

State Board of Elections Policy 2026-002

A meeting of the Virginia State Board of Elections (SBE) was held on June 30, 2026, during which the following policy was proposed by the Department of Elections (ELECT):

Policy for the Prohibited Personal Use of Campaign Funds

PURPOSE: To establish a policy that provides for the SBE to perform their various roles in the complaint and hearing process related to the prohibited personal use of campaign funds. The following policy applies to the conduct of personal prohibited use hearings held pursuant to Va. Code § 24.2-948.7(B). However, conflicting authorities including court orders, decisions, statutes, and regulatory actions may supersede the effects of part or all of this policy. Where such an authority conflicts with only part of this policy, the remainder of the policy shall still apply.

REFERENCES: Va. Code §§ 24.2-948.6, 24.2-948.7, 24.2-948.8, and 24.2-948.9.

SEC. 1: POLICY ESTABLISHMENT

Subsequent to its adoption by the majority of the Board, this policy shall be posted on ELECT's website and the Virginia Regulatory Town Hall website, or any other website normally used by the SBE for notice of public meetings.

SEC. 2: DEFINITIONS

For the purposes of this policy, terms have the following meanings:

“Complainant” means the filer of a complaint.

“Respondent” means the candidate and/or committee subject to a complaint.

SEC 3: COMPLAINTS

I. Who may submit a complaint?

1. A person who contributes to a candidate or his campaign committee.
2. A person who is qualified to vote in the election for the office of the respondent candidate.

II. How complaints are submitted

Complaints must be submitted on a form prescribed by ELECT, notarized, and sent via certified mail to:

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

Alternatively, notarized complaints may be scanned and returned electronically at PPUComplaint@elections.virginia.gov or electronically on the ELECT website at <https://www.elections.virginia.gov/candidatepac-info/regulation-and-policies/>. The Prohibited Personal Use complaint link will redirect to <https://cfapps.elections.virginia.gov/PersonalUseComplaint>. Complainants who submit complaints via other methods will be directed to submit a complaint online.

III. What should a complaint contain?

1. A credible allegation under Va. Code § 24.2-948.6. regarding a *specific* use of campaign contributions.
2. Attached documentation supporting the allegation.
3. A clearly identified candidate.
4. Names and contact information for any person the complainant knows to have knowledge of the underlying facts relating to the allegation.
5. A sworn statement, notarized, agreeing to strict confidentiality regarding the complaint and related matters for ten (10) days preceding the complaint submission. If a complainant knowingly violates this agreement, the SBE may assess a civil penalty in an amount not to exceed \$10,000 (§ 24.2-948.8) and payable to the State Treasurer for deposit into the Prohibited Personal Use Enforcement Fund (§ 24.2-948.9).
6. Any additional information required by ELECT.

IV. What additional information might be required by ELECT?

ELECT may require additional evidence from the complainant where such information is needed to establish underlying facts relevant to the proceedings under this policy. Such information may include:

- The claimant's Voter I.D. number.
- The date and amount of a donation to a candidate or committee.
- The date of the alleged violation.
- An additional statement or other information regarding the alleged violation.

V. What if a complainant breaks the ten (10) day confidentiality requirement?

If the SBE determines that the complainant knowingly violated the agreement, the SBE may assess a civil penalty not to exceed \$10,000.

VI. May the SBE issue its own complaint?

Yes. The SBE may initiate a complaint on its own motion by a majority vote at a public meeting. Then, the SBE will then conduct an initial investigation during a closed meeting. At the conclusion of that initial investigation, the SBE will decide whether the underlying facts support dismissing the complaint or to move forward with a hearing. The SBE's discussions during that closed meeting will remain confidential pursuant to Va. Code § 2.2-3711(A)(34). Further, under Va. Code § 24.2-948.7(B), prior to the SBE's holding a public hearing on such a matter, the SBE's notice and any related records shall not be made public and are not subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-7300 *et seq.*).

SEC. 4: NOTICE REQUIREMENTS**I. Timeframe to send notice**

ELECT must issue notice to the respondent within 24 hours of:

- Receiving a compliant; or
- Initiating a preliminary investigation

Additionally, ELECT must issue notice to the complainant and respondent immediately upon the SBE calling for a public hearing.

II. Method of Notice

ELECT will provide notice to the complainant by email, if such an address was provided on the complaint form. If no email address was provided in the complaint, notice will be sent by mail.

ELECT will provide notice to the respondent by email at the address listed on the candidate's Statement of Organization. ELECT may also provide additional notice by mail to the respondent's address or by email or mail to the treasurer listed on the candidate's Statement of Organization,

III. Notice Contents

Each notice shall include the following:

- The statutory provision under which the SBE is exercising its authority.
- The statutory provision that has allegedly been violated.
- The matters of fact and law at question, including an explanation of the violation alleged in the complaint.

