



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

# BOARD MEETING

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Wednesday, August 15, 2018  
Senate Room 3  
Virginia State Capitol  
Richmond, VA  
11:30AM

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SBE Board Working Papers



**STATE BOARD OF ELECTIONS  
AGENDA**

*DATE: Wednesday, August 15, 2018  
LOCATION: Senate Room 3  
Virginia State Capitol  
Richmond, VA  
TIME: 11:30 A.M.*

- I. CALL TO ORDER** *James B. Alcorn  
Chair*
- II. COMMISSIONER'S REPORT** *Jessica Bowman  
Deputy Commissioner*
- III. APPROVAL OF MINUTES** *Singleton McAllister  
SBE Secretary*
- A.** June 20, 2018
- IV. NEW BUSINESS**
- A.** Virginia Elections Benchmark Index Workgroup *Allison Robbins  
Chair of the Benchmark Index  
Workgroup, Wise County  
GR/Director of Elections*
- B.** Request to use Approved Voting Systems in the City  
of Petersburg pursuant to §24.2-630 *Eugene Burton  
Voting Technology Coordinator*
- C.** Stand By Your Ad Policy *Arielle A. Schneider  
Policy Analyst*
- D.** Risk-Limiting Audit Report *James Heo  
Confidential Policy Assistant*
- E.** Review of the Recertification of the 2017 November  
General Election *Dave Nichols  
Election Services Director*
- V. OTHER BUSINESS & PUBLIC COMMENT**
- VI. ADJOURNMENT**

**NOTE:** During the discussion of each topic there will be an opportunity for public comment. Anyone wishing to discuss an issue not on the agenda will be allowed to comment at the end of the new business section.

All materials provided to the Board are available for public inspection under the Virginia Freedom of Information Act upon request.



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STATE BOARD *of* ELECTIONS

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# Call to Order

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BOARD WORKING PAPERS

James Alcorn  
SBE Chair



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STATE BOARD *of* ELECTIONS

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# Approval of Board Minutes

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BOARD WORKING PAPERS  
Singleton McAllister  
Secretary of the Board

1           MINUTES

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3           The State Board of Elections board meeting was held on Monday, June 25, 2018,  
4 in the James River Ballroom at the Koger Center, 1021 Koger Center Blvd, Richmond,  
5 Virginia. The meeting was held on the first day of the 2018 annual training.

6           In attendance: James Alcorn, Chairman, and Clara Belle Wheeler, Vice Chair  
7 represented the State Board of Elections (“The Board”); Singleton McAllister, Secretary,  
8 attended electronically. On behalf of the Department of Elections (“ELECT”) was  
9 Christopher E. “Chris” Piper, Commissioner, and Jessica Bowman, Deputy Commissioner.  
10 In attendance, representing the Office of the Attorney General (“OAG”), was Anna  
11 Birkenheier, Assistant Attorney General. Chairman Alcorn called the meeting to order at  
12 3:05 PM.

13           The first order of business was to approve Secretary McAllister attending the  
14 meeting electronically. Chairman Alcorn moved *the Board approve Secretary*  
15 *McAllister’s electronic participation in this meeting.* Vice Chair Wheeler seconded the  
16 motion, and the motion passed 2 TO 0.

17           The next order of business was the Commissioner’s report, presented by  
18 Commissioner Piper. The Commissioner thanked ELECT staff for planning the 2018  
19 annual training. Commissioner Piper informed the Board that on July 23, at 9:00 AM and  
20 2:30 PM, the Department of Motor Vehicles (“DMV”) would open their training room in  
21 Richmond to give a presentation on the DMV process and the motor voter process. The  
22 training may be broadcast via webinar, but that was not yet confirmed. The Commissioner  
23 said the training would be a great opportunity to see the motor voter process from the  
24 perspective of the customer, as well as from the perspective of the customer service  
25 representative. Commissioner Piper shared that the first meeting of the Virginia Elections  
26 Benchmark Index Workgroup (“Benchmark Workgroup”) would take place at 5:00 PM in  
27 the James River Ballroom, after the conclusion of the Board meeting. The Commissioner  
28 said the Board approved the Benchmark Workgroup at the meeting on April 25, and said  
29 the first meeting would be organizational in nature. The meeting would also feature a  
30 presentation from Jackie Anderson, Senior Consultant at International Consulting Services,  
31 LLC., (“ICS”). Commissioner Piper shared that ICS was a global consulting firm that often

32 worked with ELECT on projects including developing strategic plans, organizing, and  
33 developing priorities, measurements, and metrics.

