.

Section 13.4 – Additional Penalties for Statewide Offices

The Act requires that candidates for statewide office be assessed penalties in addition to candidates for other offices.

Procedure to Collect Additional Penalties for Candidates for Statewide Office

Delinquent Completed Report (Statewide Office)

- An incomplete report for statewide candidates is defined as a report that is filed timely with the State Board but is missing required information or contains mathematical errors.

- Prior to assessing a penalty the Secretary of the State Board must notify the candidate and their treasurer within 14 days of the deadline for the required report, via certified mail, that an amended and completed report must be filed, citing the omissions from the report. No penalty will be assessed if the report or information required to complete the report is filed within seven days of the date of mailing the written notice.

- If the campaign committee fails to file the required report within seven days of the date of the written notice, these penalties will assess against the candidate and treasurer, who will be jointly and severally liable, for each day of non-compliance in addition to the prescribed penalties for candidate campaign committees.

- The Secretary of the State Board has the authority to extend the seven day time period for filing the completed report if good cause is shown. However, no additional time may be granted if the report was due eight days prior to a primary, general or special election.

Late Report (Statewide Office)

- A late report will automatically be assessed a $100 penalty.

- After 7 days, if report is still not filed, SBE will send an official notification to the committee.

- If the campaign committee fails to file the required report within seven days of the date of the official notice, a penalty of $500 per day of non-compliance will be assessed against the candidate and treasurer, who will be jointly and severally liable, in addition to the $100 previously assessed.

The Secretary of the State Board has the authority to extend the seven day time period for filing the completed report if good cause is shown. However, no additional time may be granted if the report was due eight days prior to a primary, general or special election. These penalties are to be assessed to candidates for statewide office in addition to the penalties enumerated above.

Section 13.5 – Penalties for Accepting Contributions from Unregistered Out-of-State Political Committees or Federal Political Action Committees

It is unlawful for any committee registered in Virginia to accept contributions of more than $10,000, in the aggregate during a calendar year, from an out-of-state political committee or federal political action committee that is not registered with SBE.

Accepting any contribution of $10,000 or more, in the aggregate during a calendar year, without first verifying the committee's SBE registration status will result in a penalty equal to the amount of the contribution received.

SBE will assess the penalty at the time that it becomes aware of the violation. If the penalty is not paid within five days after official notification of the penalty then SBE will send the matter to the Commonwealth's Attorney for the city of Richmond to enforce its collection.

Section 13.6 - Willful Violations

A willful violation occurs when the State Board or an investigation by an Attorney for the Commonwealth or the Attorney General's office determines that the person or committee intentionally attempted to subvert the provisions of the Act.

In the case of willful violation, a committee will be guilty of a Class 1 misdemeanor and the Attorney for the Commonwealth will initiate civil proceedings to enforce any civil penalties prescribed. There will be a rebuttable presumption that the violation of the Act was willful if the violation is based on a committee's failure to file a report required and its failure to file continues for more than 60 days following the official notification by SBE or local electoral board.

CHAPTER 14 – Political Advertisement Disclosure

Section 14.1 - When Disclosure Statements are Required

A disclosure statement is required for all political advertisements which uses express advocacy to support the election or defeat of a candidate or group of candidates.

A Disclosure Statement is NOT required on:

- Yard Signs;
  - State Board is currently working on a regulation to define "yard sign".
- Novelty items such as;
  - Pens
  - Pencils
  - Magnets
  - Buttons to be attached to wearing apparel.

*A Disclosure Statement IS Required on:**

- Billboards;
- Bumper Stickers;
- Cards or Business Cards;
- Sample Ballots;
- Newspaper ads;
- Newspaper inserts;
- Magazines;
- Advertisement disseminated through the mail;
- Pamphlets;
- Fliers;
- Periodicals;
- Websites;
- Electronic mail (E-mail);
- Outdoor advertising facilities
- Barns, baseball stadium, buses, etc.;
- Television advertisements;
- Radio advertisements.

* No disclosure is required for individuals who incur only referendum expenses or whose aggregate expenditures for or against a candidate, in an election cycle, do not exceed $200 for a non-statewide candidate or $1,000 for a statewide candidate.

Section 14.2 - Requirements for Publications

It is unlawful for any of the entities listed below, to accept or receive or agree to accept or receive any money or other valuable consideration for supporting or advocating the election or defeat of any candidate:

- Owner;
- Clerk;
- Proprietor;
- Agent;
- Officer;
- Editor;
- Reporter;
- Manager; or
- Employee of any newspaper, magazine, or periodical printed or published in Virginia.

This section does not prevent any person, firm or corporation that is engaged in the publication of any newspaper, magazine or periodical from receiving from any person compensation for printing and publishing any matter or article that advocates the election or defeat of any candidate, as long as the statement "PAID ADVERTISEMENT," appears in plain type in boldface Roman capitals in a conspicuous place at the beginning of the matter or article; and the matter or article otherwise complies with the provisions of § 24.2-955.2 of the Code of Virginia.

The person accepting a "PAID ADVERTISEMENT" for the newspaper, magazine or periodical will require and for one year, retain a copy of, proof of the identity (government issued identification) of the person who submits the advertisement for publication when the authorization statement on the advertisement is made by any person other than the:

- Candidate;
- Candidate's Campaign Committee;
- Political Party Committee; or
- Political Action Committee (PAC) registered with the SBE.

This proof of identity must be submitted either:

- In person and include a valid VA driver's license, or any other identification card issued by a government agency of the Commonwealth, one of its political subdivisions, or the United States; or

- If other than in person, the person submitting the advertisement must provide a telephone number and the person accepting the advertisement may phone the person to verify the validity of the person's identifying information before publishing the advertisement.

- § 24.2-955.2 (B) states that a candidate who is clearly identified in a "Paid Advertisement" is entitled to obtain the identity of the person who submitted the advertisement from the newspaper, magazine, or periodical that published in the advertisement. .

Section 14.3 - Print Media Disclosure Requirements for Candidates

The visual statement required on print media advertisements must be displayed in a conspicuous manner. Advertisements with multiple folds, faces or pages must include the disclosure on at least one fold, face or page.

Print media advertisements appearing in an electronic format must be displayed in at least seven (7) point font; however, if the advertisement lacks sufficient space for a disclosure statement of at least the minimum seven (7) point font, then the advertisement will meet the disclosure requirements if, by clicking on the advertisement, the viewer is taken to a landing page or a home page that displays the required disclosure statement.

Committees will be considered to have complied with the law if the disclosure legend or statement conveys the required information.

"Paid for by…" Statement

Every political advertisement sponsored by a candidate that appears in Print Media must state who paid for the advertisement. The statement must include the name of the candidate or the candidate's campaign committee. The committee can replace the "Paid for by…" statement with "Authorized by…"

In the case of a print media advertisement that has more than one sponsor, the disclosure statement must name all of the sponsors.

Section 14.4 - Television Disclosure Requirements for Candidates

Political advertisements that appear on television must also comply with the Communications Act of 1934, 47 U.S.C. §§ 315 and 317 as well as the applicable laws in § 24.2-9957.1 of the Code of Virginia.

If the sponsor of the advertisement does not have control over the audio then the disclosure requirements must be the same as for Print Media. The statements must be made in a conspicuous manner. Committees will be considered to have complied with the law if the disclosure legend or statement conveys the required information.

"Paid for by…" Visual Statement

Every political advertisement sponsored by a candidate that appears on television must visually state who paid for the advertisement. The statement must be 20 scan lines in size and must include the name of the candidate or the candidate's campaign committee.

If the candidate or his campaign committee is the sponsor of the advertisement AND the advertisement does not refer to any other clearly identified candidate then the committee can replace the "Paid for by…" statement with "Authorized by…"

In the case of a television advertisement that has one or more sponsors, the disclosure statement must name all of the sponsors and the candidate must speak the disclosure statement.

"Authorized by…" Spoken Statement

For any political advertisement appearing on television and sponsored by a candidate who refers to a clearly identified candidate or candidates other than the candidate who is sponsoring the advertisement must include a disclosure statement spoken by the candidate which states "I am… (or "This is…") [Name of candidate], candidate for [name of office], and I (or 'my campaign') sponsored this ad." There must be a full-screen, un-obscured photographic picture or actual appearance of the candidate throughout the entire spoken statement which must be at least 4 seconds in length.

It is not required to state whether the candidate authorized the advertisement if the candidate referred to in the advertisement is not the sponsoring candidate's opponent or if the candidate referred to in the advertisement is not being expressly advocated.

The spoken statement can be spoken at any time during the advertisement unless the duration of the advertisement is more than 5 minutes. In this case, the spoken statement must be delivered at the beginning and the end of the advertisement.

If more than one candidate is sponsoring the advertisement then at least one candidate must speak the disclosure statement.

Section 14.5 - Radio Disclosure Requirements for Candidates

Political advertisements that appear on radio must also comply with the Communications Act of 1934, 47 U.S.C. §§ 315 and 317 as well as the applicable laws in § 24.2-9957.1 of the Code of Virginia. The disclosure statement must last at least two seconds and must be spoken so that its contents can be easily understood.

In the case of a radio advertisement that has one or more sponsors, the disclosure statement must name all of the sponsors and the candidate must speak the disclosure statement. If more than one candidate is sponsoring the advertisement then at least one candidate must speak the disclosure statement.

Spoken Statement

For any political advertisement airing on radio and sponsored by a candidate which refers to a clearly identified candidate or candidates, other than the candidate which is sponsoring the advertisement, must include a disclosure statement spoken by the candidate which states "I am… (or "This is…") [Name of candidate], candidate for [name of office], and I (or 'my campaign') paid for this ad."

If the candidate or his campaign committee is the sponsor of the advertisement AND the advertisement does not refer to any other clearly identified candidate then the committee can replace the "Paid for by…" statement with "Authorized by…"

It is not required to state whether the candidate authorized the advertisement if the candidate referred to in the advertisement is not the sponsoring candidate's opponent or if the candidate referred to in the advertisement is not being expressly advocated.

Section 14.6 – Campaign Telephone Call Requirements

Campaign telephone calls are a series of telephone calls, electronic or otherwise, made to twenty-five or more telephone numbers in the Commonwealth during the 180 days before a general or special election or during the ninety days before a primary, conveying or soliciting information relating to any candidate or political party participating in the election or primary, and under an agreement to compensate the telephone callers. A violation of these disclosure requirements will not void any election.

It is unlawful for any person, corporation or political committee making campaign telephone calls to intentionally modify the caller identification information for the purpose of misleading the recipient as to the identity of the caller.

It is unlawful for any candidate or campaign committee to make campaign telephone calls or to contract with persons making telephone calls without disclosing before the conclusion of each telephone call, information to identify the candidate or campaign committee who has authorized and is paying for the calls unless such call is terminated prematurely by means beyond the maker's control. The person making the campaign telephone calls must disclose the following information prior to the conclusion of the call:

- The name of the candidate(s) or candidate campaign committee(s) paying for the call;
- The name of the candidate(s) or candidate campaign committee(s) who authorized the calls.

Chapter 15 – Political Advertisement Penalties

Section 15.1 - Procedure for Reporting Violations

The person alleging any violation to print media, radio or television advertisements should contact the State Board of Elections. Once the complaint is received, the State Board, in a public hearing, shall determine whether to find a violation of this chapter and to assess a civil penalty. At least 10 days prior to such hearing, the State Board shall send notice by certified mail to persons whose actions will be reviewed at such meeting and may be subject to civil penalty. Notice shall include the time and date of the meeting, an explanation of the violation, and the maximum civil penalty that may be assessed.