- A statement of the maximum civil penalty that may be assessed with respect to the alleged violation.
- Contact information, including the name and government email address of the person designated by the SBE to respond to questions and assist parties.
- The time, date, location, and nature of the relevant hearing (if applicable).
- Notice that a default order may be issued against the respondent pursuant to Va. Code § 2.2-4020.2(A), if the respondent fails without good cause to appear at the hearing.

SEC. 5: PROCESSING COMPLAINTS

I. Timeline to refer to the SBE

ELECT will conduct a facial review of complaints within ten (10) days of their submission. If a complaint contains all required information, ELECT will refer the matter to the SBE. However, if the complaint lacks required information or is otherwise improperly filed, ELECT shall issue a notice stating that the complaint shall be dismissed without referral. Subject to Va. Code § 24.2-948.7(B), prior to the SBE's holding a public hearing on such a matter, the SBE's notice and any related records shall not be made public and are not subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-7300 *et seq.*).

II. Preliminary investigation

During a closed meeting of the SBE, the SBE will conduct a preliminary investigation to determine whether the facts stated in the complaint, if taken as true, are sufficient to show a violation of Va. Code § 24.2-948.6. If so, the SBE will request that the complainant appear and testify under oath. During the preliminary investigation, the SBE must treat the facts stated in the complaint as true.

III. Setting the hearing date.

For any complaint, the hearing shall be conducted at the next meeting of the SBE after conclusion of the preliminary investigation. ELECT shall notify the respondent within 24 hours of the commencement of a preliminary investigation.

III. Respondent's timeframe after a preliminary investigation

The respondent shall have 30 days to provide the SBE documentation or other evidence that no action should be taken against the respondent on the basis of the complaint or the allegations brought by the SBE. If the respondent provides such documentation or such other evidence, the SBE shall review the response and any other evidence provided by the complainant or witnesses to determine whether to proceed with the inquiry. If the SBE fails to find by a preponderance of the evidence presented that a violation occurred, then the SBE will dismiss the complaint. Otherwise, the SBE will proceed by calling for a public hearing.

IV. Facts that fail to give rise to a violation

If the SBE reviews the underlying facts during a closed meeting and finds that those facts, if true, are insufficient to support an allegation, then the SBE will dismiss the complaint.

V. Repayment of funds by the respondent

If at any point prior to the SBE's call for a public hearing the respondent pays back the amount that was allegedly converted to personal use, then the SBE shall dismiss the complaint or motion and end the inquiry.

SEC. 6: PUBLIC HEARING*I. Timing*

At the first regularly scheduled SBE meeting after the preliminary investigation. The timing of hearings will be set in accordance with the provisions of Va. Code § 24.2-948.7.

II. Notice

ELECT will notify both the complainant and the respondent immediately when a public hearing is called. Each party's notice will include the time, date, and location of the hearing.

III. Development of Evidence

In addition to evidence submitted by the parties, ELECT may develop an evidentiary record to assist the SBE in making their determination. Such evidence may include:

- The relevant code provisions that the respondent is alleged to have violated.
- The manner in which the relevant code provisions are alleged to have been violated.
- Summaries and reports of the factual evidence collected from the complainant, respondent, and/or witnesses during the investigation.
- The date(s) of the alleged violation.
- The manner in which the complaint was received.
- Any other relevant evidence discovered by ELECT during its investigation of the complaint.

The entire evidentiary record shall be shared with the respondent within a reasonable time prior to the hearing.

IV. The SBE's Role at the Hearing

To reach a decision on relevant matters of fact and law, the SBE may:

- Administer oaths and affirmations.

- Receive probative evidence.
- Exclude evidence that is irrelevant, immaterial, privileged, or repetitive evidence, testimony, or examination.
- Rule upon offers of proof.
- Hold conferences for the settlement of issues by consent.
- Adjudicate procedural requests.
- Regulate and expedite the course of a hearing.

The SBE's hearing procedure uses informal evidence rules. Determinations about whether evidence is relevant, probative, or admissible will be made at the discretion of the members of the SBE.

V. Parties' Rights at the Hearing

Both parties are entitled to:

- Be accompanied and represented by counsel.
- Submit oral and documentary evidence.
- Conduct examination and cross examination as may elicit a full and fair disclosure of the facts.
- Have the proceedings completed and a decision issued.
- The SBE may grant parties other rights or privileges not specifically enumerated in this subsection.

