

# A Review of Duties and Responsibilities of Electoral Boards and General Registrars

**2017**

Report from the  
General Registrar/Electoral Board  
(GREB) WorkGroup

January 2018

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## **INTRODUCTION**

The GREB WorkGroup met seven times during 2017 and addressed five Charges identified in its Work Plan.

Review was extensive. Discussions were lively, sometimes heated. Meetings were transparent and open to the public. Findings were sometimes surprising but often universally recognized by those from both large and small jurisdictions.

It is with some chagrin that the WorkGroup notes that the Department of Elections did not respond to its 2016 Report, even after the State Board of Elections formally requested a point-by-point review and response.

Consequently the WorkGroup resubmits a précis of its 2016 recommendations with this report.

## **GREB Work Plan 2017**

### **Charge 1:**

Investigate issues raised by the Directors of Election from Fairfax and Prince William Counties on VERIS transactions and non-citizen declarations generated by DMV. Evaluate appropriate oversight recommendations in dealings between ELECT and outside agencies providing actionable data.

### **Charge 2:**

Recommend revision of the GR/DoE Annual Evaluation Form to simplify and eliminate unnecessary questions; explore a complementary Confirmation of Performance acknowledgement to be completed by Electoral Board members for submission to the local Circuit Court Judges responsible for appointment.

### **Charge 3:**

Evaluate procedures to be implemented for SB 1284, requiring audits of ballot scanning machines, which takes effect July 1, 2018.

### **Charge 4:**

Re-examine the structural make-up of State Board of Elections and Commissioner of Elections with research into the background of original legislative intent.

### **Charge 5:**

Research List maintenance and List Management with reference to signature capture, and accessibility of federal databases.

### **Charge 6:**

The Workgroup must be willing to consider other issues that arise from the review, analysis and pursuit of the preceding charges.

## The 2016 Recommendations

- at least one full time assistant in each office capable to taking over the duties of the general registrar in an emergency
- revised training standards for officers of election
- 100% reimbursement to localities for DoE and EB salaries as set by Code
- increased compensation for DoEs to parity with locality Treasurers
- increased funding for ELECT to replace Federal HAVA funds
- a program audit of ELECT's ongoing projects
- revision of the Electoral Board Job Description with the addition of an affirmation to the Certificate of Eligibility for Appointment
- re-codification of §24.2 and cleanup of obsolete and conflicting language
- creation of an IT committee from VEBA and VRAV to assist ELECT

The full 2016 Report, which also summarizes the Reports of 2014 and 2015, is available as a PDF at:

<https://www.elections.virginia.gov/board/greb-duties-workgroup/index.html>

## The 2017 Recommendations

- additional study and analysis
- legislation
- the redesign of a basic form to emphasize the most important elements
- permission to conduct a pilot risk limiting audit of ballot scanning machines
- reform of the structure of the State Board of Elections

## 2017 Membership

Co-Chair, **The Honorable John Hager**, former Lt. Governor former VEBA President

Co-Chair, **The Honorable Kate Hanley**, former Secretary of The Commonwealth, Secretary, Fairfax County Electoral Board

**Al Ablowich**, Chair, Virginia Beach City Electoral Board

**Renee Andrews**, Secretary, Falls Church City Electoral Board, former VEBA President

**Bill Bell**, Secretary, Isle of Wight County Electoral Board, former VEBA President

**Barbara Gunter**, General Registrar/Director of Elections, Bedford County, former VRAV President

**Larry Haake\***, General Registrar/Director of Elections, Chesterfield County, former VRAV President [Resigned April 2017.]

**Tracy Howard**, General Registrar/Director of Elections, Radford City, former VRAV President

**Lisa Jeffers\***, General Registrar/Director of Elections, Waynesboro City, former VRAV President [Elected April, 2017]

**The Honorable Charlie Judd**, former Chair, State Board of Elections

**Walt Latham\***, General Registrar/Director of Elections, York County, VRAV President [Elected November, 2017]

**Robin Lind**, Secretary, Goochland County Electoral Board, VEBA President

**Bill Thomas\***, Richmond City Electoral Board [Resigned August, 2017]

**The Honorable Dr. Clara Belle Wheeler**, Vice Chair, State Board of Elections, former Secretary, Albemarle County Electoral Board

**Michele White\***, General Registrar/Director of Elections, Prince William County [Elected April, 2017]

*\* Denotes membership changes during the year*

**Charge 1:**

*Investigate issues raised by the Directors of Election from Fairfax and Prince William Counties on VERIS transactions and non-citizen declarations generated by DMV. Evaluate appropriate oversight recommendations in dealings between ELECT and outside agencies providing actionable data.*

A survey was undertaken by the Voter Registrars Association of Virginia (VRAV) and an analysis of those findings is included as Appendix 1.

Although there has been progress by the Department of Elections, including the introduction of additional servers during the past year, the duplicate and data problems have continued. Consequences of not solving the problem are severe; the impact is particularly felt in the offices of General Registrars. In Prince William County 195,000 transactions yielded only 11,103 new registrations.

**The WorkGroup recommends:**

“The Department of Elections be required to conduct annual technology surveys to identify the most pressing issues and have the VRAV Technology Committee work with the Department of Elections to prioritize, make recommendations, and test proposed solutions to the issues identified. The results of these surveys shall be reported publically to the State Board of Elections by March 1 of each year.”