Section 15.2 - Penalties for Candidates for Statewide Office

The following penalties will apply only to statewide candidates or statewide campaign committees which sponsor political advertisements.

Print Media

Violators shall be assessed a penalty as follows:

- $50 for a first time violation with explanation, apology and/or remedial measures taken;
- $100 for a first time violation without explanation, apology and/or remedial measures taken;
- $250 for any second violation;
- $500 for any third violation; and
- $1000 for any fourth or subsequent violation.

If the advertisement is disseminated or on display in the 14 days prior to or on the Election Day for which the advertisement pertains, the above penalties will be doubled and the maximum penalty would be $2,500.

Television

The penalty for violating required television disclosures will be $2,500 per occurrence unless the advertisement is disseminated or on display in the 14 days prior to or on the Election Day for which the advertisement pertains. In this case, the penalty will be $10,000 per occurrence.

Radio

The penalty for violating required radio disclosures will be $2,500 per occurrence unless the advertisement is disseminated or on display in the 14 days prior to or on the Election Day for which the advertisement pertains. In this case, the penalty will be $10,000 per occurrence.

Campaign Telephone Calls

The penalty for violating required campaign telephone call disclosures will be $2,500.

Section 15.3 - Penalties for Candidates for General Assembly or Local Office

The following penalties will apply only to General Assembly or local candidates and/or their campaign committees which sponsor political advertisements.

Print Media

Violators shall be assessed a penalty as follows:

- $50 for a first time violation with explanation, apology and/or remedial measures taken
- $100 for a first time violation without explanation, apology and/or remedial measures taken
- $250 for any second violation
- $500 for any third violation
- $1000 for any fourth or subsequent violation

If the advertisement is disseminated or on display in the 14 days prior to or on the Election Day for which the advertisement pertains, the above penalties will be doubled and the maximum penalty would be $2,500.

Television

Violators whose total expenditures for the election cycle are less than $10,000 will be assessed a penalty of $500 unless the advertisement is disseminated or on display in the 14 days prior to or on the Election Day for which the advertisement pertains. In this case, the penalty will be $1,000.

Violators whose total expenditures for the election cycle are $10,000 or more will be assessed a penalty of $1,000 unless the advertisement is disseminated or on display in the 14 days prior to or on the Election Day for which the advertisement pertains. In this case, the penalty will be $2,500.

Radio

Violators whose total expenditures for the election cycle are less than $10,000 will be assessed a penalty of $250 unless the advertisement is disseminated or on display in the 14 days prior to or on the Election Day for which the advertisement pertains. In this case, the penalty will be $500.

Violators whose total expenditures for the election cycle are $10,000 or more will be assessed a penalty of $500 unless the advertisement is disseminated or on display in the 14 days prior to or on the Election Day for which the advertisement pertains. In this case, the penalty will be $1,000.

Campaign Telephone Calls

The penalty for violating required campaign telephone call disclosures will be $2,500 per occurrence.

Change of Campaign Finance Reporting Deadlines

Comments

Position	Comments
Oppose	For uniformity purposes, the electronic campaign finance reports should be due by the close of business as per SBE's office hours.
Oppose	I see no justifiable reason to change from the 5 PM closing of business mindset for this action. If a responsible citizen is running for office and cannot plan enough to meet this deadline, then we do not need them in office!!!!!
Oppose	There is no reason stated for the change requested so I believe there should be no change until the citizens receive an explanation as to why this is necessary.
Oppose	I feel that the filing deadline should remain the same, 5:00pm and should remain the close of business for the office in which the reports are due.
Oppose	I believe this change benefits campaign staffers and hurts the interests of public disclosure, exactly the opposite of the kind of policies the SBE should be trying to enact and enforce.
Oppose	The current 5:00 PM deadline is the deadline. Candidates and elected officials are all aware of it, and the overwhelming vast majority get their paperwork submitted by that deadline. Pushing it back until 11:59 PM will only encourage delays and will unlikely result in full compliance - those who waited until 4:59 before will still wait until 11:58. In the end, moving the deadline provides little benefit.
Oppose	I read about this today in the Roanoke Times. I think you should keep deadline at 5 p.m. so public can get info as soon as possible
Oppose	I think it is unnecessary. 5:00 is the close of business and if a candidates finances are so sloppy it shady that they need 7 more hours on the last day then they don't need to be running for office.
Oppose	I do not think the change (filing deadline moving from 5:00 pm until 11:59 pm) is necessary and as the paper filers need to submit at 5:00 pm it is unfair to those filers. If the treasurer/candidate can get done by 11:59 pm then they should be able to get done by 5:00 pm. Also, when you are requesting comments on the CHANGE to a 57 page summary, it would have been beneficial to list what page said change is on!
Oppose	I do not support moving the deadline for electronic filers and General Assembly paper filers. The current 5:00 p.m. deadline allows media outlets to report on the fundraising and contributions by either the 11:00 p.m. news (TV), by the morning papers, or instantly online. Virginia's campaign finance system is build on transparency, and therefore a move that increases the time between when a report must be filed and when the public learns about its details undermines that transparency.
Oppose	This is good if the intent is to promote electronic filing but it may be seen as unfair for those who paper file.
Oppose	I suggest the change apply only to candidate campaign finance reports filed electronically, if any change is made at all, and not to political committees. There is no substantive reason for the change to apply to political committees.
Oppose	Regardless of the time chosen the deadline needs to be consistent and the same for all filings (paper and electronic) so that there is no confusion.
Oppose	I think it should remain 5:00 PM for both. The time change will be very confusing and Registrar's Office's will have to explain the difference over and over again. Small localities will catch most of the confused candidates.
Oppose	Most business reports are filed "End of Business Day". Why would we change the filing deadline? This change will cause confusion for what appears to be no real improvement in the system. Clara Belle Wheeler, Albemarle County
Support	Yes, please change the time to 11:59pm. With the advent of electronic filing in a variety of industries/governments, the common close of business has become the end of the actual day versus 5 PM. I believe it is the logical step to be current with the times. Thank you.
Support	I strongly support these proposed changes to the Campaign Finance Reporting Deadline. They comply with the legal requirements, and also with the fast-paced, online world which is the reality of filing electronically.
Support	Moving the deadline for online reports would make a huge difference for most of us. I personally, file early, but if something comes up on the last day that requires refiling, the ability to do so after work hours makes it much easier for me.
Support	Excellent Idea

Change of Campaign Finance Reporting Deadlines

Comments

Position	Comments
Support	Changing the time deadline for electronic filing is a great idea and I would like to see it approved. Let's take advantage of modern technology and help the overworked people who prepare the reports. Thanks for doing this. Please approve it.
Support	Comment: since electronic filing does not require the presence of a human being to accept candidate reports, extending the deadline for filing to the last minute of the due date is completely reasonable. My caveat is that some backup mechanism should be in place to cover the filers in event of equipment malfunction on the receiving end.
Support	11:59 pm is reasonable given the electronic nature of the filing. However, SBE should monitor and staff the system until 11:59 pm on filing days to ensure that candidates and committees can file their reports. If SBE is not able to monitor and staff the system, then the deadline should remain close of business. As a side note, SBE should be open to public comment on their proposed rule changes. If they believe in the rule change then they should be transparent and invite the public into the discussion. To do otherwise hurts SBE's credibility.
Support	I am in favor of this change.
Support	Adopt the amendment as recommended. This should make things easier for treasurer's responsible for filing.
Support	Suggest that "middle of the night" filings bring more issues into question. Candidates unable to file by 5 PM should not be candidates. Suggests candidates' lack of organization and inability to gather data in a timely manner. Recommend that current time be maintained and therefore info available for news outlets and newspaper next day reporting.
Support	Filing electronically is a more efficeint way to file. The filing deadline of 11:59pm is standard with a lot of electronic deadlines. It may be a little confusing at first however, I am in favor of it.
Support	This would be one more encouragement to people to file electronically.
Support	I do not see that it makes a difference.
Support	This seems fine. I have no objections to extending the deadline by a few hours. Mike Hudson Citizens First For Blacksburg
Support	a very good proposal and strongly support it. would also like to see COMET have an import/export functionality with Excel.
Support	I support the proposal which would align Virginia practice with Federal practice and provide additional time for the many treasurers who volunteer their services and can't leave work before 5 pm to make any last minute changes.
Support	I'm fine with moving the deadline
Support	More time is always better. I support the change.
Support	Great News! I strongly support extending the time to 11:59 pm on the date due. Most of us are very busy with other full time jobs and no paid staff or accountants performing this workâ€"we mostly do it ourselves. Being able to do this type of reporting in the evening will help relieve some of the stress of getting all these things done, improve accuracy and increase our timeliness with no negative impact on the public or reporting. In fact, if it increases the number of candidates and elected officials reporting electronically, and it should, it will improve transparency and the timeliness of information available to the public. Dan Storck Elected Official, Fairfax County
Support	This would be a good change.
Support	That is a wonderful idea. I would greatly appreciate the change.
Support	This is a good change. Many filers are volunteers, so even a few additional hours will better enable us to meet the deadline less stress-fully.
Support	I fully support the change since no action is taken until the next business day.
Support	The proposed changes seem reasonable and acceptable to me. Thanks for the opportunity to comment. Les Halpern, Target-D Consulting.
Support	Great idea! This may serve as an "incentive" to those officials who haven't moved into the 21st Century and are still filing on paper.
Support	This is a great change. Every second counts.

Change of Campaign Finance Reporting Deadlines

Comments

Position	Comments
Support	The proposed deadline for filing campaign finance reports with its office to 11:59 pm on the day of the report's deadline is a much needed change.
Support	This seems fine to me.
Support	I think this would be a good change. Jenny Cavender (Treasurer,Friends of Barclay Winn, Norfolk, VA)
Support	Would like all candidates to be required to file electronic CFR.
Support	From Clarice Schermerhorn, Elections Manager, Albemarle County, not having consulted with the Electoral Board, only my own thoughts: This make a lot of sense to me, and perhaps it will encourage more people to file electronically.
Support	Good job! Go for it.
Support	I am in full support of this change, many times I am not able to give my undivided attention to completing the reports until after hours when the phone stops ringing. I am in complete support
Support	The VPCA PAC supports this change to reporting deadlines as it extends the deadlines for filers who do not necessarily keep traditional office hours.
Support	On behalf of Manassas Votes PAC, of which I am an authorized officer, I strongly support the proposal of the SBE to move the deadline for filing campaign finance reports for candidates and political committees from 5:00pm to 11:59pm on the day of the reportâ€™s deadline. Stephen Hersch, Treasurer, Manassas Votes PAC
Support	The extension of time would be helpful. Thank you.
Support	Support
Support	I support it, and it makes sense with most committees and campaigns filing electronically. Business does not stop at 5:00 PM anymore.
Support	I am IN FAVOR of the proposal.
Support	Extending to 11:59pm would be very helpful. It would allow those of us who are volunteers with day jobs to be able to complete forms at home, after regular work hours.
Support	Approved
Support	I fully support extending the deadline for e-filing to 11:59 pm on the due date of campaign finance reports.
Support	Great idea. And thanks for publishing a marked-up copy so we can easily see the changes. However, please consider, instead of "11:59pm," using, "midnight at the end of the day." I shudder to think what kind of silliness will arise if someone files their report at 11:59:32pm. It's like all those ordinances one sees that say "51%" in some context where they actually mean "more than half." Come on, now! We're big boys and girls. We can understand precisely written language. "11:59pm" just perpetuates the practice of dumbing-down our standards for regulatory drafting. "Midnight at the end of the day" is exact, and unambiguous. Please consider it. Thanks, Stevens Miller, past Loudoun county supervisor, past candidate for the General Assembly, treasurer of "Elizabeth Miller for Delegate", executive director of "Real Advocate PAC." (Yes, I do a lot of these filings.)
Support	In favor. No inconvenience; no disenfranchisement. Simple, easy to verify. Driver's license, military ID card, student ID Card, with photos should also suffice with a Voter Registration Card. Never has been a problem for me or my wife. Necessary to prevent voter fraud, sad to say.
Support	All candidates should have the same filing deadline whether electronically or by paper. Also, filing should be done electronically. Paper filing should be eliminated.
Support	Yes, please change the due time.

