

State of Maryland 
State Board of Elections – June 27, 2019 Meeting

Attendees: David McManus, Chair
Patrick J. Hogan, Vice Chair
Michael R. Cogan, Member
Malcolm L. Funn, Member
Linda Lamone, Administrator
Nikki Charlson, Deputy Administrator
Andrea Trento, Assistant Attorney General
Donna Duncan, Assistant Deputy, Election Policy
Keith Ross, Assistant Deputy, Project Management
Erin Perrone, Director, Election Reform and Management
Tracey Hartman, Director of Special Projects
Shafiq Satterfield, Acting Voting Systems Director
Mary Wagner, Director, Voter Registration
Sarah Thornton, Technical Writer, Project Management Office
Victoria Smith, Candidacy and Campaign Finance
Shermaine Malcolm, HR Director

Also Present: Tracy Dickerson, Director, Charles County Board of Elections
Katherine Berry, Director, Carroll County Board of Elections
Abigail Goldman, Deputy Director, Baltimore City Board of Elections
Anthony Gutierrez, Director, Wicomico County Board of Elections
Jeri Cook, Director, Talbot County Board of Elections
Guy Mickley, Director, Howard County Board of Elections
Stephanie Taylor, Harford County Board of Elections
Margaret Jurgensen, Director, Montgomery County Board of Elections
Jessica Newby, Montgomery County Board of Elections
Danielle Gaines, Maryland Matters
Ralph Watkins, League of Women Voters – Maryland
Barbara Sanders, League of Women Voters – Montgomery County
Sandra Bishop, National Federation of the Blind, Anne Arundel County
Janice Toothman, National Federation of the Blind
Ivaria Smith, National Federation of the Blind
Sharon Maneki, National Federation of the Blind
Brian Wivens, National Federation of the Blind
Amber Woods, National Federation of the Blind
Greg Martin, National Federation of the Blind
Tom Bickford, National Federation of the Blind
Renee Donalvo, National Federation of the Blind
Joyce Martin, National Federation of the Blind
Abdullahi Abbas, National Federation of the Blind
Terri Nettles, National Federation of the Blind
Jill Collins, National Federation of the Blind
Georgia, National Federation of the Blind
Eric Fifer, National Federation of the Blind
Rona Orthman, National Federation of the Blind
Stacy Goodman, Department of Legislative Services
Lynn Garland, citizen

DECLARATION OF QUORUM PRESENT

Mr. McManus called the meeting to order at 1:59 pm and stated that there was a quorum present, despite that Kelly Howells, Board Member, was absent due to a family emergency. Mr. McManus stated that the meeting was being recorded.

RATIFICATION OF MINUTES FROM MAY 2019 MEETING

Mr. Hogan made a motion to ratify the approved minutes from the May 16, 2019, meeting, and Mr. Cogan seconded the motion. The motion passed unanimously.

ADDITIONS TO THE AGENDA

Mr. McManus stated that there would be two additions to the agenda, one during old business and one during new business. Mr. Hogan also stated that he had an addition to the agenda that would be new business.

REMARKS FROM THE CHAIRMAN

Mr. McManus noted that this would be his last meeting with the State Board of Elections, as it is the end of his third four-year term. He took the opportunity to thank many people whom he has had the pleasure of working with over his twelve year tenure with the Board, including current and past SBE Board Members and Chairs, SBE Assistant Attorneys General, Ms. Lamone, and SBE staff, and welcomed his replacement, Mr. Bill Voelp of Anne Arundel County.

Mr. Hogan added his agenda item to present Mr. McManus with a Governor's Citation for his service to the Maryland State Board of Elections.

ADMINISTRATOR'S REPORT

1. Announcements & Important Meetings

New SBE Staff Member

Ms. Charlson announced an addition to the Administrator's report. She introduced Shermaine Malcolm as the new Director of Human Resources for SBE. Ms. Malcolm comes to SBE from the Maryland Department of Health.

Maryland Association of Election Officials (MAEO) – 2019 Annual Meeting

Ms. Charlson stated that MAEO's 2019 Annual Meeting took place May 22nd and May 23rd in Ocean City. The agenda was substantive and included several rotating breakout sessions covering topics such as leadership development, the Open Meetings Act, the 2019 Legislative Session, and social media. Other sessions included information on how we secure elections in Maryland, sharing of best practices, and informational sessions for local board members. Several SBE representatives presented at the meeting.

