

**State Board of Elections  
Final Meeting Minutes  
Wednesday, January 23, 2019**

1           The Wednesday, January 23, 2019 State Board of Elections meeting was held in the West  
2 Reading Room of the Patrick Henry Building, in Richmond, Virginia. In attendance: James  
3 Alcorn, Chairman, Clara Belle Wheeler, Vice Chair, and Singleton McAllister, Secretary,  
4 represented the State Board of Elections (“the Board”). On behalf of the Department of Elections  
5 (“ELECT”) was Christopher E. “Chris” Piper, Commissioner, and Jessica Bowman, Deputy  
6 Commissioner. Alex West represented the Office of the Attorney General (“OAG”). Chairman  
7 Alcorn called the meeting to order at 11:40 A.M.

8           The first order of business was the approval of the December 21, 2018 and January 11,  
9 2019 Board meeting minutes, presented by Secretary McAllister. *The Secretary moved that the*  
10 *Board approve the minutes from the December 21 and January 11 Board meetings.* Vice Chair  
11 Wheeler seconded the motion, and the motion passed unanimously.

12           The next order of business was the Commissioner’s report, presented by Commissioner  
13 Piper. The Commissioner stated that the General Assembly is now in session; and that the district  
14 court in the Bethune-Hill case issued a direct order to finalize the redistricting maps for certain  
15 districts and localities. Commissioner Piper stated that this is not a final order, but is an initial  
16 directive to the Special Master to finalize a particular module of maps.

17           Commissioner Piper then noted that the National Voter Registration Act requires ELECT  
18 and the Department of Motor Vehicles (DMV) to work together on voter registration.  
19 Commissioner Piper explained that the issue is neither DMV nor ELECT, but rather, the Motor  
20 Voter Process.

21           The Commissioner referenced a conversation he held with Commissioner Holcomb about  
22 working with the DMV on the motor voter process. Commissioner Piper wanted to credit  
23 Commissioner Holcomb for being a part of the strong partnership that has been created between  
24 the DMV and ELECT, but acknowledged previous issues toward the beginning of the Motor Voter  
25 Process. The Commissioner read part of a letter written by himself and Commissioner Holcomb  
26 and sent to Jake Washburn, General Registrar in Albemarle, and other general registrars: “ELECT  
27 and DMV have begun work to implement a revised Electronic Motor Voter Process (EMV). One  
28 of many revisions being implemented is that all customers regardless whether they are previously  
29 registered are asked all eligibility questions during the Motor Voter Process.” Commissioner Piper

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30 stated that in December 2018 the two agencies sat down after having the demonstration over the  
31 summer with the registrars, and the result of the change would be the elimination of the address  
32 update process. The Commissioner then advised that a group of general registrars review the  
33 revised process and make suggestions. Commissioner Piper stated that the voter is responsible for  
34 answering questions and going through the process at the DMV, which requires the person to read  
35 and understand what is being asked. Commissioner Piper introduced new ELECT staff members,  
36 Franchelle Tyson as the Board Liaison for the State Board and also Karen Thomas as the Deputy  
37 Chief Information Officer.

38 Chairman Alcorn asked the Commissioner for a rough timeframe for improvements.  
39 Commissioner Piper stated that they are at the beginning stages of the process and it would be  
40 premature to give a timeframe. The Commissioner advised that after the General Assembly leaves  
41 town ELECT would be able to spend more time on the process and plans to report back in March  
42 with a better timeframe.

43 Vice Chair Wheeler stated that she remembered an October 16, 2016 SBE meeting where  
44 the P&E Committee suggested that ELECT create a confirmation number so that the voter knows  
45 that their information was processed. The Commissioner then stated that ELECT receives  
46 transactions logs from the DMV which show when a person has confirmed their address twice.  
47 He wanted to caution that neither the DMV nor ELECT change a voter's address, rather, it's the  
48 process that the voter goes through at DMV to update their records. The Commissioner stated that  
49 both agencies are working on more protections to avoid issues like these. Vice Chair Wheeler  
50 asked when the online duplicate issue was fixed. The Commissioner stated that he believes it was  
51 fixed in October of 2016. Secretary McAllister asked how they were going to get the Registrars  
52 and the elections community involved in the Motor Voter Process. Commissioner Piper advised  
53 that they have received a lot of feedback from the elections community and are using that  
54 information to plan the revisions. The next step would be to demonstrate the new process to the  
55 registrars and obtain their feedback. The Commissioner reiterated that once the process is  
56 complete there will be a single path to apply to register to vote at the DMV.