★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Campaign Finance Yard Sign Proposed Policy

BOARD WORKING PAPERS

Chris Piper
SBE Election Services Manager

Memorandum

To: Members of the State Board of Elections

From: Chris Piper, Election Services Division Manager

Date: April 23, 2014

Re: Request to Post Revised Definition of "Yard Sign" for Public Comment

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Suggested motion for a Board member to make:
I move that the proposed regulation on the definition of "Yard Sign" be placed on the SBE website for public comment.

Attachments: Proposed Regulation for Definition of "Yard Sign"

Background:
Per the Board's request, staff has worked with the Office of the Attorney General as well as the Division of Legislative Services to draft a definition of "yard sign".

There is no definition of "yard sign" in the *Code of Virginia* or in the Board's policies. The law governing political advertisement disclosures is found in § 24.2-955 et seq. (aka "Stand By Your Ad"). There has been some confusion as to whether a disclosure is required on signs placed on someone's private property.

The proposed definition will make it clear that a disclosure is required on all advertisements paid for or distributed by a candidate or political party.

Virginia Administrative Code

CHAPTER 90
CAMPAIGN FINANCE AND POLITICAL ADVERTISEMENTS

1VAC20-90.10 Definitions. 1

1VAC20-90.10 Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Yard sign" means a sign paid for or distributed by a candidate or political committee which can be placed on private or public property.

DRAFT

★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Stand By Your Ad Violations

BOARD WORKING PAPERS

Chris Piper
SBE Election Services Manager

★ VIRGINIA ★
STATE BOARD of ELECTIONS

Charles E. Judd
Chairman • Kimberly T. Bowers
Vice Chair • Donald L. Palmer
Secretary

Memorandum

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

From: Christopher Piper, Election Services Manager

Date: April 23, 2014

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

Defendant: Bill Colgate

Background: On or about March 10, 2014, the Chesterfield County General Registrar received a complaint concerning a flyer distributed on behalf of Bill Colgate, but did not contain the idsclosure statement required by § 24.2-956.

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, flyers, bumper stickers, periodicals, website, electronic mail, and outdoor advertising facilities."

§ 24.2-956 states (in part)

1100 Bank Street
Washington Building – First Floor
Richmond, VA 23219-3947
www.sbe.virginia.gov
info@sbe.virginia.gov

Telephone: (804) 864-8901
Toll Free: (800) 552-9745
TDD: (800) 260-3466
Fax: (804) 371-0194

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

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

Analysis: The advertisements appearing in the flyer provided meets the Board's standard for "express advocacy" as it clearly advocates for the election of Bill Colgate. The flyer fails to state who paid for the advertisement and is therefore not compliant with the disclosure required in §24.2-956(1) of the *Code of Virginia.*

Staff Recommendation: The candidate is in violation of the requirements of Chapter 9.5 of Title 24.2, *Code of Virginia,* and should be assessed a civil penalty totaling $100 representing a first time violation.

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." The civil penalty schedule is found on page 55 of the **Summary of Laws and Policies for Candidate Campaign Committees**.

Chesterfield Electoral Board
Office of the General Registrar

Office Location - 9848 Lori Road (Court Square) • 804-748-1471 • 804-751-0822 (fax)
Mailing Address - PO Box 1690 • Chesterfield, VA 23832 • registrar@chesterfield.gov • www.chesterfield.gov/registrar

Electoral Board Members
Rosemarie Y. Hart • Lu H. Henderson • Randall L. Welch

General Registrar
Lawrence C. Haake, III

March 10, 2014

Mr. Christopher Piper
Manager, Election Services
State Board of Elections
1100 Bank Street
Richmond, VA 23219

Dear Mr. Piper:

Enclosed please find three (3) campaign flyers delivered to me as being non-compliant with the requirement to include a "paid for" or "authorized by" statement. I have notified the three campaigns, all of whom indicated they would work to correct the deficiency. (The Mallory-Coble campaign advised they had already realized the error and had tried to stop all the flyers that did not have the statement and had produced a proper flyer.)

Please do not hesitate to call if you need further from me.

Thank you for your consideration.

Sincerely,

Lawrence C. Haake, III
General Registrar

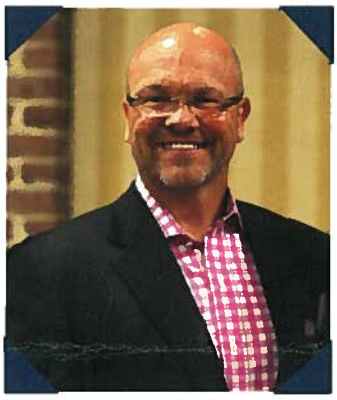
Received by SBE MAR 12 '14

Enclosures

BILL
COLGATE
FOR MIDLOTHIAN SCHOOL BOARD

2014

A Voice For Our Kids



Public Schools in Chesterfield County are at a critical crossroads and we need strong leadership to navigate the waters of of shrinking budgets, larger class sizes, standardized testing, and diminishing moral of our educators. My strengths are working with people, making the tough decisions, and using common sense as my base. I'm running to serve my community, my fellow parents, and the children of Midlothian all of whom need a strong voice on the school board.

Bill Colgate
For Midlothian School Board

AS A MEMBER OF THE COMMUNITY, I HAVE:

- A vested interest in our children's education - I have 3 daughters, all of whom are attending Chesterfield County Public Schools. I am myself a product of the Chesterfield County Public Schools.
- Served on the Midlothian YMCA Board of Management during the Phase 2 Capital Campaign Construction and Fund Raising.
- Work ethic of being prepared and accountable - 15 years as the President and General Manager of Brown's Volkswagen, Brown's Jaguar, and Brown's BodyWorks which all operate in Chesterfield County.
- A record of leadership and TEAM building.

AS A SCHOOL BOARD MEMBER, I WILL:

- Provide direction to handle the financial shortcomings and statewide budget cuts with businessperson's eye.
- Tackle tough fiscal decisions with the kids' education and teachers well being as my 1st priority.
- Maintain and develop partnerships between our corporate neighbors to better fund needed programs in our schools.
- Effectively communicate with our students, teachers and parents on a monthly basis.
- Promote technology in the classroom that will increase learning, lighten teacher work loads, promote critical thinking skills and improve test scores.
- Maintain the top priority in the district: to provide students a quality education.

VOTE BILL COLGATE MARCH 18

BILL
COLGATE
FOR MIDLOTHIAN SCHOOL BOARD
2014

A Voice For Our Kids

LOCAL PERSONAL ENDORSEMENTS:

- Larry Buchanan, retired Principal of Meadowbrook HS and Midlothian Middle School
- Cassie Omohundro, Owner, Sassy Bee
- Chris Lieberman, CEO ABC Home Mortgage
- Neil Cowan, Partner, Cowan and Gates
- Beth Carter, Retired School Teacher and School Counselor, J.B Wadkins, A.M. Davis, Beulah and Greenfield Elementary

CONTACT INFORMATION:

- bill.colgate@gmail.com
- www.facebook.com/BillColgateforSchoolBoard

With hard work and thoughtful decision making, I am dedicated to building lasting partnerships with students, parents and educators. I am committed to enhancing the education of our students and preparing them for a successful future.

VOTE BILL COLGATE MARCH 18

★ VIRGINIA ★
STATE BOARD of ELECTIONS

Charles E. Judd
Chairman • Kimberly T. Bowers
Vice Chair • Donald L. Palmer
Secretary

Memorandum

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

From: Christopher Piper, Election Services Manager

Date: April 23, 2014

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

Defendant: Bob Olsen

Background: On or about March 10, 2014, the Chesterfield County General Registrar received a complaint concerning a flyer distributed on behalf of Bob Olsen for Midlothian School Board but did not contain the disclosure statement required by § 24.2-956.

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, flyers, bumper stickers, periodicals, website, electronic mail, and outdoor advertising facilities."

§ 24.2-956 states (in part)

1100 Bank Street
Washington Building – First Floor
Richmond, VA 23219-3947
www.sbe.virginia.gov
info@sbe.virginia.gov

Telephone: (804) 864-8901
Toll Free: (800) 552-9745
TDD: (800) 260-3466
Fax: (804) 371-0194

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

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

Analysis: The advertisements appearing in the flyer provided meets the Board's standard for "express advocacy" as it clearly advocates for the election of Bob Olsen for Midlothian School Board. The flyer fails to state who paid for the advertisement and is therefore not compliant with the disclosure required in §24.2-956(1) of the *Code of Virginia.*

Staff Recommendation: The candidate is in violation of the requirements of Chapter 9.5 of Title 24.2, *Code of Virginia,* and should be assessed a civil penalty totaling $100 representing a first time violation.

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." The civil penalty schedule is found on page 55 of the **Summary of Laws and Policies for Candidate Campaign Committees**.

Chesterfield Electoral Board
Office of the General Registrar

Office Location - 9848 Lori Road (Court Square) • 804-748-1471 • 804-751-0822 (fax)
Mailing Address - PO Box 1690 • Chesterfield, VA 23832 • registrar@chesterfield.gov • www.chesterfield.gov/registrar

Electoral Board Members
Rosemarie Y. Hart • Lu H. Henderson • Randall L. Welch

General Registrar
Lawrence C. Haake, III

March 10, 2014

Mr. Christopher Piper
Manager, Election Services
State Board of Elections
1100 Bank Street
Richmond, VA 23219

Dear Mr. Piper:

Enclosed please find three (3) campaign flyers delivered to me as being non-compliant with the requirement to include a "paid for" or "authorized by" statement. I have notified the three campaigns, all of whom indicated they would work to correct the deficiency. (The Mallory-Coble campaign advised they had already realized the error and had tried to stop all the flyers that did not have the statement and had produced a proper flyer.)

Please do not hesitate to call if you need further from me.

Thank you for your consideration.

Sincerely,

Lawrence C. Haake, III
General Registrar

Received by SBE MAR 12 '14

Enclosures

Bob Olsen

An Independent Voice

midlothianschools@gmail.com

For over 30 years, I have been serving the citizens of Chesterfield County.

From 1986 to 1994 I was an assistant Scoutmaster to troops 876 and 897, supported by Mt. Pisgah Church in Midlothian.
In 1992, I was the Chairman of the Chesterfield Commission on Soils and Foundations. We were charged with finding the cause and solutions for hundreds of Chesterfield homes damaged by "shrink swell" soils.

From 1993 to 2005, I was the Chairman of the Chesterfield Board of Building Code Appeals. The BBCA ensured that Virginia State Building Codes were properly enforced in Chesterfield.