34 Chairman Alcorn expressed interest in the DMV training, and enthusiasm for the  
35 Benchmark Workgroup and its potential to set the foundation for nonpartisan, objective  
36 analysis in elections. Vice Chair Wheeler asked the Commissioner if ELECT would send  
37 communication to the election community on the date, time, and location of the DMV  
38 training, and the Commissioner said they would. The Commissioner shared that on Friday,  
39 June 22, ELECT sent an update on the DMV policy and said if there were questions to ask  
40 him or Deputy Commissioner Bowman.

41 The next order of business was reviewing the proposed in-person absentee ballot  
42 application, presented by Samantha Buckley, one of the ELECT's Policy Analysts.  
43 Chairman Alcorn reminded the Board that they looked at this form during the June 19  
44 meeting, but asked ELECT for information on how this application lined up with the  
45 workflow in the Virginia Election Registration Information System ("VERIS"). Ms.  
46 Buckley said one of the questions the Board had was in relation to how the format of the  
47 form matched the format of data entry in VERIS, and said that ELECT provided  
48 screenshots of the VERIS data entry screens in the Board's working papers. Ms. Buckley  
49 noted that it would be difficult to mirror the VERIS screens on paper, since the VERIS  
50 screen was designed for the general registrar ("GR"), while the paper form was designed  
51 for the voters.

52 Vice Chair Wheeler stated when the form was last presented, the Vice Chair and  
53 Secretary McAllister both voiced concern for uniformity with the addition of this form.  
54 Vice Chair Wheeler stated there was already a form that a voter could fill out in the GR's  
55 office, and therefore did not understand why a new form that served the same purpose was  
56 being proposed. Ms. Buckley said the new form was created in response to feedback  
57 ELECT got from the elections community, who asked for a form that was simple and had  
58 less information for the voter to fill-in for a quicker transaction for in-person applications.  
59 Vice Chair Wheeler raised the concern about the assistance section of the form, where a  
60 voter could indicate if they would need assistance filling out their ballot. The Vice Chair  
61 explained that the previous version of the form had a full assistance section, while the  
62 proposed form required a voter receive an entirely separate assistance form in addition to

63 the in-person absentee application. The Vice Chair voiced concern for the extra paperwork  
64 this created. Ms. Buckley acknowledged the Vice Chair’s concerns, but stated that the  
65 proposed form had been reviewed by GRs who did not see the extra form as a problem.  
66 Chairman Alcorn asked to hear from the public. Commissioner Piper reminded the Board  
67 that the proposed form was optional.

68 Brenda Cabrera, GR and Director of Elections in the City of Fairfax, said that many  
69 localities pre-filled out the name of the locality, name of the election, and other items on  
70 the application that they can when voters come in to vote in-person absentee, as there was  
71 a lot of information the voters didn’t understand on the previous form. Ms. Cabrera said  
72 Fairfax would make copies of the reason for voting absentee codes and put them on the  
73 front counter to assist voters as well; Ms. Cabrera also noted that the previous version did  
74 have a section for assistance, but that the form still required an additional assistance form,  
75 similar to the proposed version. Ms. Cabrera voiced appreciation for a simpler form that  
76 included all the information that her office spent significant time trying to convey to voters.

77 Bill Jenkins, GR and Director of Elections in Sussex County, raised concerns about  
78 the new law that made it optional for a voter to put their social security number (“SSN”)  
79 on the form. Mr. Jenkins discussed the difficulty that came with identifying voters with  
80 similar names without SSNs, and asked if GRs were allowed to look a voter up and put  
81 their SSN on the form. Chairman Alcorn said ELECT would look into the issue, but also  
82 stated that the change was a statutory one the Board had to implement. Jake Washburne,  
83 GR and Director of Elections in Albemarle County, asked if the new form was optional and  
84 the Chairman confirmed that it was.