A review of problems created by non-citizen declarations, the cancellation of registrations caused by erroneous declarations, or late delivery or return of mailed notifications and the inability of voters to cast provisional ballots if their registrations had been cancelled led to lengthy discussion.

As a remedial step to alleviate the hardships caused by erroneous cancellations, **the WorkGroup recommends** an amendment be sought for §24.2-427-B.1. to change that language to read:

The general registrar shall ~~cancel~~ mark “inactive” the registrations of such persons who do not respond within ~~14~~ 30 days to the notice that they have been reported not to be United States citizens.

**Charge 2:**

*Recommend revision of GR/DoE Annual Evaluation Form to simplify and eliminate unnecessary questions; explore a complementary Confirmation of Performance acknowledgement to be completed by Electoral Board members for submission to the local Circuit Court Judges responsible for appointment.*

A review of the existing Performance Review [Form number SBE-109.1 — Revision Date: 07/2014] led to minor revisions in grammar but a major revision in hierarchy of importance.

The major change proposed was to emphasize performance against goals previously set, by moving that section to the first place of evaluation. Additional language was added to the Overall Performance Review, Part VI, that requires written explanation in the comments for less than satisfactory ratings, and a follow-up review within three months for any rating of “Unacceptable.”

Evaluation of Attendance and Punctuality was removed since it is beyond the practical observation of most Electoral Board members.

A Training Session, conducted by the Department of Elections or the Virginia Electoral Board Association, is also recommended to improve the usefulness of the Annual Review to both electoral board members and their General Registrar/Director of Elections.

**The WorkGroup recommends** the Proposed Revised Form, which is included as Appendix 2.



**Charge 3:**

*Evaluate procedures to be implemented for SB 1284, requiring risk limiting audits of ballot scanning machines, which takes effect July 1, 2018.*

SB 1284 was approved on March 13, 2017 and became part of §24.2-671.1:

Audits of ballot scanner machines.

A. The Department of Elections shall coordinate a post-election risk-limiting audit annually of ballot scanner machines in use in the Commonwealth. The localities selected for the audit shall be chosen at random with every locality participating in the Department's annual audit at least once during a five-year period. The purpose of the audits shall be to study the accuracy of ballot scanner machines.

B. No audit conducted pursuant to this section shall commence until after the election has been certified and the period to initiate a recount has expired without the initiation of a recount. An audit shall have no effect on the election results.

C. All audits conducted pursuant to this section shall be performed by the local electoral boards and general registrars in accordance with the procedures prescribed by the Department. The procedures established by the Department shall include its procedures for conducting hand counts of ballots. Candidates and political parties may have representatives observe the audits.

D. The local electoral boards shall report the results of the audit of the ballot scanner machines in their jurisdiction to the Department. At the conclusion of each audit, the Department shall submit a report to the State Board. The report shall include a comparison of the audited election results and the initial tally for each machine audited and an analysis of any detected discrepancies.

Review of the language caused considerable disagreement among members as to interpretation or implementation. Of particular concern was the potential for damaging voter confidence in the integrity of the elections process if an audit disclosed inaccuracies in the ballot scanner machines but could not challenge the election results.\*

After a lengthy review of intent and implications, with a wide-ranging investigation of possible outcomes, the Work Group learned that Prince William County's Electoral Board has requested permission to conduct a "Pilot Audit" of its May town elections after those elections are certified, using four different procedures, and make a public report of those findings.

**The WorkGroup endorses Prince William County's request and recommends** that the State Board of Elections grant approval.

*\*The WorkGroup recognizes legislative relief is necessary and required, and acknowledges that proposed legislation has been introduced in the 2018 session of the General Assembly which may address this issue.*

**Charge 4:**

*Re-examine the structural make-up of State Board of Elections and Commissioner of Elections with research into background of original legislative intent.*

The present structure of the three-member State Board of Elections (SBE) with an independent Commissioner of Elections directing the Department of Elections (ELECT) was created in 2014 by SB1229 which, before amendment, originally proposed a five-member SBE which would appoint the Commissioner. The ensuing legislation left the SBE at three-members, but removed the Commissioner who became an at-will appointee of the Governor, responsible to the Secretary of Administration.

The legislation recommended below would enable the Department of Elections to better facilitate coordination between the Department and the State Board of Elections.

**The WorkGroup recommends** support of legislation introduced in the General Assembly to expand the board to five members who have the authority to appoint the Commissioner, largely following the model introduced in 2010 by Del. Sam Nixon as HB 527.

The proposed text to be considered in the current session is found in: **HB 1405 & SB 825**

State Board of Elections; membership; appointment of Commissioner of Elections. Increases the membership of the State Board of Elections (Board) from three members to five members and increases the terms of Board members from four years to five years. Representation shall be given to each of the political parties having the highest and next highest number of votes in the Commonwealth at the last preceding gubernatorial election, with three Board members being of the party of the Governor. Terms are initially staggered. The bill also grants to the Board the authority to appoint and remove the Commissioner of Elections, subject to confirmation by the General Assembly, to head the Department of Elections and to act as the principal administrative officer. The appointment or removal of the Commissioner shall require an affirmative vote of four of the five Board members. The bill requires the Board to submit an annual report to the Governor and the General Assembly. The bill has a delayed effective date of January 1, 2019.