The second day of the meeting was a tabletop exercise (TTX) for local board staff members who did not participate in SBE's August 2018 TTX. The TTX was organized and led by two SBE employees, Ms. Hartman and Ms. Perrone, and a team from the Howard County Board of Elections, including Mr. Mickley, Election Director for the Howard County Board of Elections. Approximately 116 local board staff members participated and were led through the exercise by 25 moderators. Throughout the day, the moderators presented scenarios to the participants, and the participants took appropriate action on each scenario. For example, a court decision prohibiting the use of churches as polling places required quick action to move polling places, notify pollworkers and voters, and other tasks. Josh Kurtz from *Maryland Matters*, an online publication covering State government and politics, joined us as a fictional media person and allowed us to practice answering questions from the press. While the day

was very hectic, the participants gave overwhelmingly positive feedback in terms of what they learned and what they still need to develop.

Running concurrent with the TTX was a session on how to conduct a TTX. Attendees of this session were limited to one or two individuals per local board, and each attendee must have participated in SBE's August 2018 TTX. During this session, we discussed possible scenarios to present to local board members, staff, and election judges and document their responses. Since the attendees want to continue identifying appropriate responses to various scenarios, this effort continues.

Mr. Cogan shared that he attended the MAEO conference and observed the TTX and was very impressed with both. He enthusiastically encouraged his fellow Board members to attend future MAEO conferences and TTX exercises.

National "Tabletop the Vote"

Ms. Hartman stated that the U.S. Department of Homeland Security (DHS) hosted its second national "Tabletop the Vote" exercise the week of June 17, 2019. Represented by 34 staff members from 21 local boards and SBE, Maryland participated in the exercise on June 19th. The exercise included "injects" (or scenarios), and each state had time to respond to the scenarios and share their responses with other participants.

SBE Statewide TTX – October 2019

Ms. Hartman stated that similar in format to the previous two TTXs, SBE will host another TTX on October 18, 2019, at the Anne Arundel County Board of Elections. These will be all new injects from the previous two TTXs, so those who have already participated may participate again. Election Directors have been asked to select three to four staff members to participate. This TTX will be held the day after SBE's biennial meeting.

2019 Equal Employment Opportunity (EEO) Retreat

Ms. Perrone stated that she will attend the Statewide EEO Retreat at Saint Mary's College from July 10th - July 12th. This retreat is held every two years and is a great opportunity for her to network with other EEO officers across the State. Some of the topics covered at this year's retreat include the legal and policy aspect of medical cannabis, how to better promote and protect civility in the workplace, and the laws of workplace discrimination. As the agency's EEO Officer, it is important for her to attend the retreat to receive the latest law changes and court decisions.

2. Election Reform and Management

Election Judge Workgroup

Ms. Perrone stated that the Election Judge Workgroup met last week to discuss a variety of topics and assist SBE with determining specific processes at the early voting centers and polling places. A new polling place sign to be used across the State has been developed, with the help of Baltimore City, for voters to check that they receive the correct ballot style. Assistance was given with developing new regulations for the Election Day Page Program and regulation changes to allow voters to drop off absentee ballots during early voting and on election day.

Social Media Working Group

Ms. Perrone reported that The National Association of Secretaries of State (NASS) and the National Association of State Election Directors (NASSED) formed a nationwide social media

workgroup. Cortnee Bryant is the representative for the State of Maryland. She will work with communications directors and staff from other State election offices and share with the local boards' information presented at these meeting, such as the process to verify social media accounts, security measures, website updates, and a cyber incident plan.

New Social Media Accounts

Ms. Perrone reported that the Talbot County Board of Elections now has a Twitter and a Facebook account and the Worcester County Board of Elections now has a Twitter account. Cortnee Bryant works closely with the local boards and representatives from Twitter and Facebook to get social media accounts verified.

Comprehensive Audit of 2018 Elections

Ms. Hartman stated that preliminary comprehensive audit reports from the 2018 elections were delivered to all Election Directors on June 14th. This audit reviews 15 different areas of an election that if not performed correctly may impact the integrity of the election. These areas fall into three topics – Voting Systems, Polling Place Operations, and Canvassing and Post-Election Reconciliation and Audits. The local boards can either accept or reject the findings and give reasoning as to why by June 28th. After reviewing and responding to responses, we will issue a final report for each local board.