85 Mark Coakley, GR and Director of Elections in Henrico County, asked if the new  
86 form would be considered complete if a voter did not put their SSN on it. Chairman Alcorn  
87 said that it would be complete. Mr. Coakley asked if, as Ms. Cabrera said, localities are  
88 pre-filling out parts of the application such as election date, localities could also add SSNs  
89 to the application. Vice Chair Wheeler asked if Mr. Coakley was asking if localities could  
90 pre-populate applications, and Mr. Coakley clarified he was asking if localities could  
91 modify applications. The Vice Chair asked how a GR would know what the SSN was  
92 before the voter handed in their application for a GR to modify the app with the SSN  
93 beforehand. Chairman Alcorn said ELECT would look into these questions.

94 David Bjerke, GR and Director of Elections in the City of Falls Church, shared that  
95 his locality had electronic pollbooks (“EPBs”) that could scan photo IDs such as driver’s  
96 licenses and put their barcode on the form. The locality then would use a scanner on the  
97 barcode, which would find a voter in VERIS without any data entry needed. Michele  
98 White, GR and Director of Elections for Prince William County, said that Prince William  
99 used the same model as Falls Church.

100 Kirk Showalter, GR and Director of Elections in the City of Richmond, was on one  
101 of the workgroups that helped develop the form. Ms. Showalter assured the Board that a  
102 number of GRs reviewed the forms and were happy with the results. Ms. Showalter noted  
103 that if a GR needs additional information to find a voter, such as a SSN, that the voter is  
104 there in-person so can just be asked for a voter ID number or SSN. The Vice Chair  
105 reiterated that the form was optional. Chairman Alcorn suggested rearranging the form to  
106 match parts of the VERIS screen in future revisions. Vice Chair Wheeler asked if the  
107 Chairman was asking staff to edit the form before approval, and the Chairman said no,  
108 instead suggesting making such changes in the future. Chairman Alcorn moved *the Board*  
109 *adopt the Virginia In-Person Absentee Ballot Application for use beginning July 1, 2018.*  
110 Vice Chair Wheeler seconded the motion. Ms. Buckley added that ELECT recommended  
111 if the Board wanted to see formatting changes to the application approved by the Board on  
112 June 19, that the Board give ELECT the authority to do so without Board approval. The  
113 motion passed unanimously, and the Chairman said ELECT may already have that  
114 authority and asked for an offline conversation about the division between staff and Board  
115 authority.

116 The next order of business was the certification of the June 2018 elections.  
117 Matthew Abell, one of ELECT’s Election Administrators, presented. Mr. Abell presented  
118 the abstracts to the Board, reviewing the final election results for the Republican U.S.  
119 Senate, Republican House Districts 2, 4, and 10, and Democratic House Districts 1, 2, 6,  
120 7, 9, and 10 races. Chairman Alcorn asked Mr. Abell what the lessons learned from the  
121 election were. Mr. Abell said the most evident lesson learned was in regards to the check-  
122 in process at polling places where there were dual primary elections. Election officials  
123 identified preceint voters correctly, handed voters them right ballot, but then checked them  
124 into for the wrong election (i.e. Republican voter checked into the Democratic primary and



125 vice versa). Mr. Abell said this was a training issue and due to human error. Another issue  
126 of record was the improper uploading of June primary voting credit. Several localities  
127 inadvertently uploaded all dual primary voters to both Democratic and Republican  
128 elections, or, in a few cases, all voters to just one primary. VERIS Help worked with  
129 localities to remove the erroneous uploads so that the GR could upload June voting credit  
130 properly. Mr. Abell said another lesson learned was about better communication overall,  
131 and encouraged training be part of the solution.

132 Vice Chair Wheeler agreed with training and education as a solution, noting in  
133 particular the need to educate voters about dual primaries. The Vice Chair acknowledged  
134 the confusion around dual primaries as two separate elections, and the discomfort caused  
135 by election officials asking which ballot a voter would like to receive in order to vote. Mr.  
136 Abell agreed, but said voters have been learning and understand dual primaries better since  
137 2016 due to the frequent occurrence of such primaries. Commissioner Piper said he was  
138 more concerned about the voters who realized they voted the wrong ballot after the ballot  
139 has already been cast. The Commissioner addressed the issue about voter credit that Mr.  
140 Abell brought up, saying that ELECT determined better communication was needed. The  
141 Commissioner acknowledged the amount of information about processes that was given to  
142 GRs at one time, and assured that ELECT was focusing in on training and education to  
143 help the problem. Commissioner Piper noted the issue was a good topic for the Benchmark  
144 Workgroup to look at, as the Workgroup will examine areas that need improvement.  
145 Chairman Alcorn said, given the comments from Mr. Abell, and feedback from ELECT  
146 and the elections community, the elections ran smoothly.