In 1993 I was a volunteer in the effort by The County Council of PTAs and the Chesterfield Jaycees, gathering signatures so we could have elected school boards in Chesterfield.

During the rezoning for the Tarrington subdivision in 2002, I spearheaded the effort that resulted in a library being placed on the 2004 bond referendum for the Robious Road Corridor.

In 2005 I was appointed by President Bush to serve on the Selective Service Board for Chesterfield.

To move our schools forward, we need to think differently than we have in the past.
We must insure the priority for school dollars is the classroom, not in the administration of schools.
We need to operate a fully transparent budget. All citizens should have the ability to go online and see how CCPS is spending their money.
Our schools are "the canary in the coal mines". When our schools are hurting, our entire community and our home values suffer. Improving our schools should be the number one priority of the entire community.
I want to change the way we build schools. Under my plan we can build schools faster, cheaper, and operate them in a more efficient manner.
I want to change how we bid school projects. We need to have companies bid not only the cost to build but also the cost to operate a school.

By working together we can move Chesterfield forward for the benefit of all our citizens.

I am asking for your vote for the Midlothian School Board seat.

RECOMMENDED CANDIDATE OF THE CHESTERFIELD EDUCATION ASSOCIATION

FUND FOR CHILDREN AND PUBLIC EDUCATION

★ VIRGINIA ★
STATE BOARD of ELECTIONS

Charles E. Judd
Chairman • Kimberly T. Bowers
Vice Chair • Donald L. Palmer
Secretary

Memorandum

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

From: Christopher Piper, Election Services Manager

Date: April 23, 2014

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

Defendant: Dianne Mallory-Coble

Background: On or about March 10, 2014, the Chesterfield County General Registrar received a complaint concerning a flyer distributed by Dianne Mallory-Coble but did not contain the disclosure statement required by § 24.2-956.

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."

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Analysis: The advertisements appearing in the flyer provided meets the Board's standard for "express advocacy" as it is clearly advocates for the election of Mallory-Coble. The flyer fails to state who paid for the advertiseent and is therefore not compliant with the disclosure required in §24.2-956(1) of the *Code of Virginia.*

Staff Recommendation: The candidate is in violation of the requirements of Chapter 9.5 of Title 24.2, *Code of Virginia,* and should be assessed a civil penalty totaling $100 representing a first time violation.

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." The civil penalty schedule is found on page 55 of the **Summary of Laws and Policies for Candidate Campaign Committees**.

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Office of the General Registrar

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Electoral Board Members
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General Registrar
Lawrence C. Haake, III

March 10, 2014

Mr. Christopher Piper
Manager, Election Services
State Board of Elections
1100 Bank Street
Richmond, VA 23219

Dear Mr. Piper:

Enclosed please find three (3) campaign flyers delivered to me as being non-compliant with the requirement to include a "paid for" or "authorized by" statement. I have notified the three campaigns, all of whom indicated they would work to correct the deficiency. (The Mallory-Coble campaign advised they had already realized the error and had tried to stop all the flyers that did not have the statement and had produced a proper flyer.)

Please do not hesitate to call if you need further from me.

Thank you for your consideration.

Sincerely,

Lawrence C. Haake, III
General Registrar

Received by SBE MAR 12 '14

Enclosures

BACKGROUND

- Grew up in Bon Air, fourth generation Midlothian resident
- Raised by the late Catherine Mallory Scott, a well-respected Chesterfield educator
- Attended Midlothian schools; Midlothian High School graduate
- Children graduated from James River High
- Bachelor and Master degrees from Virginia universities

SERVICE to COMMUNITY

- Current Vice Chair, Chesterfield County Committee on the Future
- Member, 2003 CCPS Superintendent School Vision Community Task Force
- Co-Chair, 1996 Citizen Advisory Committee for CCPS School Bond Referendum
- PTA Officer – local, regional and state levels

SUPPORTS

- Full funding of Chesterfield County Public School System
- Shared governing; will work with the Chesterfield Board of Supervisors to fund our schools
- CCPS returning to being the leading school system in our region

CCPS "Fast Facts"

1. *58,286 students attend 62 schools: 38 elementary; 12 middle; and 12 high schools – includes 11 specialty centers and 1 technical center*
2. *$533 million operating budget: Instruction – 69%; Operations – 11%; Debt – 8%; Transportation – 6%; Administration/Attendance/Health – 4%; and Technology – 2%*
3. *$9,030 cost per student (ranks CCPS 9th from the bottom of 132 school divisions in Virginia)*
4. *7815 full-time & part-time positions*
5. *6.3 million meals served and 32% of students qualify for free or reduced price meals*
6. *2012-13 Ethnic Demographics:*
   a. *55% white*
   b. *26% African-American*
   c. *11% Hispanic*
   d. *3.5% Asian/Hawaiian/Pacific*
   e. *4% two or more races*
   f. *.5% American Indian/Alaskan native*

(Source: CCPS Superintendent's Office)

www.mallorycobleforschoolboard.org

Facebook Dianne Mallory-Coble

@dmallory_coble

Dianne Mallory-Coble
Midlothian District School Board
Special Election
March 18th

VISIBLE.

ACCOUNTABLE.

KNOWLEDGEABLE.

FUNDING EDUCATION IS ABOUT OUR FUTURE.

I am FOR full funding our school system and that the Superintendent consider using a future-focused multi-year budget forecast of revenue and expenditures to the school board. *(Recommendation: Citizens Budget Advisory Committee – 2/18/14)*

I am FOR shared and cooperative local governance with the Chesterfield Board of Supervisors (BOS) to ensure full funding of the school system based on generating public revenue to equitably fund county schools.

I am AGAINST being near the bottom of the list of Virginia school divisions for the amount of per pupil funding spent on Midlothian students in Chesterfield schools. *(Source: CCPS Budget Office)*

District voters want the Midlothian kindergartener who entered school in 2013 and who is the future graduate of the "Class of 2026" to be ready for college or a career because she had an excellent educational start!

That means by 2026, she will: know how to work to solve problems and think critically; be able to work cooperatively on projects and in teams; have strong written and verbal communication skills; and be literate in technology and (ideally) in a second language, too.

EXCELLENCE IS OUR STANDARD.

I am FOR a standard of excellence that recognizes the high level of instructional competence of CCPS teachers and rely on the 'experts' for best teaching and instructional strategies that lead to all-around student success.

I am FOR being the most competitive school system in our region when it comes to teacher salaries and compensation benefits that allow us to recruit and retain the best.

I am FOR our school system's being a magnet for attracting local, national and international businesses and new residents – families, retirees, young professionals, and new populations – to our county. *(See March 2011 Report of the Chesterfield County Committee on the Future.)*

I am FOR continued employment of our support staff. Outsourcing has its place, for sure. Still, research has not proven "outsourcing" as the 'cure-all' for cost savings or maintaining a high level of service that a school system like ours demands and deserves.

I am FOR teaching civic and community values that promote positive youth development and that will equip our students to function well in both local and global societies. *(See CCPS "Design For Excellence 2020".)*

COMMUNITY 'CALL TO ACTION'!

I am FOR a community 'Call to Action' campaign that will raise public awareness about the non-negotiable "value and importance to all citizens (and residents) and to the community of school system funding." *(Recommendation: Citizens Budget Advisory Committee – 2/14/18)*

I am FOR reducing the persistent student achievement gaps among the student populations to ensure that Chesterfield keeps its state and national 'fully accredited' status.

I am AGAINST all disparities in school facilities, instructional resources, and technological tools, especially since research has proven that educational disparities can affect student academic achievement.

I am FOR an in-depth and broad-based examination of how we use time, the school calendar, and virtual learning to provide more course offerings, educational flexibility to enhance and promote academic achievement.

I am FOR reducing the 11% high school drop-out rate in our school system – a rate like this cannot be tolerated in a *First Choice Community*.

★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Periodic Review Chapters 40 & 70

BOARD WORKING PAPERS

Martha Brissette
SBE Policy Analyst

★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

Chapter 40
Voter Registration

BOARD WORKING PAPERS

Martha Brissette
SBE Policy Analyst

Memorandum

To: Members of the State Board of Elections
From: Martha Brissette, Policy Analyst
Date: 4/7/2014
Subject Proposed Amendments to Conclude Periodic Review of Voter Registration Regulations

---

Suggested motion for a Board member to make:
I move that the Board approve the proposed amendments to the Chapter 4 of its regulations on voter registration.

Affected Regulations: 1 VAC 20-40-50, 20-40-70, 20-40-80

Applicable Code Sections: VA Code 24.2-103

Attachments:
- Proposed amendments to Chapter 4 Voter Registration Regulations
- Current Registration Regulations

Background:

The State Board of Elections is proposing amendments to its regulations on voter registration to conclude its periodic review announced May 15, 2013, pursuant to 1 VAC 20-10-120. These voter registration regulations were adopted before 2012 so this is their first periodic review. The objectives of this periodic review are similar to those set forth in Executive Order 14 for all executive agencies—effectiveness, efficiency, necessity, clarity and cost of compliance.

An initial comment period for Chapter 40 opened on June 3, 2013, and closed June 24, 2013. At its meeting on December 2, 2013, the Board directed a second public comment period on proposed changes to the regulations in Chapter 40 based on the comments received. The second public comment period opened December 30, 2013, and closed January 13, 2014, with no comments received.

The proposed changes include clarifying language related to application signature and determining residency, removing a requirement for the registrar to seek information not material to the application, updating referenced forms and moving provisions related to absent military and overseas voters to a new Chapter 45.

The application signature requirement language is changed to clarify that an assistant's name and address are required according to the instructions on the voter registration form when a voter is unable to sign the form themselves due to a physical disability.

Registrars are no longer required to seek information not material to the application to cut down on the administrative costs of voter registration.

Provisions related to absent military and overseas voters has been moved to a new Chapter 45 without changing any language of the provision. Creating a separate chapter will make these provisions more easily searchable.

VA Code § 24.2-103 grants the State Board of Elections the power to "make rules and regulations and issue instructions and provide information consistent with the election laws to the electoral boards and registrars to promote the proper administration of election laws."

Legislation enacted in 2009 mandated that the State Board of Elections adopt regulations to assure uniformity in determining residency. The Board appointed a committee to develop regulations and after public hearings regulations were adopted and precleared by the U.S. Department of Justice. The precleared regulations were in the form of a Board policy and were restated as regulations published in the Virginia Administrative Code, and precleared again effective in 2011. The Virginia Register Act requires that regulations must be published in the Virginia Administrative Code to be effective. Va. Code § 2.2-4103.

Proposed Text

Action: 2013 Periodic Review Voter Registration

Stage: Proposed 12/17/13 10:04 AM [latest]

1VAC20-40-50
1VAC20-40-50. Supplemental questions.

When warranted by the situations described in 1VAC20-40-40 C and where any other information on the voter registration application is unclear, the general registrar shall ask the following questions on a form prescribed by the board after notifying the applicant that any response he makes is subject to the same oath he took to sign the application:

1. Are you currently registered to vote at another address? The general registrar shall not ask this question unless the applicant failed to provide the information on the voter registration application.

a. If yes to subdivision 1 of this section, what is that address, and in what county, city, or state is that address located?

b. If yes to subdivision 1 of this section or as indicated on the voter registration application, do you wish to cancel your registration in that county, city, or state and register and establish residence in this county or city in Virginia?

2. Do you have a specific plan to move away from this county or city at a fixed date in the future? If so, when?

1VAC20-40-70
1VAC20-40-70. Applications for voter registration; affirmation of United States citizenship.