Same Day Registration and Address Change Working Group

Ms. Hartman reported that a working group, led by herself and including representatives from the all SBE Divisions, began meeting in March to plan for the implementation of same day registration on election day and reviewing the process of same day registration and address change during early voting. This working group is currently working through any obstacles related to polling place connectivity, and planning and budgeting for all the necessary items to be procured. This planning is ongoing, and the group will continue to meet through the 2020 General Election.

3. Voter Registration

MDVOTERS

Ms. Wagner reported that the team is currently working on GIS requirements and capturing the GIS requirements of the local boards. This effort will benefit with the redistricting process, and SBE will be working closely with MAEO's committee on redistricting/GIS.

MVA Transactions

Ms. Wagner reported that during the month of May, MVA collected the following voter registration transactions:

New Registration - 10,087	Residential Address Changes - 19,050
Last name changes - 2,063	Political Party Changes - 5,502

Non-Citizens' Information for the Month of May

Ms. Wagner noted the statistics regarding non-citizens for the month of May:

Submitted to the Office of the State Prosecutor - 11

Removal of non-citizens - 11

Removal of non-citizens who voted - 2

Removal of non-citizens who voted multiple times - 1

Non-citizens reported by Immigration & Customs Enforcement - 0

Change in status from Office of the State Prosecutor - 0

4. Candidacy and Campaign Finance (CCF) Division

Candidacy

Ms. Charlson reported, in the absence of Jared DeMarinis, that the 2020 candidate filing period opened in February 2019. Currently, 23 candidates have filed at SBE for the 2020 election cycle. SBE has filed 8 candidates for Baltimore City offices.

Campaign Finance

Ms. Charlson reported that the Contribution Disclosure Statement was due on May 31, 2019, for persons doing public business and persons who employ a lobbyist and make applicable contributions. 750 statements have been filed.

Enforcement Actions

Ms. Charlson reported that the CCF Division received the payments for the following civil penalties:

1. Friends of Shanai Dunmore paid a civil penalty of \$25.00 on June 7, 2019, for making cash disbursement greater than \$25.00.
2. Friends for Chuck Ferrar paid a civil penalty of \$650.00 on June 20, 2019, for failing to record contributions and expenditures.

5. Project Management office (PMO)

Inventory Management

Mr. Ross reported that the FY2019 Annual Inventory Audit for equipment and supplies continues at SBE and the local boards. June 30th is the deadline for everyone to complete their inventory audit. At present, 94.47% of equipment and supplies statewide have been inventoried. This includes all 24 local boards being at least 90% compliant and 17 local boards that are 100% compliant with their inventory audits.

August 15th and September 15th are the due dates for the Department of General Services' annual reports. Prior to those dates, SBE will be working with the local boards to reconcile any inventory issues.

The PMO is working on physically transferring the equipment and supplies slated for disposal here at the SBE office and from the local boards to SBE's Central Warehouse.

Additional Space

Mr. Ross stated that the PMO continued its coordination, logistics, and scheduling of work with the additional office space in addition to the upcoming painting and carpeting project that will be taking place starting in July in the existing office space. During the month of June, management and staff have been busy preparing for the upcoming work.

Procurements

Mr. Ross reported that the PMO is currently working on the procurements for additional precinct voting booths, privacy sleeves, and black transportation carts.

6. Voting System

Ms. Charlson introduced Mr. Satterfield as the Acting Voting Systems Director after the departure last month of Paul Aumayr. Mr. Satterfield has been with SBE for a number of years as the manager of the Regional Managers, a role he is also currently still serving.

Electronic Pollbooks

Mr. Satterfield reported that SBE continues to work with ES&S on the software update to implement same day registration on election day. We have finalized the specifications and signed off on all change requests and expect a testable version of the updated software in late summer. An intermediate release will provide updated screenshots for election judges' documentation.