Attached as Appendix 3

**Charge 5:**

*Research List maintenance and List Management with reference to signature capture, accessibility of federal databases.*

Complaints about voter registration list maintenance through the Department of Elections VERIS database have been widespread and constant over the past year. A review of the constraints imposed by the federal National Voter Registration Act (NVRA) shows very little room for maneuver. The use of external databases such as ERIC and Crosscheck, have not proven universally effective, and the federal SAVE system is functionally impossible to implement. A lack of coordination between VERIS software and that used by the Virginia Department of Motor Vehicles (DMV) has exacerbated problems and led to large numbers of duplicate registration applications that must be processed at the local level.

A review of the Annual List Maintenance Report required to be submitted to the Committees on Privileges and Elections by the Department of Elections under §24.2-404. F. showed gross inaccuracies.

On learning of a proposed bill introduced into the current session, HB 28, which would shift the reporting date for the annual report from August 1 to October 1, **the WorkGroup recommends** a friendly amendment be submitted to the patron:

“The report shall contain an explanation of the methodology used in gathering and analyzing the data, and an affirmation from the Commissioner of the department, with reference to §24.2-1016, that the data is accurate and reliable.”

## APPENDIX 1

Report for GR/EB Workgroup, List maintenance and management;

September 14, 2017

The Virginia List maintenance process is basically governed by the National Voter Registration ACT of 1993 and carried out in combination of the state agency and the individual voter registration offices.

The Two Interstate Compact agreements for sharing of voter rolls also plays an important factor, as well as documentation from Various agencies, such as the Social Security administration, Virginia department of Vital Statistics, department of Corrections and Secretary of the Commonwealth. Other federal and state resources that aren't widely known are also utilized.

The legally required NVRA mailings have occurred in two separate categories this year:

1) An Out of State Mailing (OoS) that was a product of the two interstate Compacts, ERIC and Crosscheck. The OoS mailings go to those individuals who by way of the two compacts are referenced as having left Virginia and registered in any of the participating states. While this works with the participating states, there are several states that do not participate in either compact and utilize the NVRA notification system which relies on the applicant offering the previous registration address information.

In speaking with Matt Davis, CIO of ELECT, the information gleaned from these two compacts is being utilized more frequently now than in the past, with plans to send these mailings more often. The suggested timeline of monthly or quarterly is being addressed at the agency.

2) The NVRA required National Change of Address (NCOA) mailing that tracks the USPS address change lists.

The initial mailings are carried out at the Agency level with returned and undeliverable mail being directed to the individual localities. Done in July, 2017.

Our process to execute these mailings happens once the return mail is received:

1) Undeliverable mail is received locally. VERIS automatically moves the registrant to inactive status when the confirmation mailing is sent. When the local office received the undeliverable mailing the notification is maintained by the GR for the required retention period of 2 years.

i) If the inactive voter updates or changes prior to removal, no further action is taken.

ii) If the inactive registration remains inactive with no updates for a period of 2 completed Federal Elections (congressional elections) the inactive voter is removed from the list and notified. This time frame is four or five years depending on the notification time.

2) The notification is returned by the voter. This may accomplish one of several different processes.

i) The address of the applicant is correct, VERIS is updated and the voter is removed from inactive status

ii) The address of the applicant is in a different Virginia locality, this triggers a transfer to the receiving locality. The voter is transferred and becomes active in the new locality.

iii) The address returned is a new address out of state. Since the statement is attested to by a signature of the voter, the voter is cancelled in VERIS. This cancellation triggers an automatic correspondence to the voter's previous VA address. This correspondence does not affect the cancellation unless the voter indicates that the cancellation was in error and confirms the VA address.

The GR's office is responsible for "posting of notice" each list maintenance cycle of those voters who were automatically removed from the voter rolls due to inactivity. The GR also mails a copy to each party and may place in the newspaper. (Prohibitively expensive)

The Federal SAVE program (Systematic Alien Verification for Entitlements) is available to the Commonwealth for confirmation of non-citizens, however this federal database is not as usable as some suggest due to the fact that, the federally assigned Alien Registration Number and full name are required to cross reference any non-citizen within that federal database and no Virginia resource exists that associates those names or numbers to the Voter Registration database simply because we do not collect those alien registration numbers.

The receipt of any list maintenance information that would remove any voter from the list results in correspondence from the GR's office. There are no instances today where a voter may be removed from the voter roll without a correspondence that allows the voter the opportunity to dispute the findings. This is a result of the NVRA and more recently HAVA, which reiterated the ability of the voter to dispute any removal from the voter rolls of their locality. Even the notification of the death of a voter results in a piece of mail addressed to the voter's family that allows the safeguard if the voter was removed in error.

In previous years there have been varying interpretations of removal and cancellations, and in some years early in the Motor Voter process the the process has not been carried out at all. However those issues seem to have been worked out in the process the department fulfills today. NVRA allows very little variance from the voter notification and cancellation process. Various bills have been introduced that would amend the process that we have today, but since the Federal Act overrides any state statute or regulation, they have largely been unsuccessful or of minimal effect to the voter rolls.