57 The Chairman then called for General Registrar Washburn to approach the podium. Mr.  
58 Washburn stated that the Board has addressed the GR's concerns but that the address question was  
59 confusing for students as well as anyone. He expressed his appreciation for the Board addressing

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60 the question quickly. Chairman Alcorn then called Commissioner Holcomb who shared his  
61 enthusiasm for the Motor Voter Process, and stated that DMV has sent over 10 million applications  
62 to local registrars since the program began. Commissioner Holcomb added DMV is committed  
63 to the process and will make changes as quickly and as accurately as possible.

64 The next order of business was the discussion of November 2018 General Election in  
65 Chesterfield County. Commissioner Piper commended Constance Tyler, the Chesterfield County  
66 Registrar because she reached out before and during the election, and kept ELECT apprised of  
67 issues as they were happening.

68 Rosemarie Hart, Secretary, Randy Welch, Vice Chair, and Susan Beals, Chair, of the  
69 Chesterfield County Electoral Board (EB), appeared before the Board as requested. On behalf of  
70 the Chesterfield County EB, Secretary Hart stated that more than 150,000 people voted in  
71 Chesterfield on November 6<sup>th</sup>, a 40% increase from the 2014 midterms. The Chesterfield County  
72 EB believes that each voter should be able to vote in a timely manner, and that every election  
73 should be run efficiently, fairly and impartially. Since the November 2018 election, Constance  
74 Tyler, the General Registrar, the Chesterfield EB and the county's Administration office has  
75 worked together to provide an in depth analysis of all aspects of the November 6<sup>th</sup> election. Based  
76 on the preliminary findings, the recommendations included: certain precincts to be split or moved;  
77 more training specifically for Chief Officers of Elections; and more funding for the elections  
78 office. Deputy County Administrator of Finance for Chesterfield County, Matt Harris, then  
79 provided the Board with the report. *This report is in the Working Papers for the January 23, 2019*  
80 *meeting*. Chairman Alcorn commended Deputy County Administrator Harris for his presentation  
81 and the way Chesterfield County came together to resolve the issues that occurred. The Chairman  
82 pointed out that the information presented should be shared with other counties to advise them on  
83 how to handle situations like these. Vice Chairman Wheeler commended Deputy County  
84 Administrator Harris for making an agreement with the Department of Education for no school  
85 activities during Election Day.

86 Chairman Alcorn moved the Board recess at 1:17 P.M. Vice Chair Wheeler seconded the  
87 motion, and the motion passed unanimously.

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88 The Chairman moved the Board reconvene. Vice Chair Wheeler seconded the motion and  
89 the motion passed unanimously. The Board reconvened at 1:33 P.M. The next order of business  
90 was Stand By Your Ad hearings, presented by Arielle A. Schneider, Policy Analyst.

91 The first complaint was against Eurika V. Tyree. Ms. Schneider presented the Board with  
92 the Complaint in question, which was a purple ballot that has a disclaimer reminding the individual  
93 using the ballot to provide a disclosure. She noted that the purple ballot is a non-disclosed  
94 advertisement distributed on Election Day. This counts as one penalty for a non-disclosed sample  
95 ballot advertisement, or, \$100 if first time violation, doubled to \$200 due to the time frame –  
96 distributed within 14 days of election – or \$50 (doubled to \$100) with an apology or remedial  
97 action. Ms. Tyree and her campaign manager stated that the registrar informed her as long as it  
98 was on white or yellow paper she could distribute it. The registrar did not contact them in regards  
99 to the issue. Ms. Tyree stated that her oldest daughter pointed out that there was not a disclaimer  
100 on the sample ballot, so she then wrote in her disclaimer on all the sample ballots she had with her  
101 and contacted her local team to stop printing ballots.