Voting System

Mr. Satterfield reported that SBE continues to plan for a possible software and firmware upgrade to all components of the voting system. On May 1st, SBE received a beta version of the software, including new software on the precinct scanners and ballot marking devices, for review and familiarization. SBE expects to receive at the end of June 2019 a beta version with additional features. ES&S has submitted to the voting system testing lab the software for examination for federal certification. The U.S. Election Assistance Commission has approved the test plan for the certification process.

7. Information Technology

Baltimore City - Ransomware Attack

Ms. Charlson reported that Baltimore City Board of Elections employees continue to use computers in Baltimore and Harford Counties to process MDVOTERS work. SBE serves as an alternate site for candidates for Baltimore City offices to file for office.

ASSISTANT ATTORNEY GENERAL'S REPORT

Mr. Trento provided the following report.

1. *Benisek v. Lamone*, No. 1:13-cv-03233 (U.S. District Court, D. Md.). This case involves claims that the State's congressional districting map is an unconstitutional political gerrymander. On November 7, 2018, the court granted the plaintiffs' motion for summary judgment, denied that of the defendants, and awarded judgment to the plaintiffs. Defendants appealed to the Supreme Court, and the ruling was stayed during the pendency of the appeal. On March 26, 2019, the appeal was argued to the Supreme Court. A ruling was expected on the morning of June 27, 2019, and Mr. Trento noted that, while he did not have any official report to read, the the Supreme Court had ruled in favor of the defendants.
2. *Fusaro v. Davitt et al.*, No: 1:17-cv-03582 (U.S. District Court, D. Md.). No change from the last update. Plaintiff Dennis Fusaro brought a complaint in federal court alleging that Maryland violates the First and Fourteenth Amendments by limiting access to the voter list to Maryland voters and only for purposes related to the electoral process. On September 4, 2018, the State defendants' motion to dismiss the complaint was granted, and the plaintiff appealed. The Fourth Circuit heard argument on the appeal on March 20, 2019. The court has not yet ruled.
3. *Johnson v. Prince George's County Board of Elections*, No. CAL16-42799 (Cir. Ct. Prince Georges Cnty.). No change from the last update. This case involves a challenge under the U.S. Constitution and Maryland Constitution and Declaration of Rights to the SBE's alleged failure to provide information and access to voter registration and voting resources to eligible voters detained by the Prince Georges County Department of Correction during the 2016 election. The case had been originally filed in the Circuit Court for Prince Georges County but was removed on the basis of the federal claims asserted by the Plaintiffs. On February 27, 2018, the U.S. District Court for the District of Maryland granted SBE's motion to dismiss the Plaintiffs' federal claims, declined to exercise jurisdiction over the state claims, and remanded

the case to the Circuit Court for further proceedings. The parties are awaiting further direction from the court.