The issues encountered last year within VERIS prior to the registration deadline, have largely been rectified, due to the work of this workgroup and the allotment of an addition \$1mil. Per year earmarked for VERIS system upgrades. The varied VERIS changes have largely been unnoticed by anyone other than the GRs, but have included:

Changes to the reporting functions of VERIS

Changes to the USER end functions at the DMV customer service portals

Changes to the background processing of the VERIS system with the recent standup of two additional hi-speed large memory servers and back ups. This was accomplished in early September.

Matt Davis is continuing to work with VRAV through the technology committee established in 2015, to relieve some of the experienced issues within the user framework of VERIS. ELECT has also worked with the Center For Civic Design to help guide the voter registration applicant to a better understanding of the required information within a more user friendly environment.

The VRAV Tech. committee is also recommending specific changes to the Citizen portal to enhance the users understanding of the process and the information being uploaded to the VERIS hoppers. While these changes are ongoing, the GRs should see fewer voter initiated errors, resulting in wasted time and resources in research.

Further changes will be taking place this year to alleviate Out of State addresses coming from DMV.

Changes have already been made that should result in fewer "Lack of info" registrations being received by the GR offices thru the hoppers.



DIRECTOR OF ELECTIONS NAME (FIRST, MI, LAST): \_\_\_\_\_

ELECTORAL BOARD MEMBER'S TITLE: \_\_\_\_\_

LOCALITY NAME/LOCALITY CODE: \_\_\_\_\_

PERIOD OF REVIEW: From: July 1, 20\_\_ To: June 30, 20\_\_

TIME IN CURRENT POSITION: \_\_\_\_\_

**PART I - INSTRUCTIONS TO Electoral Board**

§24.2-109.1 of the Code of Virginia provides that the “electoral board shall conduct an annual performance review of the Director of Elections/General Registrar for years ending June 30, 2006 and for years thereafter.” The code requires that the review be completed by August 1 of each year. The review shall be conducted in accordance with the form and format prescribed by the Department of Elections. The board must retain a copy of the completed review and provide a copy of appendix 3 to the Department of Elections. Listed below are performance factors, behavioral traits, and supervisory factors that are important in the performance of the Director’s job. Performance factors and behavioral traits must be utilized for all Directors of Elections. The supervisory factors should be used only for Directors of Elections with supervisory responsibilities. **NOTE: A rating of Unacceptable (1), Needs Improvement (2) or Exceptional (5) requires COMMENTS.** The Overall Performance review (Part VI) should reflect the Director’s total performance, including the performance factors as related to the Director’s responsibilities and duties as set forth in the job description, behavioral traits and supervisory factors, if applicable, and is to be remitted to the Department of Elections, and shall serve as the Board’s official record of the review.

<b>MARKING INSTRUCTIONS</b>	The Electoral Board should indicate the performance of the Director of Elections by using <i>check box</i> next to the appropriate level of performance.
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The following rating scale guide is provided to assist the evaluator in assigning the most appropriate measurement of the performance factors, behavioral traits and supervisory factors of the Director of Elections.

- 1 = **UNACCEPTABLE** - Consistently fails to meet job requirements; performance clearly below minimum requirements. Immediate improvement required to maintain employment.
- 2 = **NEEDS IMPROVEMENT** – Occasionally fails to meet job requirements; performance must improve to meet expectations of position.
- 3 = **MEETS EXPECTATIONS** – Able to perform 100% of job duties satisfactorily. Normal guidance and supervision are required.
- 4 = **EXCEEDS EXPECTATIONS** – Frequently exceeds job requirements; all planned objectives were achieved above the established standards and accomplishments were made in unexpected areas as well.
- 5 = **EXCEPTIONAL** – Consistently exceeds job requirements; this is the highest level of performance that can be attained.



PART II – PERFORMANCE AGAINST GOALS/OBJECTIVES/SPECIAL ASSIGNMENTS

Where goals, objectives, projects, special assignments, etc. have been clearly established, progress of these tasks should be evaluated. In cases where special goals or objectives are not appropriate, the Electoral Board should identify the major duties and/or responsibilities of the job and evaluate the Director of Elections accordingly. List and evaluate progress made on major pre-determined goals, objectives, projects, job duties and special assignments by marking the appropriate box. The “Comments” space may be used for satisfactory progress but must be used for unsatisfactory progress. Attach additional sheets if necessary.

1. Goal/Objective/Project/Major Job Duty/Special Assignment

**Accomplished or Satisfactory Progress**       **Unsatisfactory Progress (See “Comments” Below)**

Comments:

2. Goal/Objective/Project/Major Job Duty/Special Assignment

**Accomplished or Satisfactory Progress**       **Unsatisfactory Progress (See “Comments” Below)**

Comments:

3. Goal/Objective/Project/Major Job Duty/Special Assignment

**Accomplished or Satisfactory Progress**       **Unsatisfactory Progress (See “Comments” Below)**

Comments:

4. Goal/Objective/Project/Major Job Duty/Special Assignment

**Accomplished or Satisfactory Progress**       **Unsatisfactory Progress (See “Comments” Below)**

Comments:





# ANNUAL DIRECTOR OF ELECTIONS PERFORMANCE REVIEW

## PART III - PERFORMANCE FACTORS

1. **Knowledge, Skills, Abilities** – Consider the degree to which the Director of Elections exhibits the required level of job knowledge and/or skills to perform the job and this Director’s use of established techniques, materials and equipment as they relate to performance.