147 Vice Chair Wheeler discussed the reports about shootings near polling places  
148 during the primary elections. The Vice Chair suggested the Board hear from two of the  
149 GRs of localities where the shootings took place. Mr. Coakley said one of the confirmed  
150 incidents happened in Henrico County in a neighborhood associated with a school that was  
151 serving as the polling place. Mr. Coakley said the school was not in lockdown, but students  
152 were told to stay on the bus until law enforcement could arrive. Voting was unaffected.  
153 Ms. Showalter spoke about the incident in the City of Richmond, in one of the Southside  
154 precincts. The shooter was reportedly two blocks away, not at the school serving as a  
155 polling place. Ms. Showalter stated the students were brought inside and voters were still

156 able to vote. Ms. Showalter discussed continuity of operation plans that were in place to  
157 relocate voting, but noted if the polling place had been roped off by police then relocation  
158 would not be possible. Ms. Showalter suggested ELECT and the Board develop procedures  
159 and perhaps address the legislature for alternate plans in situations such as that. Ms.  
160 Showalter also brought up an issue of voters not being aware that there was only a single  
161 primary in the City of Richmond— voters would come into the polling place, check in,  
162 take a ballot, and then realize belatedly that they did not want to vote in that party’s  
163 primary. Ms. Showalter asked for guidance in that instance.

164 Commissioner Piper said he had an initial conversation with the Fusion Center, the  
165 Virginia State Police, and the Secretary of Administration (“SOA”) office to work on  
166 continuity of operations and contingency plans for situations like this. The Commissioner  
167 noted these plans were especially important as many schools hosted polling places. Walt  
168 Latham, GR and Director of Elections in York County, stated that years ago there was a  
169 movement to move voting day to the third Tuesday in June, rather than the second. Mr.  
170 Latham mentioned this was because schools were out of session on the third Tuesday. This  
171 would that students were uninterrupted and schools were not open to the public as they are  
172 during election days. Mr. Latham said other solutions included not using schools as polling  
173 places, but noted the inconvenience and impracticality of it as many localities did not have  
174 alternate polling places they could use. Mr. Latham suggested addressing the General  
175 Assembly about the issue. Chairman Alcorn acknowledged the topic is complicated and  
176 requires a multifaceted resolution. He agreed moving the date of the election would reduce  
177 the chances of something happening in a school serving as a polling place. The Chairman  
178 said ELECT should work on the legislative end to find a solution. Vice Chair Wheeler  
179 agreed with the points made, and stated that in order to lobby the General Assembly, there  
180 has to be a solid narrative around the problem.

181 Chairman Alcorn then moved *the Board certify the results of the June 12, 2018*  
182 *Democratic and Republican Primaries as presented and declare the winners of each*  
183 *primary to be that party’s nominee for the November 6, 2018 election.* Vice Chair Wheeler  
184 seconded the motion, and the motion passed unanimously.

185 The next order of business was for the Board to approve the political party  
186 abbreviations that would be used during the November election, presented by Mr. Abell.

187 Mr. Abell explained that newer voting equipment came with more options for party  
188 abbreviations, so reviewed the options presented before the Board. The Board agreed to  
189 keep the abbreviations the same as they were previously approved, and the Chairman  
190 moved *the Board approve the following party abbreviations for the general and special*  
191 *elections being held November 6, 2018 and all other special elections between today and*  
192 *November 6, 2018.*” Vice Chair Wheeler seconded the motion, and the motion passed  
193 unanimously. The approved abbreviations were:

194 Democratic – D

195 Republican – R

196 The next order of business was to draw the ballot order for the November 2018  
197 general election, presented by Mr. Abell. The two recognized political parties for the  
198 November 2018 election were the Democratic and Republican Parties. Mr. Abell  
199 explained the ballot order drawn during the meeting would determine the ballot order for  
200 the November election and for all special elections until the November; including the  
201 special election on July 24 in Isle of Wight County. Mr. Abell presented two slips of paper,  
202 one for the Democratic Party and one for the Republican Party. He folded each slip  
203 separately and placed them into black film canisters. Each canister went into a crystal bowl  
204 and the canisters were manually mixed. Chairman Alcorn drew the first canister, which  
205 held the slip of paper for the Republican Party on it. Vice Chair Wheeler drew the second  
206 canister, which held the slip of paper for the Democratic Party. Therefore, it was  
207 determined by lot that the Republican Party’s candidates would be listed first on the  
208 November general election ballot, and the Democratic Party’s candidates would be listed  
209 second. Chairman Alcorn moved *the Board certify the determination by lot of the ballot*  
210 *order for the general and special elections being held November 6, 2018 and all other*  
211 *special elections between today and November 6, 2018.* Vice Chair Wheeler seconded the  
212 motion and the motion passed unanimously.

213 The meeting then opened to public comment. Mr. Coakley discussed the House  
214 committee created on school safety, noting that the committee would not have focus on  
215 firearms and instead focus on removing polling places from schools. Mr. Coakley  
216 encouraged the Voter Registrar Association of Virginia (“VRAV”), the Virginia Electoral  
217 Board Association (“VEBA”), the Board, and ELECT attend the committee hearings to

218 stay abreast of developments. Vice Chair Wheeler asked when the committee was meeting,  
219 but Mr. Coakley did not have the date. Chairman Alcorn said the Board was talking to  
220 Commissioner Piper to find ways for ELECT staff to work in coordination with the  
221 committee.

222 A representative from the Central Virginia A. Phillip Randolph Institute discussed  
223 the confusion college face at the DMV when updating their voter registration status. The  
224 reports came from students going to the DMV to renew their driver's licenses. When going  
225 to renew their driver's license, students reported that upon being asking to update their  
226 voter registration. They were unable to select "no" on the screen; it suggested this error  
227 may be the reason why there was so much confusion with college students who want to  
228 update their licenses with their school address rather than their permanent address. Sandy  
229 Jack, a representative from DMV, said when a customer does a motor voter eligible  
230 transaction at the DMV, the system would check if the person was already registered to  
231 vote. If the customer was already registered, they got a shorter version of the motor voter  
232 process. Ms. Jack informed the Board that the residence address on file with the DMV is  
233 the address that is sent to ELECT. If ELECT already has a registration address, and if that  
234 address is different than the one received by DMV, the address ELECT has will be sent to  
235 the DMV. Ms. Jack said this process was one of the points of confusion in the process,  
236 and asked that those with questions attend the DMV training that the Commissioner  
237 discussed at the beginning of the meeting. Commissioner Piper reiterated the usefulness  
238 of the training, and said the experience was educational in regards to what the customer  
239 experienced as well as what the customer service representatives experienced. The  
240 Commissioner assured the elections community that ELECT was continually looking at  
241 the process for new issues and solutions.

242 Win Sowder, GR and Director of Elections in the City of Williamsburg, spoke and  
243 brought up concerns about certain questions, including the questions asking voters to verify  
244 their citizenship and felon status, being removed from DMV applications. Ms. Sowder  
245 said working applications without those questions was costly, and time and labor-intensive  
246 for her office, and asked those questions be added back to the form. Alison Robbins, GR  
247 and Director of Elections in Wise County, stated that Wise encountered a number of  
248 applications where the individual updated their residence address to a business address with

249 the DMV because they are business owners. Because of this update to a business address,  
250 the address sent to the locality for voter registration was not their residence address, which  
251 could change which district or precinct the individual is supposed to vote in or be registered  
252 in. Ms. Robbins asked if the DMV kept records of residence addresses for driver's license  
253 recipients that localities could access to help remedy the problem. Ms. Jack stated the  
254 DMV allowed customers to keep two addresses on file: a mailing address, which the DMV  
255 would use most often, and a residence address. The residence address was the address sent  
256 to ELECT for voter registration purposes. Ms. Jack said most customers used the same  
257 address for both fields, but the residence address on file was the address used for voter  
258 registration. Ms. Robbins asked ELECT and the Board find a way to educate customers at  
259 DMV about the residence address vs. mailing address to be sure the correct address is sent  
260 to the locality.