4. *Barber v. Maryland Board of Elections*, No. C-02-CV-17-001691 (Cir. Ct. Anne Arundel Cnty.) No change from the last update. On January 25, Ms. Barber appealed from the Circuit Court’s January 11 dismissal of her complaint. Ms. Barber sought damages and judicial review of, among other things, the State Board’s decision not to issue a declaratory ruling permitting her to use campaign funds to pay for litigation costs she incurred in her unsuccessful attempt to retain her position as an administrative law judge in the District of Columbia. Ms. Barber was ruled ineligible for that position due to her candidacy in 2016 for Judge of the Circuit Court for Prince George’s County, Maryland. The appeal is fully briefed, and on December 18, 2018 the Court of Special Appeals ordered that the appeal would be adjudicated without oral argument.
5. *Judicial Watch v. Lamone*, No. 1:17-cv-02006-ELH (U.S. District Court, D. Md.). No change from the last update. This case involves the denial of access to Maryland’s voter registration database. Under Maryland law, access to the voter registration list is limited to Maryland registered voters and only for non-commercial, election-related uses. Judicial Watch—an elections watchdog group located in Tennessee—requested Maryland’s voter registration “database” and was denied because it was not a Maryland registered voter. Judicial Watch filed suit, arguing that the database was required to be disclosed under the federal National Voter Registration Act. On April 24, 2019, Judicial Watch filed a reply in support of its motion for summary judgment. On May 8, 2019, the defendants filed a reply in support of their cross-motion for summary judgment. The motions for summary judgment are now fully briefed.
6. *The Washington Post, et al. v. McManus, et al.*, No. 1:18-cv-02527 (U.S. District Court, D. Md.). This case presents a First Amendment challenge by a coalition of newspaper publishers that maintain an online presence to certain provisions of the recently-passed Online Electioneering Transparency and Accountability Act (the “Act”). On January 4, 2019, the district court granted the plaintiffs’ motion for preliminary injunction on the ground that the plaintiffs’ “as applied” constitutional challenge to the statute was likely to succeed. On February 2, 2019, the defendants appealed that ruling to the Fourth Circuit. On April 12, 2019, the defendants filed their opening appellate brief. On April 19, 2019, the Campaign Legal Center and Brennan Center for Justice filed *amicus curiae* briefs in support of the appellants. On May 31, 2019, the plaintiffs filed their response brief. On June 7, 2019, *amicus curiae* briefs in support of the plaintiffs were filed by the Institute for Free Speech, the National Association of Broadcasters and NCTA – The Internet & Television Association, and the News Media Alliance together with 16 other media organizations. The defendants’ reply is due July 3, 2019.
7. *Segal v. Maryland State Board of Elections*, No. 1:18-cv-2731 (U.S. District Court, D. Md.). No change from the last update. On September 5, 2018, Jerome Segal filed a complaint seeking a preliminary and permanent injunction requiring the State Board of Elections to accept the petition filed in support of the creation of the Bread and Roses party, and to include plaintiff’s name on the general election ballot as the Bread and Roses Party’s nominee for the U.S. Senate contest. On September 18, 2018, the court denied plaintiff’s requested preliminary injunction, on October 11, 2018 the court of appeals affirmed that ruling, and on November 14, 2018, the court of appeals denied plaintiff’s request for *en banc* review. On January 4, 2019, the district court ordered plaintiff to submit a status report by January 18, 2019, indicating if the case can be dismissed as moot. The court reissued the order on April 9, 2019.

8. *Johnston, et al. v. Lamone*, No. 18-cv-3988-ADC (D. Md.). No change from the last update. On December 28, 2018, the Libertarian Party of Maryland (the “Party”) and its Chairman, Robert Johnston, filed a lawsuit alleging that the statutory scheme governing the official recognition of minor parties in Maryland, as applied to the Party, was unconstitutional in at least two ways. They alleged that the scheme violates their First Amendment speech and association rights by requiring the Party to undertake the petition process to re-obtain formal recognition under State law, when there are already over 22,000 Maryland voters currently registered as Libertarians. They also alleged that the standard by which Maryland verifies petition signatures is unconstitutionally strict, in that it requires the rejection of signatures of known Maryland voters due to technical noncompliance with the statutory standard. Plaintiffs moved for a preliminary injunction, which was denied at a hearing on January 31, 2019. Subsequently, the defendant filed a motion to dismiss, which is fully briefed and pending before the court.

9. *Phukan v. Maryland State Board of Elections*, No. C-2-CV-19-000192 (Cir. Ct. Anne Arundel Cnty.). On January 23, 2019, Anjali Reed Phukan, who was the Republican nominee for Comptroller in the 2018 election, filed a lawsuit against the State Board of Elections seeking a writ of mandamus directing the State Board of Elections to decertify Comptroller Peter Franchot’s campaign committee, an injunction requiring Mr. Franchot and his campaign committee to file corrected campaign finance reports, a declaratory judgment that Ms. Phukan is entitled to examine the documentation supporting any corrected campaign finance reports that Mr. Franchot or his committee files, and a declaratory judgment that Ms. Phukan be issued the oath of office as Comptroller and be awarded back pay and the costs of suit, should Mr. Franchot or his committee fail to file corrected campaign finance reports. On April 15, 2019, the court granted the defendant’s motion to dismiss and dismissed the complaint with prejudice. On May 22, 2019, the court denied the plaintiff’s motion to vacate the judgment and motion for a new trial. On May 29, 2019, the plaintiff filed a notice for in banc review by the circuit court, and filed her memorandum for in banc review on June 21, 2019. The defendants’ memorandum in opposition is due July 9, 2019.