Unacceptable.....Exceptional  
 1       2       3       4       5

Comments:

2. **Quality of Work** – Does the Director of Elections complete assignments meeting quality standards? Consider accuracy, neatness, thoroughness and adherence to stated policies and legal standards.

Unacceptable.....Exceptional  
 1       2       3       4       5

Comments:

3. **Quantity of Work** – Consider the results of this Director’s efforts. Does the Director of Elections demonstrate the ability to manage several responsibilities simultaneously; perform work in a productive and timely manner; meet work schedules?

Unacceptable.....Exceptional  
 1       2       3       4       5

Comments:

4. **Work Habits** – To what extent does the Director of Elections display a positive, cooperative attitude toward work assignments and requirements? Consider compliance with established work rules and organizational policies.

Unacceptable.....Exceptional  
 1       2       3       4       5

Comments:

5. **Communication and Customer Service** – Consider job related effectiveness in dealing with others. Does the Director of Elections express ideas clearly, both orally and in writing, listen well and respond appropriately? Does the Director of Elections handle all citizen complaints and requests for information in an accurate, timely, and non-partisan manner?

Unacceptable.....Exceptional  
 1       2       3       4       5

Comments:



## PART IV - BEHAVIORAL TRAITS

1. **Dependability** – Consider the amount of time spent directing this Director of Elections. Does the Director of Elections monitor projects and exercise follow-through; adhere to time frames; is on time for meetings and appointments; and responds appropriately to instructions and procedures? Consider attendance and punctuality.

**Unacceptable**.....**Exceptional**  
 1       2       3       4       5

Comments:

2. **Cooperation** – How well does the Director of Elections work with co-workers and Electoral Board members as a contributing team member? Does the Director of Elections demonstrate consideration of others; maintain rapport with others; help others willingly?

**Unacceptable**.....**Exceptional**  
 1       2       3       4       5

Comments:

3. **Initiative** – Consider how well the Director of Elections seeks and assumes greater responsibility, monitors projects independently, and follows through appropriately.

**Unacceptable**.....**Exceptional**  
 1       2       3       4       5

Comments:

4. **Adaptability** – Consider the ease with which the Director of Elections adjusts to any change in duties, procedures, laws, the Electoral Board or work environment. How does the Director of Elections accept new ideas and approaches to work, respond appropriately to constructive criticism and to suggestions for work improvement?

**Unacceptable**.....**Exceptional**  
 1       2       3       4       5

Comments:

5. **Judgment** – Consider how well the Director of Elections effectively analyzes problems, determines appropriate action for solutions, and exhibits timely and decisive action; thinks logically.

**Unacceptable**.....**Exceptional**  
 1       2       3       4       5

Comments:



# ANNUAL DIRECTOR OF ELECTIONS PERFORMANCE REVIEW

## PART V - SUPERVISORY FACTORS

1. **Leadership** – Consider how well the Director of Elections demonstrates effective supervisory abilities; gains respect and cooperation; inspires and motivates subordinates; directs work group toward common goal.

Unacceptable ..... Exceptional      N/A  
 1       2       3       4       5     

Comments:

2. **Delegation** – How well does the Director of Elections demonstrate the ability to direct others in accomplishing work; effectively select and motivate staff; define assignments; oversee the work of subordinates?

Unacceptable ..... Exceptional      N/A  
 1       2       3       4       5     

Comments:

3. **Planning and Organizing** – Consider how well the Director of Elections plans and organizes work; coordinates with others, and establishes appropriate priorities; anticipates future needs; carries out assignments effectively.

Unacceptable ..... Exceptional      N/A  
 1       2       3       4       5     

Comments:

4. **Administration** – How well does the Director of Elections perform day-to-day administrative tasks; manage time; administer policies and implement procedures; maintain appropriate contact with Electoral Board and utilize funds, staff or equipment?

Unacceptable ..... Exceptional      N/A  
 1       2       3       4       5     

Comments:

5. **Personnel Management** – Consider how well the Director of Elections serves as a role model; provides guidance and opportunities to their staff for their development and advancement; resolves work-related problems; assists subordinates in accomplishing their work-related objectives. Does the Director of Elections communicate well with subordinates in a clear, concise, accurate, and timely manner and make useful suggestions?

Unacceptable ..... Exceptional      N/A  
 1       2       3       4       5     

Comments:



# ANNUAL DIRECTOR OF ELECTIONS PERFORMANCE REVIEW

## PART VI - OVERALL PERFORMANCE – REMIT TO DEPARTMENT OF ELECTIONS

Please use this space to describe the overall performance rating. The overall rating should be a reflection of the performance factors, behavioral traits and supervisory factors.

The Director of Elections receiving an overall rating of "Needs Improvement or Unacceptable" (2 or 1) must have received notification of the marginal performance during the performance cycle and this rating must be explained in the comments.