261 Rosanna Bencoach, GR and Director of Elections in the City of Charlottesville,  
262 brought up concerns about provisional ballots on Election Day from voters that did not  
263 realize their registration had been transferred from their permanent address after updating  
264 their driver's license at the DMV. Ms. Bencoach relayed an experience at the DMV  
265 updating registration information where she was asked twice about voter registration,  
266 despite having indicated she would like to update her information the first time. Guidance  
267 from ELECT said that a voter only needs to affirm registration once, and Ms. Bencoach  
268 said it would be confusing for a voter that marked "yes" to be asked the same question  
269 about registration again later in the process, making it possible to receive conflicting  
270 responses.

271 Vice Chair Wheeler highlighted the importance to educate college students about  
272 the difference between being registered at their permanent address, where their parents may  
273 live, and at school. The Vice Chair encouraged emphasizing the fact that a voter has to  
274 vote where they are registered to vote; if a student attempted to vote at their school address  
275 when still registered at their permanent address, and received a provisional ballot, that  
276 provisional ballot would not be counted because the student was not registered at their  
277 school address. Ms. Bencoach agreed and reiterated the concern that the DMV process  
278 asks about voter registration more than once in a process.

279 Ms. Jack said the paper based forms, available prior to 2016, would be entered into  
280 DMV's system by a customer service representative and pre-populate other forms the  
281 customer filled out with previously provided information. When DMV switched to the  
282 motor voter system after 2016, some voters who were unable to use the electronic system  
283 had to continue using the paper form, which may have resulted in duplication and some of  
284 the questions that arose.

285 Susan Spencer, an EB member from Madison County, brought up some of the  
286 issues that happened in the 2017 November election. Ms. Spencer spoke about the  
287 decertification of Direct-Recording Electronic ("DRE") machines, which required many  
288 localities to buy new voting equipment in a short amount of time and with limited budgets.  
289 Ms. Spencer also spoke about the situation in Fredericksburg where the election resulted  
290 in a tie and the Board had to decide the winner by lot, as mandated in §24.2-674, as well  
291 as the situation with the mis-assigned voters. Ms. Spencer tied these topics to voter  
292 concerns about the integrity of elections and urged the Board help develop standards to  
293 keep some of these situations from occurring again. Chairman Alcorn thanked Ms.  
294 Spencer, and referred to Commissioner Piper's presentation on mis-assigned voters given  
295 on June 19. The Chairman said ELECT was cleaning up the districting issues in advance  
296 of the elections, and noted the effort being undertaken to keep lines correct.

297 Ray Rodriguez, an EB member from the City of Fredericksburg, spoke and said the  
298 Fredericksburg EB stood behind their GR, and that the GR did not make any mistakes. Mr.  
299 Rodriguez said the officer of elections at the polling places acted correctly and followed  
300 the law, and urged individuals to take individual responsibility in marking their ballots. If  
301 a ballot is not what the voter wanted, or has been mis-marked, Mr. Rodriguez urged voters  
302 to go to an election official to have the ballot spoiled and a new ballot distributed in order  
303 to cast their vote.

304 Ms. Spencer suggested the elections community be as straightforward as possible,  
305 so that the media would not misunderstand their messages. Ms. Sowder added that GRs  
306 are not surveyors and do not always know where district lines are. Ms. Sowder said GRs  
307 are trying their best with districting, and that hopefully the next census would get the  
308 district lines correct. Chairman Alcorn agreed and said the districting issue did not have  
309 fault in a single area or individual, and was something the community could work together

310 to fix and make successful. Commissioner Piper assured the community that ELECT was  
311 dedicated to working with localities, and discussed how quickly election laws were  
312 evolving and changing with each legislative session.