VI. Hearing Process

The SBE will initiate the hearing, administering any necessary oaths and affirmations, making any necessary preambles, and clarifying any points of procedure. Note that if the complainant refuses to participate in the hearing, the SBE must dismiss the complaint.

Once the hearing begins, the presentation of evidence will start with the complainant, who will introduce evidence to support their claim of a violation. The respondent will be given opportunity to cross-examine witnesses introduced by the complainant, at the discretion of the SBE. Then, the respondent will begin their presentation of evidence, introducing evidence to refute the allegation of a violation. At the SBE's discretion, the complainant may cross-examine witnesses presented by the respondent.

VII. SBE Decision

Following the presentation of evidence, the SBE shall conduct a vote on whether a preponderance of the evidence shows that a violation of § 24.2-948.7 occurred. The SBE shall render a final decision not later than 120 days of ELECT's referral of the complaint to the SBE.

VIII. Finding of a violation

If the SBE finds that a violation occurred, ELECT shall prepare a written judgment stating:

- The SBE's determination of the matter.
- The penalty imposed by the SBE.
- The reason for the SBE's penalty.

The judgment shall be sent to both the complainant and the respondent. Additionally, the judgment shall be posted to ELECT's website no later than three days after the SBE's determination is made.

IX. Dismissal

After initiating a public hearing, if the SBE finds no violation, then ELECT shall prepare a written judgment stating the grounds for the dismissal. If at any time the SBE determines that the complaint is without merit, then the SBE shall dismiss the complaint, advise the complainant and respondent, and take no further action.

SEC. 7: PENALTIES

If the SBE has determined that a violation occurred, it may order:

- Payment of the amount unlawfully converted to personal use; and
- Civil penalties not to exceed \$1,000 per itemized expenditure or \$10,000 total.

I. Factors to consider

In determining the repayment amount and/or the issuance of a civil penalty, the SBE should consider whether the violation was made willfully and knowingly.

If evidence suggests that the violation was *not* made willfully and knowingly, the SBE should order the respondent to pay no more than the amount unlawfully converted to personal use.

If evidence suggests that the violation was made willfully and knowingly, the SBE should order the respondent to repay the amount converted to his personal use, and an additional civil penalty.

II. Enforcement of Repayment

Repayment is enforced according to the process described in Va. Code § 24.2-946.3. The SBE will report any violation to the appropriate attorney under that Code section.

III. Indigent respondents

Respondents who claim an inability to pay the ordered fines and penalties shall work with ELECT to establish a payment plan.

SEC. 8: INTERPRETER SERVICES

If an interpreter is required, ELECT will make appropriate arrangements to ensure an interpreter is present during the hearing. The complainant or respondent shall provide ELECT reasonable notice before the hearing that an interpreter is required.

SEC. 9: FRIVOLOUS COMPLAINT

The SBE may, by a vote of four members, make a finding that a complaint is frivolous. Such a finding shall be “prima facie evidence” (meaning the claim being presented to a court has merit, when taken at face value) of abuse of process by the complainant. The State Board shall prepare a written judgment stating its determination of the matter and reasons therefor. A copy of the judgment shall be sent to each party and posted on the State Board's website no later than three days after it has been issued.

SEC. 10: RECORDKEEPING

Any records and findings related to a complaint that was not dismissed pursuant to subdivision 1 shall become archival records, as defined in Va. Code § 42.1-77, maintained permanently by the Library of Virginia. Electronic copies of such records shall be made publicly available on the State Board's website no later than 30 days after a final disposition of the matter has been decided.

SEC. 11: WEBSITE

SBE judgments shall be posted to ELECT’s website no later than three days after the SBE’s determination is made.

SEC. 12: PROHIBITED PERSONAL USE ENFORCEMENT FUND

Any civil penalty collected shall be payable to the State Treasurer for deposit into the Prohibited Personal Use Enforcement Fund established pursuant to Va. Code § 24.2-948.9.

SEC. 13: ADVISORY OPINIONS*I. Who may request an advisory opinion?*

Any person subject to the provisions of Va. Code § 24.2-948.6 may submit a request for an advisory opinion regarding a specific transaction or activity. This should be submitted on a form provided by the Department. ELECT will transmit any complete written request to the SBE.

II. Notice and comment

The SBE will make any request for an advisory opinion public upon receipt by posting on Town Hall and/or the ELECT website. The SBE will then solicit written comments within the 10-day period after the request is made public.

III. Issuing the opinion

Generally, the SBE shall issue the advisory opinion within 60 days of receiving the request. However, if the request falls within 60 days of an election involving the requesting party, then the SBE shall issue its opinion within 20 days of receiving the request.

II. Who may rely on the advisory opinion?

Any person involved in the transaction subject to the opinion, or any person involved in a materially indistinguishable transaction.