The Director of Elections who earns an overall rating of "Unacceptable" (1) must be reviewed again within three months,

The Director of Elections receiving an overall rating of "Exceptional" must have received at least one acknowledgment of the exemplary performance during the performance cycle. However, the receipt of an exemplary performance does not guarantee an overall performance rating of "Exceptional" for that performance cycle, and this rating must be explained in the comments.

<b>Unacceptable</b> .....	<b>Exceptional</b>
<input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5	

Comments:

### SIGNATURES

Electoral Board Member: \_\_\_\_\_ Date: \_\_\_\_\_

Electoral Board Member: \_\_\_\_\_ Date: \_\_\_\_\_

Electoral Board Member: \_\_\_\_\_ Date: \_\_\_\_\_

## PART VII - TO THE DIRECTOR OF ELECTIONS:

**I have been advised of my performance ratings. I have discussed the contents of this review with my Electoral Board. My signature does not necessarily imply agreement. My comments are as follows (optional) (attach additional sheets if necessary):**

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



PART VIII: ESTABLISHMENT OF OBJECTIVES FOR THE COMING YEAR

With reference to the position responsibilities, list below the goals, objectives, projects or special assignments which should be continued and/or completed in the coming year. It is understood that these goals, objectives, etc. are subject to adjustment or change as situations and priorities change. This section should be detached and kept in Electoral Board files so that it can be updated as the situation warrants and so that it can be used to assist the rater at the end of the next review period. Attach a copy of this completed form to the performance review.

**GOALS/OBJECTIVES/MAJOR DUTY/PROJECT/SPECIAL ASSIGNMENTS**

- 1.
- 2.
- 3.
- 4.
- 5.

**SIGNATURES**

Electoral Board Member: \_\_\_\_\_ Date: \_\_\_\_\_

Electoral Board Member: \_\_\_\_\_ Date: \_\_\_\_\_

Electoral Board Member: \_\_\_\_\_ Date: \_\_\_\_\_

Director of Elections: \_\_\_\_\_ Date: \_\_\_\_\_



APPENDIX: Additional Guidelines for Electoral Board Members

- Electoral Board members should understand that not all Directors of Elections Offices are configured in the same manner and that some of the components of the performance review document may not apply to your specific arrangement. In these circumstances, please use the N/A check box where one is provided, otherwise, simply indicate in the Comments section the reason why that component does not apply.
- Electoral Boards should be mindful of the many duties that the Director of Elections is legally required to perform and should have an awareness of the resources available to the Director of Elections when undertaking this performance review.
- Electoral Boards should make sure well in advance of the review period that any duties delegated by the Electoral Board to the Director of Elections have been clearly defined and properly communicated.
- Electoral Board members are encouraged to refer to Chapter 3 of the General Registrar and Electoral Board manual when completing this evaluation form for information regarding what knowledge, skills, and abilities are being evaluated, the stated policy concerning absences and leave, and the types of tasks that Directors of Elections are expected to perform.
- It may be useful for the Electoral Board to ask the Director of Elections to conduct a self-assessment using the performance review document. This will allow the Director of Elections to provide information about ongoing projects, highlight specific achievements that the Electoral Board may not be aware of, and/or express desires concerning future projects. In addition, it will give the Electoral Board and the Director of Elections a starting point for discussion of the performance review based on those areas where there may be differing views on the Director's performance.
- It may also be useful for the Electoral Board to consult the staff of the Director of Elections, where appropriate, for input regarding the Director's performance. However, the responsibility for completing the Performance Review remains with the Electoral Board.

18103919D

**HOUSE BILL NO. 1405**

Offered January 15, 2018

A *BILL to amend and reenact §§ 2.2-106, 24.2-102, and 24.2-103 of the Code of Virginia, relating to State Board of Elections; membership; appointment of Commissioner of Elections.*

Patron—Ransone

Committee Referral Pending

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-106, 24.2-102, and 24.2-103 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-106. Appointment of agency heads; disclosure of resumes; severance.**

A. Notwithstanding any provision of law to the contrary, the Governor shall appoint the administrative head of each agency of the executive branch of state government except the:

1. Executive Director of the Virginia Port Authority;
2. Director of the State Council of Higher Education for Virginia;
3. Executive Director of the Department of Game and Inland Fisheries;
4. Executive Director of the Jamestown-Yorktown Foundation;
5. Executive Director of the Motor Vehicle Dealer Board;
6. Librarian of Virginia;
7. Administrator of the Commonwealth's Attorneys' Services Council;
8. Executive Director of the Virginia Housing Development Authority; and
9. Executive Director of the Board of Accountancy; and
10. *Commissioner of Elections of the Department of Elections.*

However, the manner of selection of those heads of agencies chosen as set forth in the Constitution of Virginia shall continue without change. Each administrative head and Secretary appointed by the Governor pursuant to this section shall (i) be subject to confirmation by the General Assembly, (ii) have the professional qualifications prescribed by law, and (iii) serve at the pleasure of the Governor.