313 Vice Chair Wheeler asked Commissioner Piper about the National Change of  
314 Address (“NCOA”) mailings, saying she heard reports of a directive, sent by ELECT to  
315 the localities, to not take action on the issue. The Vice Chair asked what happened.  
316 Commissioner Piper explained there was an error with the vendor in regards to the  
317 addresses, but stated there was no harm to the voters. ELECT sent a communication to  
318 registrars the previous week asking for any returned NCOA mailings, with no charge to  
319 the localities, so ELECT could do a second mailing with the correct addresses.  
320 Commissioner Piper noted ELECT did not have fault in the issue and were working ahead  
321 of schedule, giving plenty of time for the notices to be sent to the correct addresses in time.  
322 Vice Chair Wheeler asked for clarification on the address issue. Commissioner Piper  
323 explained the vendor put the registrars’ zip codes in the voters’ addresses, resulting in  
324 incorrect addresses for the voters. ELECT sent the letters by first class mail, but specified  
325 for the letters to not be forward-able. Therefore, no voter actually received the letter and  
326 no voters were harmed or affected by the mistake. The Commissioner stated out-of-state  
327 mailings were not affected by the vendor’s error. Ms. Sowder asked about mailings that  
328 would be sent to the College of William and Mary, noting that the mail room was not open  
329 until August. Ms. Sowder asked if the letters going to the Williamsburg zip code could be  
330 held until August, but the Commissioner said the National Voter Registration Act  
331 (“NVRA”) prohibited that.

332 Vice Chair Wheeler stated that ELECT moved into a liaison-focused  
333 communication system, where liaisons sent relevant communications directly to their  
334 regions that would be affected by the communications rather than to the whole community.  
335 The Vice Chair requested that directives involving all localities be sent to all the GRs on  
336 the GR mailing list, rather than through liaisons. The Vice Chair noted that if one locality  
337 had a question, other localities may have similar questions. Commissioner Piper offered  
338 to speak to the Vice Chair separately about the topic, and the Vice Chair agreed.

339 Vice Chair Wheeler asked about reports that localities were still getting duplicates  
340 in their VERIS hopsers. Commissioner Piper said if localities were still getting duplicates

341 that those localities should contact ELECT so the problems could be addressed directly.  
342 Vice Chair Wheeler discussed the importance of fixing things that are broken and ideally  
343 fixing things before they broke.

344 Chairman Alcorn then moved to adjourn the meeting. Vice Chair Wheeler  
345 seconded the motion, and the motion passed unanimously. The meeting was adjourned at  
346 approximately 4:53 PM. The next Board meeting will be on August 15 at 11:30 AM.

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\_\_\_\_\_  
Secretary

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Chair

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\_\_\_\_\_  
Vice Chair

DRAFT



1 MINUTES

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3 The State Board of Elections board meeting was held on Friday, July 20, 2018, in  
4 House Room 3 of the Virginia State Capitol, Richmond, Virginia.

5 In attendance: James Alcorn, Chairman, and Clara Belle Wheeler, Vice Chair  
6 represented the State Board of Elections (“The Board”). On behalf of the Department of  
7 Elections (“ELECT”) was Christopher E. “Chris” Piper, Commissioner, and Jessica  
8 Bowman, Deputy Commissioner. In attendance, representing the Office of the Attorney  
9 General (“OAG”), was Anna Birkenheier, Assistant Attorney General. Chairman Alcorn  
10 called the meeting to order at 2:46 PM.

11 The only order of business was to hear an appeal on petitions of qualified voters  
12 from Peter J. Wells, presented by Samantha Buckley, ELECT Policy Analyst. Mr. Wells  
13 sought to qualify to have his name appear on the November 2018 general election ballot as  
14 a Libertarian candidate for House of Delegates, 4<sup>th</sup> District. Mr. Wells had nine hundred  
15 thirty-two (932) valid signatures on his petitions of qualified voters, which was sixty-eight  
16 (68) signatures short of the 1,000 valid signatures required by the Code of Virginia §24.2-  
17 506. Mr. Wells submitted two hundred ninety-nine (299) signatures for the Board’s  
18 review, as required under regulation 1VAC20-50-30. In order for the Board to hear an  
19 appeal of petition signatures for ballot access, 1VAC20-50-30 requires a candidate to  
20 submit a sufficient number of rejected signatures for review, as well as a justification to re-  
21 consider, at least two (2) business days before the date of the scheduled appeal. ELECT  
22 considered one hundred twenty (120) of the two hundred ninety-nine (299). Under §24.2-  
23 506, the Board’s considerations were limited to whether or not the signatures on the  
24 petitions that were submitted for reconsideration were reasonably rejected according to the  
25 requirements of §24.2-506 and the uniform standards approved by the Board regarding  
26 petition pages and signatures under 1VAC20-50-20.