A. Form and signature.

1. Applications for voter registration shall be on a form approved by the State Board of Elections or appropriate federal agency.

2. Applications for voter registration must be signed by the applicant ~~or the name and address of the assistant entered on the signature line for an applicant with~~. If the applicant is unable to sign due to a physical disability, the name and address of the person assisting the voter shall be entered on the application according to the form instructions.

B. Material omissions on applications for voter registration in general. The following omissions are not material if any of the following, or combination thereof, exists:

1. Daytime telephone number;

2. Description of a rural address;

3. Mailing address different from residence address;

4. Date of the application;

5. Whether the applicant is interested in working as an election official;

6. Whether the applicant requests to have his residence address excluded from

published lists;

7. Whether the applicant has a disability that requires accommodation in order to vote; or

8. Gender.

~~C. Material omissions from applications for voter registration on a Federal Post Card Application or Federal Write-in Absentee Ballot. The following omissions are not material:~~

~~1. Service identification number, rank, grade, or rate on an application that declares active duty military status.~~

~~2. Employer name and address on an application that declares temporary overseas residence with no date of last residence.~~

~~3. Employer name and address on an application that declares temporary overseas residence with a date of last residence. If practicable, the general registrar should inform the applicant that eligibility for full ballots requires providing the name and address of an employer outside the United States.~~

~~4. Date of last residence on an application that declares indefinite overseas residence. The date of last residence for an application declaring indefinite overseas residence without indicating a date of last residence in the United States shall be the date the application is signed.~~

~~D.~~ C. Middle name may be material to determining eligibility to vote. If the applicant does not include a middle name the registrar shall:

1. As far as practical, attempt to contact the applicant and obtain his middle name or lack thereof to determine if the application is complete.

~~2.~~ a. If the applicant indicates that he has no middle name, the registrar shall process the application.

~~3.~~ b. If the applicant indicates that he has a middle name, the registrar shall inform the applicant that the middle name is required, deny the application, and send the applicant a new application.

~~4.~~ 2. If the registrar is unable to contact the applicant and therefore unable to determine if the application is incomplete, he shall give the benefit of doubt to the applicant and process the application.

~~E. Except for gender, the general registrar, if practicable, shall attempt to contact the applicant and obtain the missing information requested on an application for voter registration that is not material to determining eligibility to vote. If the general registrar obtains any missing information, he shall write the information, his name, and the date on the reverse side of the application for voter registration to indicate that the alteration was made by the general registrar.~~

~~F.~~ D. A general registrar shall not change information provided by an applicant on an application for voter registration without written authorization signed by the applicant.

~~G.~~ E. Persons identified as noncitizens in reports from the Department of Motor Vehicles shall have the opportunity to affirm United States citizenship status using any approved voter registration application or other form containing the required affirmation. The State Board of Elections shall automate the process for requesting affirmation of United States citizenship prior to cancellation.

~~H.~~ F. For cases not covered by this section, the general registrar in consultation with the electoral board and State Board of Elections staff shall determine materiality on a case-by-case basis that may result in further amendment of this

regulation.

1VAC20-40-80
1VAC20-40-80. ~~Application for registration on Federal Post Card Application (FPCA).~~ (Repealed.)

~~An applicant eligible for registration who applies for registration simultaneously with a request for an absentee ballot on a Federal Post Card Application (FPCA) as authorized by § 24.2-703 of the Code of Virginia may apply for registration as well as request an absentee ballot by facsimile transmission or scanned email attachment. An electronically submitted FPCA shall be sufficient to apply for registration and request an absentee ballot if signed and otherwise complete.~~

1VAC20-40-9998
FORMS (1VAC20-40)

~~Virginia Voter Registration Application Form, VA-NVRA-1 (rev. 02/10)~~

Virginia Voter Registration Application Form, SBE-416.2 (rev.7/13)

National Voter Registration Application Form, Register to Vote in Your State by Using this Postcard Form and Guide (rev. 3/06)

~~**Federal Post Card Application (FPCA), Voter Registration and Absentee Ballot Request, Standard Form 76 (rev. 08/11)**~~

~~**Federal Write-In Absentee Ballot (FWAB), Voter's Declaration/Affirmation, Standard Form 186 (rev. 08/11)**~~

Virginia Administrative Code

CHAPTER 40
VOTER REGISTRATION

Section 10 Definitions …….1

Section 20 Required intent for voter registration…….....2

Section 30 Presumptions……..3

Section 40 Review of application…….4

Section 50 Supplemental questions…….5

Section 60 Review of supplemental questions…….6

Section 70 Applications for voter registration; affirmation of United States citizenship…….7

Section 80 Application for registration on Federal Post Card Application (FPCA)……. 8

FORMS FORMS (1VAC20-40)…….9

1VAC20-40-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Abode" or "place of abode" means a physical place where a person dwells. One may have multiple places of abode, such as a second home.

"Address" or "residence address" for purposes of voter registration and address confirmation means the address of residence in the precinct required for voter registration. An alternative mailing address may be included on a voter registration application when: (i) the residence address of the applicant cannot receive mail; or (ii) the voter is otherwise eligible by law to provide an alternative mailing address. Alternative mailing addresses must be sufficient to enable the delivery of mail by the United States Postal Service. The post office box for published lists may be provided either by the United States Postal Service or a commercial mail receiving agency (CMRA) described in the United States Postal Service Domestic Mail Manual.

"Domicile" means a person's primary home, the place where a person dwells and which he considers to be the center of his domestic, social, and civil life. Domicile is primarily a matter of intention, supported by an individual's factual circumstances. Once a person has established domicile, establishing a new domicile requires that he intentionally abandon his old domicile. For any applicant, the registrar shall presume that domicile is at the address of residence given by the person on the application. The registrar shall not solicit evidence to rebut this presumption if the application appears to be legitimate, except as provided in 1VAC20-40-40 B and C.

"Residence," "residency," or "resident" for all purposes of qualification to register and vote means and requires both domicile and a place of abode.

Statutory Authority
§ 24.2-103 of the Code of Virginia.
Historical Notes
Derived from Virginia Register Volume 28, Issue 4, eff. October 13, 2011.

1VAC20-40-20. Required intent for voter registration.

A. Nothing in this article shall be construed to confer upon any person any privileges or benefits other than the right to register to vote and to be qualified to vote in an election.

B. Pursuant to the requirements of § 24.2-404 D of the Code of Virginia, the following shall apply only in determining a person's residence under Article II, Sec. 1 of the Constitution of Virginia and Title 24.2 of the Code of Virginia.

1. A person who intends to remain in a location for an unlimited time has established the intent required to establish domicile.

2. A person who intends to remain in his current location for an unlimited time has established the intent required to establish domicile even if he may leave upon the happening of a future contingency. Examples of such future contingencies include, but are not limited to, a change in job status or location, graduation from school, military transfer deployments or other relocations, and medical emergencies.

3. A person who presently intends to leave his current location at a fixed and certain date may not have established the intent required to establish domicile depending on the facts and circumstances of each case, as determined by the registrar, with all due consideration given to persons in the circumstances contained in 1VAC20-40-30 B.

4. A person who applies to register to vote in a precinct for the primary purpose of registering to vote or voting in that precinct has not established the intent to establish domicile there.

Statutory Authority
§ 24.2-103 of the Code of Virginia.

Historical Notes
Derived from Virginia Register Volume 28, Issue 4, eff. October 13, 2011.

1VAC20-40-30. Presumptions.

A. Residency shall be broadly construed to provide the greatest opportunity to register and to vote. A residence can be established in a commercial, industrial, or other building that is not normally used for residential purposes if the building serves as the applicant's primary nighttime residence. A homeless person will be considered resident in the location where the homeless person usually sleeps at night. In cases involving nontraditional habitations, the location of the person's usual sleeping area shall be controlling as to the residency of that person.

B. No presumption in favor of or against residence may arise merely on the basis of a person's presence or absence in the following circumstances:

1. While employed in the service of the Commonwealth or United States, whether military or civilian;

2. While engaged in the navigation of the waters of the United States or of the high seas;

3. While employed by or enrolled as a student in any educational institution, or residing in any housing commonly occupied by students or faculty;

4. While confined in any jail or other correctional facility as a nonfelon;

5. While receiving treatment or being confined for any reason in a nursing home, hospital, rehabilitation or short term care facility, retirement or veterans' home, or like institution or private facility;

6. While remaining in a location only during the workweek in order to conduct business; or

7. While residing in an area within the boundaries of Virginia that has been ceded to or acquired by the federal government.

C. If a person resides in an area lacking a specific mailing address, the general registrar shall ask him to provide a mailing address along with a description indicating where the person resides. However, no person shall be denied registration for failure to submit a mailing address. The description must identify the location with sufficient specificity to allow the general registrar to place the location in a defined precinct. The general registrar shall assign the person to the precinct containing the location where he resides.

D. A person whose home is destroyed or rendered uninhabitable does not lose residence at that home if he intends to return to the home when it is reconstructed or made habitable, unless he has either established a new domicile or has changed his voter registration.

E. A person whose residence is divided by a jurisdictional boundary line or election district boundary line shall be deemed to reside in the location of his bedroom or usual sleeping area.

F. The general registrar shall not automatically presume the residence of one spouse to be that of the other spouse, but shall determine the other spouse's residence in accordance with the applicable statutes and regulations.

G. A person loses voting residence in any county or city in Virginia by registering to vote or voting in any other county, city, or state. An otherwise qualified voter shall not lose their residence at an address until they have established their residence at another address.

Statutory Authority
§ 24.2-103 of the Code of Virginia.
Historical Notes
Derived from Virginia Register Volume 28, Issue 4, eff. October 13, 2011.

1VAC20-40-40. Review of application.

A. Except as provided in § 24.2-411.1 of the Code of Virginia, if (i) an application to register to vote is not signed or is missing information required by law, or (ii) the general registrar cannot determine from the information provided on the application the location at which the applicant intended to register, the general registrar shall deny the application and process it in accordance with § 24.2-422 of the Code of Virginia.

B. If an application to register to vote contains all information required by law but contains other apparent discrepancies, the general registrar may promptly resolve the discrepancies through informal means. Informal means include ascertainment of information through the statewide, voter registration system, the Division of Motor Vehicles, and any form of communication with the applicant.

C. If an application to register to vote contains all information required by law, and if any of the situations in the subdivisions of this subsection apply, the general registrar shall not deny the application, but shall ask the applicant to provide additional information in support of the application. The general registrar shall request the information in writing on a form prescribed by the board and the applicant shall respond in writing. The application shall not be accepted or denied while the registrar is awaiting the applicant's response. The general registrar shall act promptly to resolve the question of residency as soon as possible. In the event the applicant does not provide the requested information by the last day to register as established in § 24.2-416 of the Code of Virginia and the general registrar is unable to determine the applicant's residency through any other means, the general registrar shall deny the application in accordance with § 24.2-422 B of the Code of Virginia.