B. As part of the confirmation process for each administrative head and Secretary, the Secretary of the Commonwealth shall provide copies of the resumes and statements of economic interests filed pursuant to § 2.2-3117 to the chairs of the House of Delegates and Senate Committees on Privileges and Elections. For appointments made before January 1, copies shall be provided to the chairs within 30 days of the appointment or by January 7 whichever time is earlier; and for appointments made after January 1 through the regular session of that year, copies shall be provided to the chairs within seven days of the appointment. Each appointee shall be available for interviews by the Committees on Privileges and Elections or other applicable standing committee. For the purposes of this section and § 2.2-107, there shall be a joint subcommittee of the House of Delegates and Senate Committees on Privileges and Elections consisting of five members of the House Committee and three members of the Senate Committee appointed by the respective chairs of the committees to review the resumes and statements of economic interests of gubernatorial appointees. The members of the House of Delegates shall be appointed in accordance with the principles of proportional representation contained in the Rules of the House of Delegates. No appointment confirmed by the General Assembly shall be subject to challenge by reason of a failure to comply with the provisions of this subsection pertaining to the confirmation process.

C. For the purpose of this section, "agency" includes all administrative units established by law or by executive order that are not (i) arms of the legislative or judicial branches of government; (ii) institutions of higher education as classified under §§ 22.1-346, 23.1-1100, 23.1-3210, and 23.1-3216; (iii) regional planning districts, regional transportation authorities or districts, or regional sanitation districts; and (iv) assigned by law to other departments or agencies, not including assignments to secretaries under Article 7 (§ 2.2-215 et seq.) of Chapter 2 of this title.

D. The resumes and applications for appointment submitted by persons who are appointed by the Governor pursuant to this section shall be available to the public upon request.

E. Severance benefits provided to any departing agency head, whether or not appointed by the Governor, shall be publicly announced by the appointing authority prior to such departure.

**§ 24.2-102. Appointment; terms; Commissioner of Elections; prohibited activities.**

A. The State Board of Elections is continued and shall consist of ~~three~~ five members appointed by the Governor from the qualified voters of the Commonwealth, subject to confirmation by the General Assembly. In the appointment of the Board, representation shall be given to each of the political parties

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59 having the highest and next highest number of votes in the Commonwealth for Governor at the last  
 60 preceding gubernatorial election. ~~Two~~ *Three* Board members shall be of the political party ~~which~~ *that*  
 61 cast the highest number of votes for Governor at that election. When the Governor was not elected as  
 62 the candidate of a political party, representation shall be given to each of the political parties having the  
 63 highest and next highest number of members of the General Assembly at the time of the appointment  
 64 and ~~two~~ *three* Board members shall be of the political party having the highest number of members in  
 65 the General Assembly. Each political party entitled to an appointment may make and file  
 66 recommendations with the Governor for the appointment. Its recommendations shall contain the names  
 67 of at least three qualified voters of the Commonwealth.

68 *After the initial staggering of terms, Board members shall serve four-year terms beginning February*  
 69 *1, 1995, and each fourth year thereafter of five years.* Vacancies shall be filled for the unexpired terms.  
 70 No member shall be eligible for more than two successive ~~four-year~~ *five-year* terms. A member  
 71 appointed for an unexpired term may be appointed for the two succeeding ~~four-year~~ *five-year* terms.

72 ~~The Governor shall appoint a Commissioner of Elections, who shall receive the salary fixed by law.~~  
 73 ~~The Commissioner of Elections may employ the personnel required to carry out the duties imposed by~~  
 74 ~~the State Board of Elections.~~

75 *Each year the Governor shall designate one Board member to be the chair of the Board and one*  
 76 *Board member to be the vice-chair. The chair and vice-chair shall be members of opposite political*  
 77 *parties.*

78 No member of the Board shall be eligible to offer for or hold an office to be filled in whole or in  
 79 part by qualified voters in the Commonwealth. If a member resigns to offer for or hold such office, the  
 80 vacancy shall be filled as provided in this section.

81 No member of the Board shall serve as the chairman of a state, local, or district level political party  
 82 committee or as a paid *or volunteer* worker in the campaign of a candidate for nomination or election to  
 83 an office filled by election in whole or in part by qualified voters in the Commonwealth.

84 *B. The Board shall appoint a Commissioner of Elections, subject to confirmation by the General*  
 85 *Assembly, to head the Department of Elections and to act as the principal administrative officer. The*  
 86 *Commissioner shall be appointed by the Board to a term of four years, which shall begin on July 1 of*  
 87 *the year following a gubernatorial election. The Commissioner shall be a qualified voter of the*  
 88 *Commonwealth. Such appointment shall require an affirmative vote of four of the five Board members.*  
 89 *The Commissioner may be removed by the Board upon an affirmative vote of four of the five Board*  
 90 *members.*

91 *The Commissioner shall receive the salary fixed by law. He may employ the personnel required to*  
 92 *carry out the duties required by law and imposed by the Board. The personnel employed shall be*  
 93 *subject to the provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.).*

94 *The Commissioner shall not be eligible to offer for or hold an office to be filled in whole or in part*  
 95 *by qualified voters in the Commonwealth. His candidacy for or election to such office shall vacate his*  
 96 *position as Commissioner, and the Board shall fill the vacancy for the unexpired term.*