102 The campaign manager stated that she was given the ballots from the Registrar office and  
103 only informed to have it on white or yellow paper; she also stated that no one advised them that a  
104 disclaimer needed to be on the sample ballots. The campaign manager stated that it was not their  
105 intent to break the law, and apologized for it. Due to the apology Chairman Alcorn moved *subject*  
106 *to the Board's authority under the Code of Virginia §24.2-955.3, to find Eurika V. Tyree in*  
107 *violation of Stand By Your Ad with regard to one print media advertisements and assess a \$100*  
108 *penalty. Secretary McAllister seconded the motion, and the motion passed unanimously.*

109 The next complaint was against Marc T. Aveni. Ms. Schneider presented a large sign  
110 displayed at a polling place on Election Day. As Mr. Aveni had been assigned penalties for first-  
111 time violations of Stand By Your Ad at the November 19, 2018 Board meeting, any violations the  
112 Board would assess today would be considered second violations, penalized at \$250. She added  
113 that this \$250 penalty would be doubled to \$500 due to the proximity to the election. Second, she  
114 presented an advertisement printed in a high school athletics program. Even though the  
115 advertisement was small, the minimum size for any disclosure is 7 point font. Ms. Schneider noted  
116 that the disclaimer does not satisfy this minimum requirement. Ms. Schneider added that the  
117 advertisement appeared in the athletics program, which was distributed 10+ times in August

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118 through October, but also once on November 2<sup>nd</sup>. All told, the distributions were still from one  
119 printing, which resulted in a recommendation that the Board assign one penalty for the athletics  
120 program publication, which would be doubled due to the proximity to the election. Therefore,  
121 Ms. Schneider recommended a penalty of \$500 for the sign on Prince William St. and \$500 for the  
122 athletics program advertisement, with a total penalty being \$1000. Vice Chairman Wheeler asked  
123 if these advertisements were challenged in a previous meeting. Ms. Schneider did advise that the  
124 State Board had issued a penalty for the large sign when deployed in the morning outside the sign-  
125 maker's home, at a previous State Board Meeting but stated that the violation today was for a  
126 second deployment of the sign later in the day outside a polling place. She concluded that these  
127 incidents created another set of violations, which would be considered a second violation.

128         Marc Aveni then addressed the Board. Mr. Aveni stated that the violation in the High  
129 School Athletics Program was provided to him by the Booster Program.. He stated that he sent in  
130 the information needed for the poster including the disclaimer, but when printed realized that the  
131 student minimized the disclaimer to fit on the poster. Once he was notified about the sign, he  
132 notified the student and she apologized to him and to the Board. Mr. Aveni stated that the second  
133 printed sign from Prince William St. had been removed by a volunteer who then decided to move  
134 it to another precinct at a polling place. The Chairman moved *subject to the Board's authority*  
135 *under the Code of Virginia §24.2-955.3, to find Marc Aveni in violation of Stand By Your Ad with*  
136 *regard to two print media advertisements and to assess a \$1000 penalty. Secretary McAllister*  
137 *seconded the motion, and the motion passed unanimously.*

138         The next complaint was against Paul J. Battle. Ms. Schneider introduced the challenged  
139 advertisement: a sample ballot that advocates for Mr. Battle and mentions other candidates. This  
140 is a sample ballot distributed on or prior to Election Day, with no disclaimer provided, making this  
141 a first time violation with the penalty of \$200, for one print media advertisement doubled due to  
142 the proximity to the election. Mr. Battle addressed the Board. He stated that he was not sure if the  
143 sample ballot present had the disclaimer or not, but he did create a ballot that was not properly  
144 disclosed. He informed the Board that he started handwriting a disclaimer on the ballots and  
145 decided to stop and just order more with the disclaimer. Mr. Battle stated that one of the kids ran  
146 out of the correct advertisements and accidentally picked up the ballots that did not have the  
147 disclaimer. Once Mr. Battle was aware of the situation, he informed the kids not to pass them out.