10. *Women Against Private Police, et al. v. State Board of Elections*, No. C-2-CV-19-001327 (Cir. Ct. Anne Arundel Cnty.). On April 29, 2019, plaintiffs Women Against Private Police and its chairperson, Jillian Aldebron, filed a complaint for judicial review and declaratory judgment against the State Board of Elections and the Administrator of Elections regarding an advance determination issued by Administrator as to the sufficiency of the format of a proposed petition seeking to place that portion of SB 793, the Community Safety and Strengthening Act, authorizing Johns Hopkins University to establish a private police force, to the voters at referendum. On May 21, 2019, the defendants’ motion to dismiss the complaint was granted.

DETERMINE USE OF BALLOT MARKING DEVICES IN 2020 ELECTIONS

Mr. McManus stated that he was moving Agenda Item #10 – Determine Use of Ballot Marking Devices (BMDs) in the 2020 Elections – earlier in the agenda to accommodate the members in the audience.

Mr. McManus gave background information on the usage of BMDs, explaining that the current policy (minimum of 2 voters per voting location must use a BMD) was put in place to ameliorate problems that were out of SBE’s control. However, not all of the previous problems have been fixed and Mr. McManus stated that the Board is committed to reexamining the policy and amending it to better meet the needs of the various stakeholders.

There was much discussion whether voters had found BMD navigation easier and the underlying cause of the overall low usage. Ms. Charlson, in response to questions from the Board members, stated that she couldn't answer if navigation had become easier for voters, but that SBE has not had many complaints about how to use the BMD. She also stated that check-in judges are supposed to be notifying voters that there is an accessible way to vote, but not all election judges provide this statement and this could explain why usage is low. Mr. Hogan speculated that depending on the language used by the election judges that a voter might assume that "an accessible way to vote" is reserved for those who only need an accessible way to vote. Mr. Cogan pointed out that communication between the election judges and voters seems to be the main problem.

The conversation turned to increasing usage by increasing the number of BMDs at voting locations, with the thought that a voter is more likely to use a BMD if there is an open one. In response to a question from the Board, Ms. Charlson stated that SBE has approximately 3,500 BMDs in our possession. Obtaining more depends on how many ES&S can get to us, which is dependent on awards that they have pending with other states.

There was much discussion about how to increase the use of BMDs by either, or some combination of, increasing the minimum number of voters required to use the machines, increasing the number of machines at each voting location, letting each local board decide how many BMDs they need at each location, or setting a minimum number of machines and having each local board request a waiver if they need more than the minimum.

In response to a question from a Board member, Ms. Charlson stated that our constraints on increasing the number of BMDs in SBE's possession are the cost of more machines and ES&S's own inventory which is dependent on pending contracts they have with other states. Ms. Charlson explained that the production time for a new BMD is 12-14 months, which would mean that we would not receive any BMDs made specifically for SBE prior to the primary election.

After further discussion, including input from Election Directors present at the meeting, Mr. Cogan made a motion that:

1. Each local board shall deploy to each polling place at least 1 BMD and may deploy 2 BMDs per polling place. If a local board needs more than 2 BMDs at a polling place, the local board shall ask the State Board to allow it to deploy more than 2 BMDs;
2. Each local board shall deploy to each early voting center at least 1 BMD and may deploy up to 4 BMDs per early voting center. If a local board needs more than 4 BMDs at an early voting center, the local board shall ask the State Board to allow it to deploy more than 4 BMDs;
3. A minimum of 5 voters must use the BMDs at each voting location. The election judges must try to meet this minimum by 1 pm;
4. There shall be increased election judges training regarding notifying voters of the option to use the BMDs;
5. The duty of notifying the voter of the option to use the BMDs shall be changed from the check-in judge to the ballot issuance judge; and
6. The statement given by the election judge to the voter to notify them of the option to use the BMD shall be updated by SBE staff and be used across the State.

Mr. Hogan seconded the motion, which passed unanimously.

APPROVAL OF REQUESTS FOR WAIVERS OF CAMPAIGN FINANCE LATE FEES

Ms. Smith, in the absence of Mr. DeMarinis, presented requests from one campaign committee to waive late fees incurred by the committees. Nine campaign committees were denied waivers of late fees and were presented to the board for informational purposes. The committee requesting a waiver of late filing fees was Friends of Abel Olive.

Mr. Hogan made a motion to approve the waiver request, and Mr. Funn seconded the motion. The motion passed unanimously.