97 *The Board shall not appoint as Commissioner (i) any person who is the spouse of a member of the*  
 98 *Board or of a person seeking election to an office or holding an elective office that is filled in whole or*  
 99 *in part by qualified voters in the Commonwealth; (ii) any person, or the spouse of any person, who is*  
 100 *the grandparent, parent, sibling, child, or grandchild of a member of the Board; or (iii) any person, or*  
 101 *the spouse of any person, who is the grandparent, parent, sibling, child, or grandchild of a person who*  
 102 *is seeking election to an office or holds an elective office that is filled in whole or in part by qualified*  
 103 *voters in the Commonwealth. The Commissioner shall submit his resignation to the Board on the date*  
 104 *that any such person files as a candidate for election to an office that is filled in whole or in part by*  
 105 *qualified voters in the Commonwealth.*

106 *The Commissioner shall not serve as the chairman of a state, local, or district level political party*  
 107 *committee or as a paid or volunteer worker in the campaign of a candidate for nomination or election*  
 108 *to an office filled by election in whole or in part by qualified voters in the Commonwealth.*

109 **§ 24.2-103. Powers and duties in general; report.**

110 A. The State Board, through the Department of Elections, shall supervise and coordinate the work of  
 111 the county and city electoral boards and of the registrars to obtain uniformity in their practices and  
 112 proceedings and legality and purity in all elections. It shall make rules and regulations and issue  
 113 instructions and provide information consistent with the election laws to the electoral boards and  
 114 registrars to promote the proper administration of election laws. Electoral boards and registrars shall  
 115 provide information requested by the State Board and shall follow (i) the elections laws and (ii) the  
 116 rules and regulations of the State Board insofar as they do not conflict with Virginia or federal law. The  
 117 State Board shall post on the Internet within three business days any rules or regulations made by the  
 118 State Board. Upon request and at a reasonable charge not to exceed the actual cost incurred, the State  
 119 Board shall provide to any requesting political party or candidate, within three days of the receipt of the  
 120 request, copies of any instructions or information provided by the State Board to the local electoral



121 boards and registrars.

122 B. The State Board, through the Department of Elections, shall ensure that the members of the  
123 electoral boards and general registrars are properly trained to carry out their duties by offering training  
124 annually, or more often, as it deems appropriate, and without charging any fees to the electoral boards  
125 and general registrars for the training. The State Board shall set the training standards for the officers of  
126 election and shall develop standardized training programs for the officers of election to be conducted by  
127 the local electoral boards and the general registrars. Training of the officers of election shall be  
128 conducted and certified as provided by § 24.2-115.2. The State Board shall provide standardized training  
129 materials for such training and shall also offer on the Department of Elections website a training course  
130 for officers of election. The content of the online training course shall be consistent with the  
131 standardized training programs developed pursuant to this section. The State Board shall review the  
132 standardized training materials and the content of the online training course every two years in the year  
133 immediately following a general election for federal office.

134 C. The State Board may institute proceedings pursuant to § 24.2-234 for the removal of any member  
135 of an electoral board who fails to discharge the duties of his office in accordance with law. The State  
136 Board may petition the local electoral board to remove from office any general registrar who fails to  
137 discharge the duties of his office according to law. The State Board may institute proceedings pursuant  
138 to § 24.2-234 for the removal of a general registrar if the local electoral board refuses to remove the  
139 general registrar and the State Board finds that the failure to remove the general registrar has a material  
140 adverse effect upon the conduct of either the registrar's office or any election. Any action taken by the  
141 State Board pursuant to this subsection shall require a recorded majority vote of the Board.

142 D. The State Board may petition a circuit court or the Supreme Court, whichever is appropriate, for a  
143 writ of mandamus or prohibition, or other available legal relief, for the purpose of ensuring that  
144 elections are conducted as provided by law.

145 E. The Department of Elections shall supervise its own staff to assure that no member of its staff  
146 shall serve (i) as the chairman of a political party or other officer of a state-, local-, or district-level  
147 political party committee or (ii) as a paid or volunteer worker in the campaign of a candidate for  
148 nomination or election to an office filled by election in whole or in part by the qualified voters of the  
149 Commonwealth.

150 F. The State Board shall adopt a seal for its use and bylaws for its own proceedings.

151 G. A telephone call between two members of the Board preparing for a meeting shall not constitute a  
152 meeting under the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), provided  
153 that no discussion or deliberation takes place that would otherwise constitute a meeting.

154 H. *The State Board shall submit an annual report to the Governor and the General Assembly on the*  
155 *activities of the State Board and Department of Elections in the previous year. Such report shall be*  
156 *governed by the provisions of § 2.2-608.*

157 **2. That the provisions of this act shall become effective on January 1, 2019.**

158 **3. That the initial appointments of members of the State Board of Elections shall be staggered as**  
159 **follows: one member, representing the political party of the Governor, shall be appointed for a**  
160 **term of one year; one member, representing the political party that had the next highest number**  
161 **of votes in the Commonwealth for Governor at the last preceding gubernatorial election, shall be**  
162 **appointed for a term of two years; one member, representing the political party of the Governor,**  
163 **shall be appointed for a term of three years; one member, representing the political party that had**  
164 **the next highest number of votes in the Commonwealth for Governor at the last preceding**  
165 **gubernatorial election, shall be appointed for a term of four years; and one member, representing**  
166 **the political party of the Governor, shall be appointed for a term of five years. After the initial**  
167 **appointments of members of the State Board of Elections pursuant to this enactment,**  
168 **appointments shall be for terms of five years beginning on February 1 of the year of the**  
169 **appointment.**