1. The applicant provides a mailing address in a different county, city, or state from his residential address. In this situation, the general registrar shall reconfirm the residential address

and mailing address by asking the supplemental questions provided in 1VAC20-40-50 and mailing the questions to both the residential and mailing addresses;

2. The applicant provides a residential address that cannot receive mail, or from which mail sent by the registrar's office is returned. In this situation, the general registrar shall ask for an alternate mailing address;

3. The applicant provides an address that is temporary in nature. Temporary addresses shall include, but not be limited to, hotels, motels, motor homes, hospitals and other short term medical care facilities, houseboats, campgrounds or other facilities that have durational restrictions, such as a 30-day limitation, or any other transient address that would not be considered as a typical permanent residence address. Temporary addresses shall not include apartments or other facilities, such as dormitories, that provide for leases or other rental agreements of at least six months duration. The general registrar shall treat these addresses as permanent ones. In the event the applicant provides an address that is temporary in nature, the general registrar shall ask the supplemental questions provided in 1VAC20-40-50;

4. The applicant provides a residential address that is a commercial, industrial, or other building that is not normally used for residential purposes, or other nontraditional residential address; or

5. The application causes a conflict with another existing voter in the statewide, voter registration system, such as a duplication of the social security number with an existing voter.

Statutory Authority
§ 24.2-103 of the Code of Virginia.
Historical Notes
Derived from Virginia Register Volume 28, Issue 4, eff. October 13, 2011.

1VAC20-40-50. Supplemental questions.

When warranted by the situations described in 1VAC20-40-40 C and where any other information on the voter registration application is unclear, the general registrar shall ask the following questions on a form prescribed by the board after notifying the applicant that any response he makes is subject to the same oath he took to sign the application:

1. Are you currently registered to vote at another address? The general registrar shall not ask this question unless the applicant failed to provide the information on the voter registration application.

a. If yes to subdivision 1 of this section, what is that address, and in what county, city, or state is that address located?

b. If yes to subdivision 1 of this section or as indicated on the voter registration application, do you wish to cancel your registration in that county, city, or state and register and establish residence in this county or city in Virginia?

2. Do you have a specific plan to move away from this county or city at a fixed date in the future?

Statutory Authority
§ 24.2-103 of the Code of Virginia.
Historical Notes
Derived from Virginia Register Volume 28, Issue 4, eff. October 13, 2011.

1VAC20-40-60. Review of supplemental questions.

A. If the applicant answers the questions asked pursuant to 1VAC20-40-50 with information sufficient to assign him a polling place within the precinct and to cancel his current registration elsewhere, if any, the applicant shall be registered and added to the voting rolls of the locality and the jurisdiction where the voter was previously registered shall be notified to remove the registrant from their rolls.

B. If the applicant does not provide information sufficient to assign him a polling place within the precinct, the application shall be denied.

C. If the applicant indicates that the application was in error or filed incorrectly the registrar shall provide him voting information that could allow the applicant to register or vote absentee in the Commonwealth.

D. No new or changed voter registration application is effective until an applicant provides answers to the supplemental questions. Any such answers must be in writing and must be returned before the last day to register as established in § 24.2-416 of the Code of Virginia. Any supplemental information based upon an application made prior to the close of books shall be accepted and the applicant registered if the response is received before the last day to register as established in § 24.2-416 of the Code of Virginia.

Statutory Authority
§ 24.2-103 of the Code of Virginia.
Historical Notes
Derived from Virginia Register Volume 28, Issue 4, eff. October 13, 2011.

1VAC20-40-70. Applications for voter registration; affirmation of United States citizenship.

A. Form and signature.

1. Applications for voter registration shall be on a form approved by the State Board of Elections or appropriate federal agency.

2. Applications for voter registration must be signed by the applicant or the name and address of the assistant entered on the signature line for an applicant with a physical disability.

B. Material omissions on applications for voter registration in general. The following omissions are not material if any of the following, or combination thereof, exists:

1. Daytime telephone number;

2. Description of a rural address;

3. Mailing address different from residence address;

4. Date of the application;

5. Whether the applicant is interested in working as an election official;

6. Whether the applicant requests to have his residence address excluded from published lists;

7. Whether the applicant has a disability that requires accommodation in order to vote; or

8. Gender.

C. Material omissions from applications for voter registration on a Federal Post Card Application or Federal Write-in Absentee Ballot. The following omissions are not material:

1. Service identification number, rank, grade, or rate on an application that declares active duty military status.

2. Employer name and address on an application that declares temporary overseas residence with no date of last residence.

3. Employer name and address on an application that declares temporary overseas residence with a date of last residence. If practicable, the general registrar should inform the applicant that eligibility for full ballots requires providing the name and address of an employer outside the United States.

4. Date of last residence on an application that declares indefinite overseas residence. The date of last residence for an application declaring indefinite overseas residence without indicating a date of last residence in the United States shall be the date the application is signed.

D. Middle name may be material to determining eligibility to vote. If the applicant does not include a middle name the registrar shall:

1. As far as practical, attempt to contact the applicant and obtain his middle name or lack thereof to determine if the application is complete.

2. If the applicant indicates that he has no middle name, the registrar shall process the application.

3. If the applicant indicates that he has a middle name, the registrar shall inform the applicant that the middle name is required, deny the application, and send the applicant a new application.

4. If the registrar is unable to contact the applicant and therefore unable to determine if the application is incomplete, he shall give the benefit of doubt to the applicant and process the application.

E. Except for gender, the general registrar, if practicable, shall attempt to contact the applicant and obtain the missing information requested on an application for voter registration that is not material to determining eligibility to vote. If the general registrar obtains any missing information, he shall write the information, his name, and the date on the reverse side of the application for voter registration to indicate that the alteration was made by the general registrar.

F. A general registrar shall not change information provided by an applicant on an application for voter registration without written authorization signed by the applicant.

G. Persons identified as noncitizens in reports from the Department of Motor Vehicles shall have the opportunity to affirm United States citizenship status using any approved voter registration application or other form containing the required affirmation. The State Board of Elections shall automate the process for requesting affirmation of United States citizenship prior to cancellation.

H. For cases not covered by this section, the general registrar in consultation with the electoral board and State Board of Elections staff shall determine materiality on a case-by-case basis that may result in further amendment of this regulation.

Statutory Authority:
§ 24.2-103 of the Code of Virginia.
Historical Notes
Derived from Virginia Register Volume 28, Issue 6, eff. November 1, 2011.

1VAC20-40-80. Application for registration on Federal Post Card Application (FPCA).

An applicant eligible for registration who applies for registration simultaneously with a request for an absentee ballot on a Federal Post Card Application (FPCA) as authorized by § 24.2-703 of the Code of Virginia may apply for registration as well as request an absentee ballot by facsimile

transmission or scanned email attachment. An electronically submitted FPCA shall be sufficient to apply for registration and request an absentee ballot if signed and otherwise complete.

Statutory Authority
§ 24.2-103 of the Code of Virginia.
Historical Notes
Derived from Virginia Register Volume 28, Issue 4, eff. September 30, 2011.

FORMS (1VAC20-40)

Virginia Voter Registration Application Form, VA-NVRA-1 (rev. 02/10).

National Voter Registration Application Form, Register to Vote in Your State by Using this Postcard Form and Guide (rev. 3/06).

Federal Post Card Application (FPCA), Voter Registration and Absentee Ballot Request, Standard Form 76 (rev. 08/11).

Federal Write-In Absentee Ballot (FWAB), Voter's Declaration/Affirmation, Standard Form 186 (rev. 08/11).

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Chapter 70
Absentee

BOARD WORKING PAPERS

Martha Brissette
SBE Policy Analyst

★ VIRGINIA ★
STATE BOARD of ELECTIONS

Memorandum

To: Members of the State Board of Elections
From: Martha Brissette
Date: April 7, 2014
Subject: Proposed Final Amendments to Conclude Chapter 70 Periodic Review

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Suggested motion for a Board member to make: I move that the Board approve the proposed changes to Chapter 70, Absentee Voting, to implement recommendations received during the periodic review process.

Affected Regulations: 1 VAC 20-70-10 through 20-70-50

Applicable Code Sections: Va. Code §§24.2-419, 24.2-701, 24.2-702.1, 24.2-706

Board Materials:

- Proposed amendments to 1 VAC 20-70-10, 20-70-30 and Forms
- Current Chapter 70

Background:

These proposed regulations will conclude the periodic review announced May 15, 2013, pursuant to 1 VAC 20-10-120 calling for a review of all regulations after each presidential election. This is the first periodic review of the regulations comprising Chapter 70 adopted beginning in 2011 with amendments in 2012 and 2013. The objectives of the periodic review are similar to those set forth in Executive Order 14 for all executive agencies—effectiveness, efficiency, necessity, clarity and cost of compliance.

An initial comment period for Chapter 70 opened on June 3, 2013, and closed June 24, 2013. At its meeting on December 2, 2013, the Board directed a second public comment period on proposed changes to the regulations in Chapter 70 based on the comments received. The second public comment period opened December 30, 2013, and closed January 13, 2014, with no comments received.

The proposed changes update referenced forms and move provisions related to absent military and overseas voters to a new Chapter 45. The regulations do not reopen the controversial issue of material omissions from Envelope B that drew over 500 comments in the Town Hall forum in 2011. Several bills from the 2014 session will require a separate new regulation action proposing amendments to 1 VAC 20-70-20 for a July 1, 2014, effective date. However, no change is proposed to the Envelope B material omissions regulation at this time.

Proposed Text

Action: 2013 Periodic Review Absentee

Stage: Proposed 12/17/13 10:04 AM [latest]

1VAC20-70-10
1VAC20-70-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Application for an absentee ballot" means an application for an absentee ballot submitted on any form approved for that purpose according to federal and state laws. The term includes a Virginia Absentee Ballot Application (SBE-701)~~,~~ and a Virginia Annual Absentee Ballot Application (SBE-703.1)~~, and a Federal Post Card Application (SF-76A). A Federal Write-In Absentee Ballot (SF-186A) is an absentee ballot application only for the voted ballot being submitted and is not an application for future elections~~.

"Envelope B" means the envelope required by § 24.2-706 of the Code of Virginia which identifies the voter.

~~"Federal only ballot overseas voter" means a United States citizen residing outside the United States indefinitely who has not provided his last date of residence in Virginia. The date the applicant has provided next to his affirmation will serve as his last date of residence.~~

1VAC20-70-30
1VAC20-70-30. ~~Material omissions from Federal Write-In Absentee Ballots.~~ (Repealed.)