APPROVAL OF REGULATIONS – FINAL APPROVAL: TITLE 8 POST-ELECTION VERIFICATION AND AUDITS

Ms. Charlson explained that these regulations were the same regulations that had been discussed extensively at the April and May State Board meetings. The proposed regulations have been published and public comments were received. She provided a summary of the public comments and the recommended actions for each comment. She also provided, as requested by the Board, a document showing what the final regulations would look like if the regulations adopted for publication in October and November 2018 were adopted as presented. Finally, Ms. Charlson corrected a statement she made at the May meeting, stating that Clear Ballot's audit software reads the barcodes on the ballot images of ballots marked by the BMDs, as opposed to the names listed with each barcode.

Mr. McManus stated that he spoke with Ms. Howells and that she did not have any further questions. Ms. Cogan stated that while he agrees that these regulations should be the final form for now, he expects that SBE will revisit and amend the regulations further prior to the 2020 elections.

Mr. Funn made a motion to adopt as final the regulations published in the March 1, 2019, edition of the *Maryland Register*, and Mr. Hogan seconded. The motion passed unanimously.

APPROVAL OF PROPOSED REGULATIONS FOR PUBLICATION: SUBTITLE 16 PROVISIONAL BALLOTS

Ms. Perrone presented proposed regulations to update Subtitle 16: Provisional Voting. Under Election Law Article §9-403(c), SBE is required to review before each primary election the regulations governing provisional voting. Ms. Perrone explained that the new or deleted language in the following regulations includes same day registration on election day as enacted in Chapter 755 of the 2019 Laws of Maryland.

1. ***Provisional Voting – Provisional Voting Documents and Supplies (33.16.02.03A)***
A special provisional ballot application is used during early voting for individuals who register to vote during early voting and are not eligible to receive a regular ballot. The same application will need to be used for individuals who register to vote on election day and are not eligible to receive a regular ballot.
2. ***Provisional Voting – Provisional Voting Documents and Supplies (33.16.02.03C)***
The State Administrator provides a local board with instructions for election judges on the procedures for same day registration and address changes during early voting. Instructions for election judges on the procedures for same day registration on election day will also need to be provided to the local boards.
3. ***Provisional Voting – Provisional Voting Documents and Supplies (33.16.02.06C)***

During early voting, a local board may combine the provisional voting station with the same day registration and address change station. This proposed change allows a local board to combine the provisional voting station with the same day registration station on election day as well.

4. ***Provisional Voting – Pre-Canvass Procedures (33.16.04.02A(1)(d))***

Special provisional ballot applications used during early voting are reviewed for completeness by the local board prior to the provisional canvass. Local boards will have to review special provisional ballot applications used on election day prior to the provisional canvass.

5. ***Provisional Voting – Pre-Canvass Procedures (33.16.04.02A(2)(g))***

The local board must determine whether an individual's provisional ballot application can be accepted if that individual was not a pre-qualified voter. The local board will have to determine the same for provisional ballot applications for individuals who use same day registration on election day.

6. ***Provisional Voting – Pre-Canvass Procedures (33.16.04.02A(2)(h))***

The local board must determine whether an individual's provisional ballot application can be accepted if that individual was not able to provide proof of residency. The local board will have to determine the same for provisional ballot applications for individuals who use same day registration on election day and could not provide proof of residency.

7. ***Provisional Voting – Canvass of Ballots - Procedures (33.16.05.03C(8))***

The local board must determine whether an individual's provisional ballot application can be accepted if that individual was not a pre-qualified voter during early voting. The local board will have to determine the same for provisional ballot applications for individuals who use same day registration on election day.

The proposed change in the following regulation is for clarification and to address an incorrect reference to another section of COMAR.

8. ***Provisional Voting – Issuance of Provisional Ballot (33.16.03.01A(3))***

If a voter's driver's license or full or partial social security number could not be verified, the voter's registration status is pending. If that voter appears at an early voting center during early voting or a polling place on election day, the voter needs to provide the necessary information for his or her registration status to become active. By deleting the reference to early voting, the regulation covers voters who appear to vote during early voting or on election day.

With no questions, Mr. Hogan made a motion to approve the submission of these regulations for publication and public comment, and Mr. Funn seconded the motion. The motion approved unanimously.