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148 Mr. Battle stated that he was well aware of the rule and apologized. Due to the apology Chairman  
149 Alcorn moved *subject to the Board's authority under the Code of Virginia §24.2-955.3, to find*  
150 *Paul J. Battle in violation of Stand By Your Ad with regard to one print media advertisement and*  
151 *to assess a \$100 penalty. Vice Chairman Wheeler seconded the motion, and the motion passed*  
152 *unanimously.*

153 The next complaint was against Beth Barts for Loudoun County School Board. Ms.  
154 Schneider presented a series of advertisements but they are not Facebook paid ads, nor were they  
155 on a Facebook page specifically for her campaign. This counts as a first time violation, penalty  
156 being \$100, due to two print media advertisements on Facebook. Mrs. Barts was not present for  
157 the hearing. There were two complaints filed. Chairman Alcorn confirmed that online media is  
158 still print media. Ms. Schneider informed the Board that after Mrs. Barts was informed of the  
159 violation, she provided proof of compliance. Mrs. Barts also provided an apology. Due to the  
160 apology Chairman Alcorn moved, *subject to the Board's authority under the Code of Virginia*  
161 *§24.2-955.3, to find Beth Barts for Loudoun County School Board in violation of Stand By Your*  
162 *Ad with regard to one print media advertisement on Facebook and assess a \$50 penalty. Secretary*  
163 *McAllister second the motion, and the motion passed unanimously.*

164 The next complaint is against Mark Shiffer. Ms. Schneider outlined multiple violations.  
165 Mr. Shiffer was not in attendance but did send a letter with an explanation and apology. *This letter*  
166 *is in the Working Papers for the January 23, 2019.* The Board agreed to examine the 13 violations  
167 separately. The following would be a \$50 penalty for each violation; 8 ½ x 11 flyer, Alexandria  
168 Times August 2<sup>nd</sup>, 16<sup>th</sup>, 30<sup>th</sup>; and Alexandria Times Online August 2<sup>nd</sup>, 16<sup>th</sup>, 30<sup>th</sup>. The following  
169 would be a \$100 penalty for each violation doubled due to the proximity of election; hand card,  
170 yard sign, Alexandria Times on October 25<sup>th</sup>, Alexandria Gazette on October 25<sup>th</sup>, Alexandria  
171 Times online October 25<sup>th</sup> and Alexandria Gazette online October 25<sup>th</sup>. Due to the apology  
172 Chairman Alcorn moved, *subject to the Board's authority under the Code of Virginia §24.2-955.3,*  
173 *to find Mark Shiffer in violation of Stand By Your Ad with regard to 13 advertisements and to*  
174 *assess a \$1000 penalty. Vice Chairman Wheeler seconded the motion, and the motion passed*  
175 *unanimously.*

176 The next complaint is against the Martin Luther King, Jr. Group as distinguished from the  
177 Martin Luther King Jr, Leadership Steering Committee. Ms. Schneider stated that some of the

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178 group of candidates on the Martin Luther King Jr. Group sample ballot were not aware of the  
179 improperly disclosed advertisement apparently sponsored by the Martin Luther King, Jr. Group.  
180 Ms. Schneider stated that she spoke with De'Andre Barnes and Mark Whitaker who informed her  
181 that they did not provide a photo or any information to be posted on the sample ballot. Ms.  
182 Schneider confirmed that the improperly disclosed sample ballot was not sponsored by the Martin  
183 Luther King, Jr. Leader Steering Committee. Chairman Alcorn moved, *subject to the Board's*  
184 *authority under the Code of Virginia §24.2-955.3, to find Martin Luther King Jr, Group in*  
185 *violation of Stand By Your Ad with regard to two print media advertisements and to assess a \$200*  
186 *penalty. Secretary McAllister seconded the motion, and the motion passed unanimously.*

187         The next complaint was against Natan McKenzie. Ms. Schneider presented four images  
188 from a website that advertised Mr. McKenzie's candidacy. Ms. Schneider believed two images  
189 constituted as express advocacy, and recommended a \$200 fine for both images, doubled to \$400  
190 due to the proximity of the Election. Ms. Schneider stated that she would amend her previous  
191 motion to levy a \$400 penalty because the website displaying the images is still active despite two  
192 notices provided to Mr. McKenzie. Chairman Alcorn moved, *subject to the Board's authority*  
193 *under the Code of Virginia §24.2-955.3 to find Natan McKenzie in violation of Stand By Your Ad*  
194 *with regard to two print media and to assess a \$400 penalty. Secretary McAllister seconded the*  
195 *motion, and the motion passed unanimously.*