~~A. Pursuant to the requirements of §§ 24.2-702.1 and 24.2-706 of the Code of Virginia, a timely received write-in absentee ballot on a Federal Write-In Absentee Ballot (FWAB) (Form SF-186A) should not be rendered invalid if it contains an error or omission not material to determining the eligibility of the applicant to vote in the election in which he offers to vote.~~

~~B. If the applicant is not registered, the FWAB may not be accepted as timely for registration unless the applicant has met the applicable registration deadline. Section 24.2-419 of the Code of Virginia extends the mail registration deadline for certain military applicants. All applicants are subject to the absentee application deadline in § 24.2-701 of the Code of Virginia.~~

~~C. The following omissions are always material and any FWAB containing such omissions should be rendered invalid if any of the following, or combination thereof, exists:~~

~~1. The applicant has omitted the signature of the voter or the notation of an assistant in the voter signature box that the voter is unable to sign;~~

~~2. The applicant has omitted the signature of the witness;~~

~~3. The applicant did not include the declaration/affirmation page; or~~

~~4. The applicant omitted from the declaration/affirmation information required by § 24.2-702.1 of the Code of Virginia needed to determine eligibility including, but~~

~~not limited to, current military or overseas address.~~

~~D. The ballot should not be rendered invalid if on the FWAB any of the following, or combination thereof, exists:~~

~~1. The applicant has not listed the names specifically in the order of last, first, and middle name;~~

~~2. The applicant has listed a middle initial or maiden name, instead of the full middle name;~~

~~3. The applicant has omitted the street identifier, such as the term "road" or "street" when filling in the legal residence;~~

~~4. The applicant has omitted the county or city of registration if the county or city is clearly identifiable by the residence address information provided;~~

~~5. The applicant has omitted the zip code;~~

~~6. The applicant has omitted the date of the signature of the voter;~~

~~7. The applicant has omitted the address of the witness;~~

~~8. The applicant has omitted the date of signature of the witness;~~

~~9. The applicant did not seal the ballot within the security envelope, provided there is substantial compliance with the requirement that the ballot be accompanied by the required voter statement; or~~

~~10. The applicant has submitted a ballot containing offices or issues for which he is not eligible.~~

1VAC20-70-9998
FORMS (1VAC20-70)

~~Absentee Ballot Application Form, SBE-701 (rev. 7/10)~~

~~Annual Absentee Ballot Application, SBE-703.1 (rev. 1/10)~~

~~Federal Post Card Application (FPCA), Voter Registration and Absentee Ballot Request, Standard Form 76 (rev. 08/11)~~

~~Federal Write-in Absentee Ballot (FWAB), Voter's Declaration/Affirmation, Standard Form 186 (rev. 08/11)~~

~~Envelope B for Statement of UOCAVA Absentee Voter, 42 USC 1973ff-1(b) (rev. 5/04)~~

~~Envelope B for Statement of Absentee Voter, SBE-706-2 (rev. 7/03)~~

Annual Absentee Ballot Application, SBE-703.1 (rev. 7/13)

Virginia Absentee Ballot Application Form, SBE-701 (rev. 7/13)

Envelope B - Ballot - Statement of Absentee Voter, (undated)

Virginia Administrative Code

CHAPTER 70
ABSENTEE VOTING

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FORMS…. …….5

1VAC20-70-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Application for an absentee ballot" means an application for an absentee ballot submitted on any form approved for that purpose according to federal and state laws. The term includes a Virginia Absentee Ballot Application (SBE-701), a Virginia Annual Absentee Ballot Application (SBE-703.1), and a Federal Post Card Application (SF-76A). A Federal Write-In Absentee Ballot (SF-186A) is an absentee ballot application only for the voted ballot being submitted and is not an application for future elections.

"Envelope B" means the envelope required by § 24.2-706 of the Code of Virginia which identifies the voter.

"Federal only ballot overseas voter" means a United States citizen residing outside the United States indefinitely who has not provided his last date of residence in Virginia. The date the applicant has provided next to his affirmation will serve as his last date of residence.

Statutory Authority
§ 24.2-103 of the Code of Virginia.
Historical Notes
Derived from Virginia Register Volume 28, Issue 18, eff. April 18, 2012; amended, Virginia Register Volume 29, Issue 1, eff. August 24, 2012.

1VAC20-70-20. Material omissions from absentee ballots.

A. Pursuant to the requirements of § 24.2-706 of the Code of Virginia, a timely received absentee ballot contained in an Envelope B shall not be rendered invalid if it contains an error or omission not material to its proper processing.

B. The following omissions are always material and any Envelope B containing such omissions shall be rendered invalid if any of the following exists:

1. Except as provided in subdivisions C 2 and 3 of this section, the voter did not include his full first name;

2. The voter did not provide his last name;

3. If the voter has a legal middle name, the voter did not provide at least a middle initial;

4. The voter did not provide his house number and street name or his rural route address;

5. The voter did not provide either his city or zip code;

6. The voter did not sign Envelope B;

7. The voter did not provide the date on which he signed Envelope B; or

8. The voter's witness did not sign Envelope B.

C. The ballot shall not be rendered invalid if on the Envelope B:

1. The voter included his full name in an order other than "last, first, middle";

2. The voter used his first initial instead of his first full name, so long as the voter provided his full middle name;

3. The voter provided a derivative of his legal name as his first or middle name (e.g., "Bob" instead of "Robert");

4. The voter did not provide his generational suffix;

5. The voter did not provide his residential street identifier (Street, Drive, etc.);

6. The voter did not provide a zip code, so long as the voter provided his city;

7. The voter did not provide his city, so long as the voter provided his zip code;

8. The voter omitted the year in the date on which he signed Envelope B;

9. The voter provided the incorrect date on which he signed Envelope B; or

10. The ballot is imperfectly sealed within Envelope B, provided that the ballot is contained within Envelope B, there is evidence that a good faith effort was made to seal the envelope, the outer envelope with Envelope B and the ballot arrived sealed, and the circumstances create no reason to suspect fraud.

D. For the purposes of this regulation, "city" may include the voter's locality, town, or any acceptable mailing name for the five-digit zip code of the voter's residence.

E. The illegibility of a voter's or witness' signature on an Envelope B shall not be considered an omission or error.

F. Whether an error or omission on an Envelope B not specifically addressed by this regulation is material and shall render the absentee ballot invalid shall be determined by a majority of the officers of the election present.

Statutory Authority
§ 24.2-103 of the Code of Virginia.
Historical Notes
Derived from Virginia Register Volume 28, Issue 17, eff. April 3, 2012; amended, Virginia Register Volume 29, Issue 23, eff. June 26, 2013.

1VAC20-70-30. Material omissions from Federal Write-In Absentee Ballots.

A. Pursuant to the requirements of §§ 24.2-702.1 and 24.2-706 of the Code of Virginia, a timely received write-in absentee ballot on a Federal Write-In Absentee Ballot (FWAB) (Form SF-186A) should not be rendered invalid if it contains an error or omission not material to determining the eligibility of the applicant to vote in the election in which he offers to vote.

B. If the applicant is not registered, the FWAB may not be accepted as timely for registration unless the applicant has met the applicable registration deadline. Section 24.2-419 of the Code of Virginia extends the mail registration deadline for certain military applicants. All applicants are subject to the absentee application deadline in § 24.2-701 of the Code of Virginia.

C. The following omissions are always material and any FWAB containing such omissions should be rendered invalid if any of the following, or combination thereof, exists:

1. The applicant has omitted the signature of the voter or the notation of an assistant in the voter signature box that the voter is unable to sign;

2. The applicant has omitted the signature of the witness;

3. The applicant did not include the declaration/affirmation page; or

4. The applicant omitted from the declaration/affirmation information required by § 24.2-702.1 of the Code of Virginia needed to determine eligibility including, but not limited to, current military or overseas address.

D. The ballot should not be rendered invalid if on the FWAB any of the following, or combination thereof, exists:

1. The applicant has not listed the names specifically in the order of last, first, and middle name;

2. The applicant has listed a middle initial or maiden name, instead of the full middle name;

3. The applicant has omitted the street identifier, such as the term "road" or "street" when filling in the legal residence;

4. The applicant has omitted the county or city of registration if the county or city is clearly identifiable by the residence address information provided;

5. The applicant has omitted the zip code;

6. The applicant has omitted the date of the signature of the voter;

7. The applicant has omitted the address of the witness;

8. The applicant has omitted the date of signature of the witness;

9. The applicant did not seal the ballot within the security envelope, provided there is substantial compliance with the requirement that the ballot be accompanied by the required voter statement; or

10. The applicant has submitted a ballot containing offices or issues for which he is not eligible.

Statutory Authority
§ 24.2-103 of the Code of Virginia.
Historical Notes
Derived from Virginia Register Volume 27, Issue 16, eff. March 28, 2011; amended, Virginia Register Volume 29, Issue 23, eff. June 26, 2013.

1VAC20-70-40. Alternative processing procedures for absentee ballots returned before election day.

Each general registrar in taking the measures as needed to expedite counting absentee ballots under § 24.2-709.1 of the Code of Virginia shall ensure that:

1. The general registrar staff assigned follow all previously prescribed instructions for processing and verifying absentee ballots.

2. All absentee ballots are secured at the end of each day following principles of dual control and chain of custody.

3. The general registrar staff assigned follow carefully all the requirements of § 24.2-709.1 of the Code of Virginia, including the requirement that at least two officers of election, one representing each party, be present during all hours that the expedited procedures are used.

4. Notice is given to the local political party chairs of the times and places for processing absentee ballots in sufficient time to allow for the authorized party representatives to be present.

Statutory Authority
§ 24.2-103 of the Code of Virginia.
Historical Notes
Derived from Virginia Register Volume 28, Issue 18, eff. April 18, 2012; amended, Virginia Register Volume 29, Issue 23, eff. July 1, 2013.

1VAC20-70-50. Version; applicable law.

An application on any version of an approved absentee ballot application form shall be accepted based on the laws in effect at the time of the election for which the voter is applying.

Statutory Authority
§ 24.2-103 of the Code of Virginia.
Historical Notes
Derived from Virginia Register Volume 28, Issue 18, eff. April 18, 2012.

FORMS (1VAC20-70)

Absentee Ballot Application Form, SBE-701 (rev. 7/10).

Annual Absentee Ballot Application, SBE-703.1 (rev. 1/10).

Federal Post Card Application (FPCA), Voter Registration and Absentee Ballot Request, Standard Form 76 (rev. 08/11).

Federal Write-in Absentee Ballot (FWAB), Voter's Declaration/Affirmation, Standard Form 186 (rev. 08/11).

Envelope B for Statement of UOCAVA Absentee Voter, 42 USC 1973ff-1(b) (rev. 5/04).

Envelope B for Statement of Absentee Voter, SBE 706-2 (rev. 7/03).

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STATE BOARD *of* ELECTIONS

Proposed Creation of Chapter 45

BOARD WORKING PAPERS

Martha Brissette
SBE Policy Analyst

★ VIRGINIA ★
STATE BOARD of ELECTIONS

Memorandum

To: Members of the State Board of Elections
From: Martha Brissette, Policy Analyst
Date: April 7, 2014
Subject: Proposed Final Text--New Chapter 45, Absent Military and Overseas Voters

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Suggested motion for a Board member to make: I move that the Board approve the proposed new Chapter 45, Military and Overseas voting, to implement recommendations received during the periodic review process for current Chapters 40 and 70 including updated citations to the federal forms referenced.

Affected Regulations: 1 VAC §§ 20-45-10 through 20-45-40 (proposed); 1 VAC §§ 20-40-30(B)(1)-(2), 20-40-70(C), 20-40-80, 20-70-10, 20-70-30.

Applicable Code Sections: Va. Code §§ 2.2-4002(B)(8), 24.2-103

Board Materials:

- Proposed new Chapter 45 Military and Overseas Voters
- Federal forms update for proposed Chapter 45
- Excerpts from current regulations: 1 VAC §§20-40-30(B)(1)-(2), 20-40-70(C), 20-40-80, 20-70-10, 20-70-30.

Background:

The State Board of Elections is proposing a new Chapter 45 to collect all of its regulations dealing with absent military and overseas voters. This structure follows 2012 legislation enacting a new Chapter 4.1 of Title 24.2 for Virginia's enactment of the Uniform Military and Overseas Voters Act (UMOVA). The recommendation to restructure the regulations results from the periodic reviews of Chapters 40 and 70. The table below explains the relation to current regulations:

New	Current	Change
20-45-10	20-70-10	Limit scope; clarify federal only ballot definition
20-45-20	20-40-30(B), -70(C)	Relocate residency and registration related provisions for absent military and overseas voters
20-45-30	20-40-80	Relocate provision for electronic submission of FPCA for registration and absentee ballot request
20-45-40	20-70-30	Clarifying language on mail absentee application deadline

Citations to relevant sections in Chapter 4.1 of the Code of Virginia are added throughout. The Board at its meeting on December 2, 2013, approved inviting comments on the proposed new chapter through the Town Hall. No comments were received on the proposed text for Chapter 45 during the public comment period December 30, 2013, through January 13, 2014. The new separate chapter collecting the regulations for UMOVA voters will make it easier to find and apply the regulations affecting UMOVA voters. Staff also proposes to update the references for two federal form revisions communicated by the Federal Voting Assistance Plan after the proposed text was filed.