APPROVAL OF BYLAWS OF LOCAL BOARDS OF ELECTION

Ms. Hartman presented to the State Board model bylaws for 2019-2023 term of the local boards of elections, as well as a document outlining the differences in duties between local board members and local board staff. Ms. Hartman noted that the model bylaws included multiple new sections, and the local boards were encouraged to adopt bylaws similar to the model bylaws.

Ms. Hartman presented the bylaws for Baltimore, Cecil, and Dorchester Counties for adoption. She stated that the bylaws as presented by each local board were identical to the model bylaws

except for filling in the name of the local board , removing references to substitute members, and deciding, in Section 4.2, the level of political activity each member is allowed.

Mr. Hogan made a motion to accept the bylaws of Baltimore, Cecil, and Dorchester Counties as adopted by the local board, and Mr. Funn seconded. The motion passed unanimously.

OLD BUSINESS

MAEO Personnel Proposal

Mr. McManus stated that there have been no changes to the responses from chief elected officials in each county since the May meeting. Mr. Hogan suggested what he proposed at the last meeting and in the most recent letter that was sent to the chief elected officials, which was a 3% Cost of Living Adjustment (COLA) in July 2019 (as other state employees are receiving) plus a 2% salary increase.

Mr. Hogan made a motion to increase the salary of State employees of the local boards to receive a 3% COLA increase and 2% salary increase in FY 2020. Mr. Cogan seconded the motion which passed unanimously.

Mr. Hogan advised the representatives of the Maryland Association of Election Officials that, if proposals for future salary increases are submitted, they should be presented much earlier in the fiscal year.

MVA Issuance of REAL ID Licenses

Ralph Watkins from the League of Women Voters of Maryland (LWV – Maryland) spoke before the Board as a follow up to comments that were made during the May 2019 meeting. He referenced a written statement that was included with the meeting folder. Mr. Watkins reiterated that the LWV – Maryland is opposed to any removal of voters from the voter registration rolls for failure to provide all required documentation to comply with the REAL ID Act.

Mr. Cogan responded to the issue, stating that he was the one who made the comments at the May meeting to which Mr. Watkins is referring. Mr. Cogan clarified that he was not suggesting that SBE actually remove registered voters from the voter registrations database, but rather that MVA send a “red flag” to SBE for those individuals who do not have the appropriate documentation.

NEW BUSINESS

Voter Registration Application- Needs to Match with MVA Application

Ms. Wagner presented the Board with an issue since the passing of HB421/SB196 (Chapter 648) of the 2019 Legislative Session. She explained that the Voter Registration Application (both online and paper) only lists male and female for gender designations, while the MVA driver’s license applications will allow, starting October 1, 2019, for applicants to choose “unspecified or other” as mandated in the bill, as a gender option. Ms. Wagner referenced a letter from Delegate Carr who noticed that Maryland’s voter registration application only allows for male and female as gender options. Ms. Wagner pointed out that the National Voter Registration Act (NVRA) requires a person to answer a question once in order to obtain a driver’s license and register to vote, and that the Maryland statute states that Maryland must have a uniform voter registration application.

As a solution, Ms. Wagner presented the Board with a draft version of a new voter registration application that includes “Unspecified” as a third option for gender, in order to align the gender options on the voter registration application with the gender options on MVA’s driver’s license

application. Ms. Wagner stated she is presenting the issue now because of the time required to print voter registration applications in time for the October 1st effective date of the new law. In response to a question from the Board, Ms. Wagner stated that there is no fiscal impact of this change, as Maryland's voter registration database already has "unspecified" as a gender option. This option is in the database because the National Voter Registration Form does not include a field for the applicant's gender.

Mr. Funn made a motion to include "unspecified" as an option for gender on the voter registration application, and Mr. Hogan seconded. The motion passed unanimously.

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

Mr. Hogan disclosed a contribution of \$500 to Citizens for Adrienne Jones. No other Board members had any contributions to report.

SCHEDULE NEXT MEETING

The next meeting is scheduled for Thursday, July 25, 2019, at 2:00 pm.

ADJOURNMENT

Mr. McManus made a motion to adjourn the open meeting, and Mr. Hogan seconded the motion. The motion passed unanimously. Mr. McManus adjourned the meeting at 4:16 pm.