196         The next complaint was against Charlie Long and Sallie Wolfe Garrison. Ms. Schneider  
197 presented three separate advertisements for Charlie Long, noted their time stamps and read a letter  
198 from Mr. Long attesting that his signs are properly disclosed. Ms. Schneider pointed out to the  
199 audience that the disclaimer is too small to read, and thus she could not verify compliance. Ms.  
200 Schneider advised that three of Mr. Long's four signs do not comply with the requirements for  
201 disclosure conspicuity and recommended further the Board double the penalty due to the proximity  
202 to the election, for a total of \$700. Ms. Schneider added Mr. Long presented to prove compliance,  
203 a sign that was not complained about, nor properly disclosed. She reiterated her recommended  
204 penalty amount. Chairman Alcorn asked Commissioner Piper for his opinion on the signs.  
205 Commissioner Piper agreed with Ms. Schneider's assessment of the conspicuity of the disclaimers  
206 on Mr. Long's signs, and agreed with Ms. Schneider's penalty assessment. Chairman Alcorn  
207 moved, *subject to the Board's authority under the Code of Virginia §24.2-955.3, to find Charles*

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208 *Long in violation of Stand By Your Ad in regards to four advertisements and to assess a \$700 civil*  
209 *penalty. Secretary McAllister seconded the motion, and the motion passed unanimously.*

210 Ms. Schneider then moved on to Sallie Wolfe Garrison. The complaint was in regards to  
211 signs and advertisements photographed in the same images as those of Mr. Long. Ms. Garrison  
212 provided a letter reiterating the conspicuity of the disclaimers on her signs. Ms. Schneider  
213 recommended a penalty of \$500, to represent the three \$100 penalties for undisclosed signs, two  
214 of which were displayed on or immediately before Election Day, resulting in two doubled  
215 penalties. Commissioner Piper suggested that in the future it would be useful to encourage people  
216 to send images to the Board of signs in question. Ms. Schneider agreed with this suggestion, saying  
217 that the more information she receives the better. Chairman Alcorn moved, *subject to the Board's*  
218 *authority under the Code of Virginia §24.2-955.3, to find Sallie Wolfe Garrison in violation of*  
219 *Stand By Your Ad with regard to three advertisements and to assess a \$500 penalty. Secretary*  
220 *McAllister seconded the motion, and the motion passed unanimously.*

221 The last complaint was against Vernon Fleming. Ms. Schneider found that Mr. Fleming's  
222 website constituted express advocacy, but not the image in question. Vice Chair Wheeler pointed  
223 out a phrase on the poster in question that said "Vote Fleming November 6." Upon seeing this,  
224 Ms. Schneider changed her recommendation of one violation for the website to be for two  
225 violations doubled due to the proximity to the election. Chairman Alcorn moved, *subject to the*  
226 *Board's authority under the Code of Virginia §24.2-955.3, to find Vernon Fleming in violation of*  
227 *Stand By Your Ad with regards to two expressed advocacies on website and to assess a \$200*  
228 *penalty. Secretary McAllister seconded the motion, and the motion passed unanimously.*

229 Ms. Schneider thanked the Board.

230 Ms. Schneider brought up a number of complaints that would not be addressed at the  
231 current Board meeting. Chairman Alcorn asked what the Board's procedure was for complaints  
232 where no expressed advocacy is present, specifically whether the Board needs to say that the  
233 charge is being dismissed or not bring up the charge at all. Ms. Schneider answered that the Board  
234 receives notice of the complaint but that it is not brought up at a meeting because it is "outside  
235 [the] parameter" of the Board, since there would be nothing wrong with these specific complaints.

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236 Tara Carroll, Chairwoman of the Chesterfield County Republican Committee, spoke to the  
237 Board regarding colors of sample ballots. Chairman Alcorn reiterated that the rule regarding colors  
238 has not changed. Ms. Carroll thanked the Board for its time.

239 Chairman Alcorn finally presented gifts to the rest of the Board Members to commemorate  
240 their last meeting together.

241 Vice Chair Wheeler moved to adjourn the Board. Secretary McAllister seconded the  
242 motion and the motion passed unanimously. The meeting adjourned at approximately 3:40 P.M.

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Secretary

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Chair

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Vice Chair

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