Proposed Text

Action: Absent Military and Overseas Voters

Stage: Proposed 12/17/13 10:04 AM [latest]

1VAC20-45
CHAPTER 45
ABSENT MILITARY AND OVERSEAS VOTERS

1VAC20-45-
FORMS (1VAC20-45-)

Enter document list here

1VAC20-45-10
1VAC20-45-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Application for an absentee ballot" means a Federal Post Card Application (Form SF-76). A Federal Write-In Absentee Ballot (SF-186) is an absentee ballot application only for the voted ballot being submitted and is not an application for future elections.

"Federal-only ballot overseas voter" means a United States citizen residing outside the United States indefinitely who has not provided his last date of residence in Virginia or employment information showing that he is employed overseas or is the spouse or dependent residing with a person employed overseas. The date the applicant has provided next to his affirmation will serve as his last date of residence.

1VAC20-45-20
1VAC20-45-20. Voter registration.

A. Presumptions. As provided in 1VAC20-40-30 B, no presumption in favor of or against residence may arise merely on the basis of a person's presence or absence in the following circumstances:

1. While employed in the service of the Commonwealth or United States, whether military or civilian; or

2. While engaged in the navigation of the waters of the United States or of the high seas.

B. Material omissions from applications for voter registration on a Federal Post Card Application or Federal Write-in Absentee Ballot. The following omissions are not material:

1. Service identification number, rank, grade, or rate on an application that declares active duty military status.

2. Employer name and address on an application that declares temporary overseas residence with no date of last residence.

3. Employer name and address on an application that declares temporary overseas residence with a date of last residence. If practicable, the general

registrar should inform the applicant that eligibility for full ballots requires providing the name and address of an employer outside the United States.

4. Date of last residence on an application that declares indefinite overseas residence. The date of last residence for an application declaring indefinite overseas residence without indicating a date of last residence in the United States shall be the date the application is signed.

1VAC20-45-30
1VAC20-45-30. Electronic submission of Federal Post Card Application.

An applicant eligible for registration who applies for registration simultaneously with a request for an absentee ballot on a Federal Post Card Application (FPCA) as authorized by §§ 24.2-458 and 24.2-703 of the Code of Virginia may apply for registration as well as request an absentee ballot by facsimile transmission or scanned email attachment. An electronically submitted FPCA shall be sufficient to apply for registration and request an absentee ballot if signed and otherwise complete.

1VAC20-45-40
1VAC20-45-40. Material omissions from Federal Write-In Absentee Ballots.

A. Pursuant to the requirements of §§ 24.2-467, 24.2-702.1, and 24.2-706 of the Code of Virginia, a timely received write-in absentee ballot on a Federal Write-In Absentee Ballot (FWAB) (Form SF-186) should not be rendered invalid if it contains an error or omission not material to determining the eligibility of the applicant to vote in the election in which he offers to vote.

B. If the applicant is not registered, the FWAB may not be accepted as timely for registration unless the applicant has met the applicable registration deadline. Section 24.2-419 of the Code of Virginia extends the mail registration deadline for certain military applicants. All applications requesting mailed ballots are subject to the mail absentee application deadline in §§ 24.2-459 and 24.2-701 of the Code of Virginia.

C. The following omissions are always material and any FWAB containing such omissions should be rendered invalid if on the declaration/affirmation any of the following, or combination thereof, exists:

1. The applicant has omitted the signature of the voter or the notation of an assistant in the voter signature box that the voter is unable to sign;

2. The applicant has omitted the signature of the witness; or

3. The applicant did not include the declaration/affirmation page.

D. The ballot should not be rendered invalid if on the FWAB any of the following, or combination thereof, exists:

1. The applicant has not listed the names specifically in the order of last, first, and middle name;

2. The applicant has listed a middle initial or maiden name, instead of the full middle name;

3. The applicant has omitted the street identifier, such as the term "road" or "street," when filling in the legal residence;

4. The applicant has omitted the county or city of registration if the county or city is clearly identifiable by the residence address information provided;

5. The applicant has omitted the zip code;

6. The applicant has omitted the date of the signature of the voter;

7. The applicant has omitted the address of the witness;

8. The applicant has omitted the date of signature of the witness;

9. The applicant did not seal the ballot within the security envelope, provided there is substantial compliance with the requirement that the ballot be accompanied by the required voter statement; or

10. The applicant has submitted a ballot containing offices or issues for which he is not eligible.

1VAC20-45-9998
FORMS (1VAC20-45)

Federal Post Card Application (FPCA), Voter Registration and Absentee Ballot Request, Standard Form 76 (rev. 8/11)

Federal Write-in Absentee Ballot (FWAB), Voter's Declaration/Affirmation, Standard Form 186 (rev. 8/11)

Envelope B for Statement of UOCAVA Absentee Voter, 42 USC 1973ff-1 (rev. 7/13)

1VAC20-45-9998
FORMS (1VAC20-45)

Federal Post Card Application (FPCA), Voter Registration and Absentee Ballot Request, Standard Form 76 (rev. 8/1~~1~~3)

Federal Write-in Absentee Ballot (FWAB), Voter's Declaration/Affirmation, Standard Form 186 (rev. 8/1~~1~~3)

Envelope B for Statement of UOCAVA Absentee Voter, 42 USC 1973ff-1 (rev. 7/13)

1 VAC §§20-40-30(B)(1)-(2), 20-40-70(C), 20-40-80, 20-70-10, 20-70-30

1VAC20-40-30. Presumptions.

B. No presumption in favor of or against residence may arise merely on the basis of a person's presence or absence in the following circumstances:

1. While employed in the service of the Commonwealth or United States, whether military or civilian;

2. While engaged in the navigation of the waters of the United States or of the high seas;…

1VAC20-40-70. Applications for voter registration; affirmation of United States citizenship.

C. Material omissions from applications for voter registration on a Federal Post Card Application or Federal Write-in Absentee Ballot. The following omissions are not material:

1. Service identification number, rank, grade, or rate on an application that declares active duty military status.

2. Employer name and address on an application that declares temporary overseas residence with no date of last residence.

3. Employer name and address on an application that declares temporary overseas residence with a date of last residence. If practicable, the general registrar should inform the applicant that eligibility for full ballots requires providing the name and address of an employer outside the United States.

4. Date of last residence on an application that declares indefinite overseas residence. The date of last residence for an application declaring indefinite overseas residence without indicating a date of last residence in the United States shall be the date the application is signed.

1VAC20-40-80. Application for registration on Federal Post Card Application (FPCA).

An applicant eligible for registration who applies for registration simultaneously with a request for an absentee ballot on a Federal Post Card Application (FPCA) as authorized by § 24.2-703 of the Code of Virginia may apply for registration as well as request an absentee ballot by facsimile transmission or scanned email attachment. An electronically submitted FPCA shall be sufficient to apply for registration and request an absentee ballot if signed and otherwise complete.

FORMS (1VAC20-40)

Virginia Voter Registration Application Form, VA-NVRA-1 (rev. 02/10).

National Voter Registration Application Form, Register to Vote in Your State by Using this Postcard Form and Guide (rev. 3/06).

Federal Post Card Application (FPCA), Voter Registration and Absentee Ballot Request, Standard Form 76 (rev. 08/11).

Federal Write-In Absentee Ballot (FWAB), Voter's Declaration/Affirmation, Standard Form 186 (rev. 08/11).

1VAC20-70-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Application for an absentee ballot" means an application for an absentee ballot submitted on any form approved for that purpose according to federal and state laws. The term includes a Virginia Absentee Ballot Application (SBE-701), a Virginia Annual Absentee Ballot Application (SBE-703.1), and a Federal Post Card Application (SF-76A). A Federal Write-In Absentee Ballot (SF-186A) is an absentee ballot application only for the voted ballot being submitted and is not an application for future elections.

"Envelope B" means the envelope required by § 24.2-706 of the Code of Virginia which identifies the voter.

"Federal only ballot overseas voter" means a United States citizen residing outside the United States indefinitely who has not provided his last date of residence in Virginia. The date the applicant has provided next to his affirmation will serve as his last date of residence.

1VAC20-70-30. Material omissions from Federal Write-In Absentee Ballots.

A. Pursuant to the requirements of §§ 24.2-702.1 and 24.2-706 of the Code of Virginia, a timely received write-in absentee ballot on a Federal Write-In Absentee Ballot (FWAB) (Form SF-186A) should not be rendered invalid if it contains an error or omission not material to determining the eligibility of the applicant to vote in the election in which he offers to vote.

B. If the applicant is not registered, the FWAB may not be accepted as timely for registration unless the applicant has met the applicable registration deadline. Section 24.2-419 of the Code of Virginia extends the mail registration deadline for certain military applicants. All applicants are subject to the absentee application deadline in § 24.2-701 of the Code of Virginia.

C. The following omissions are always material and any FWAB containing such omissions should be rendered invalid if any of the following, or combination thereof, exists:

1. The applicant has omitted the signature of the voter or the notation of an assistant in the voter signature box that the voter is unable to sign;

2. The applicant has omitted the signature of the witness;

3. The applicant did not include the declaration/affirmation page; or

4. The applicant omitted from the declaration/affirmation information required by § 24.2-702.1 of the Code of Virginia needed to determine eligibility including, but not limited to, current military or overseas address.

D. The ballot should not be rendered invalid if on the FWAB any of the following, or combination thereof, exists:

1. The applicant has not listed the names specifically in the order of last, first, and middle name;

2. The applicant has listed a middle initial or maiden name, instead of the full middle name;

3. The applicant has omitted the street identifier, such as the term "road" or "street" when filling in the legal residence;

4. The applicant has omitted the county or city of registration if the county or city is clearly identifiable by the residence address information provided;

5. The applicant has omitted the zip code;

6. The applicant has omitted the date of the signature of the voter;

7. The applicant has omitted the address of the witness;

8. The applicant has omitted the date of signature of the witness;

9. The applicant did not seal the ballot within the security envelope, provided there is substantial compliance with the requirement that the ballot be accompanied by the required voter statement; or

10. The applicant has submitted a ballot containing offices or issues for which he is not eligible.

FORMS (1VAC20-70)

Absentee Ballot Application Form, SBE-701 (rev. 7/10).

Annual Absentee Ballot Application, SBE-703.1 (rev. 1/10).

Federal Post Card Application (FPCA), Voter Registration and Absentee Ballot Request, Standard Form 76 (rev. 08/11).

Federal Write-in Absentee Ballot (FWAB), Voter's Declaration/Affirmation, Standard Form 186 (rev. 08/11).

Envelope B for Statement of UOCAVA Absentee Voter, 42 USC 1973ff-1(b) (rev. 5/04).

Envelope B for Statement of Absentee Voter, SBE 706-2 (rev. 7/03).

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Adjournment

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STATE BOARD *of* ELECTIONS

BOARD MEETING

Wednesday, April 23, 2014
General Assembly Building
Room C
10:00 AM

BOARD WORKING PAPERS
Master Copy
Prepared by Rose Mansfield
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