27 Of the one hundred twenty (120) signatures ELECT considered, ELECT  
28 recommended that fifty-five (55) signatures should have been considered valid. The  
29 signatures are broken into five categories.

30 Thirty-one (31) signatures were submitted for reconsideration due to an alleged  
31 validation error; ELECT recommended that the Board validate twenty-eight (28) of these

32 signatures. Sixteen (16) signatures were submitted for reconsideration due to a failure to  
33 provide the full date of signature. ELECT recommended that the Board validate none of  
34 these signatures. Twenty (20) signatures were submitted for reconsideration due to voters  
35 who “moved within the 4<sup>th</sup> district”; ELECT recommended that the Board validate two  
36 signatures.

37 Forty-one (41) signatures were submitted for reconsideration due to being  
38 originally rejected for an insufficient notarization: the notary seal was not photographically  
39 reproducible. Prior to the SBE meeting the Notary Commission subsequently informed  
40 ELECT that if the seal could be scanned and partially visible, the seal should be considered  
41 photographically reproducible. ELECT scanned the seal on the petition signatures in  
42 question, and found the seal sufficiently reproducible to validate twenty-three (23)  
43 signatures.

44 One hundred ninety-one (191) signatures were submitted for reconsideration as  
45 “Other.” ELECT found three of these signatures were improperly rejected under one of  
46 the previous categories, and recommended that the Board validate those signatures. One  
47 hundred seventy-nine (179) of the signatures in the category of “Other” were explained by  
48 a statement that Mr. Wells was attempting to contact the voter in order to obtain an affidavit  
49 before the Board’s hearing. ELECT did not consider this explanation as an acceptable  
50 reason for reconsideration as required under the Administrative Code. ELECT informed  
51 the Board that validation of these fifty-five (55) signatures review would increase Mr.  
52 Wells’s signature total to nine hundred eighty-seven (987) valid signatures. If the Board  
53 so moved, Mr. Wells would still be 13 signatures short of the required 1,000.

54 Vice Chair Wheeler asked how many total signatures Mr. Wells submitted by the  
55 deadline. ELECT responded: one thousand six hundred and ten (1,610) signatures.  
56 ELECT initially found 932 signatures valid. After examining the list of rejected signatures  
57 Mr. Wells submitted in his appeal, ELECT determined that a total of nine hundred eighty-  
58 seven (987) signatures were valid. Vice Chair Wheeler asked if Mr. Wells had any of the  
59 signatures validated by the General Registrar, as candidates often do before the deadline,  
60 before the signatures were provided to ELECT. Ms. Buckley was unable to speak to the  
61 steps Mr. Wells took prior to submitting petitions to ELECT.

62 Chairman Alcorn asked Vice Chair Wheeler if there were any concerns with  
63 accepting the fifty-five (55) signatures ELECT recommended validating. Vice Chair  
64 Wheeler said no, but asked how a notary seal was deemed photographically reproducible  
65 or not. Ms. Buckley said “photographically reproducible” referred to whether or not a  
66 scanner could detect and reproduce the imprint of the notary stamp. Chairman Alcorn  
67 clarified that the Code requires a notary seal be visible and photographically reproducible.

68 Chairman Alcorn clarified that the question before the Board was whether or not  
69 the signatures listed under “Other,” with the explanation that Mr. Wells was attempting to  
70 contact signers in order to obtain an affidavit, was a reasonable and acceptable excuse.  
71 Vice Chair Wheeler asked whether Mr. Wells submitted the signatures for contest in a  
72 timely matter for the appeal. Ms. Buckley said yes, but said that the Board could decide  
73 whether Mr. Wells’s explanation regarding contacting signers was an acceptable  
74 justification for reconsideration. If the Board agreed that “Other” was acceptable, it could  
75 then consider those remaining signatures under appeal.

76 Commissioner Piper asked the Board to review the regulation regarding appeals  
77 and signatures. Chairman Alcorn addressed 1VAC20-50-30(G), which reads: “The  
78 candidate bears the burden of proof in establishing that a sufficient number of signatures  
79 from qualified voters were timely provided [...] The candidate must submit a list  
80 containing the rejected signatures to be reviewed and the specific reason for each  
81 signature’s reconsideration at least two business days prior to the date on which the appeal  
82 will be heard.” The Chairman stated the question was if waiting for response for an  
83 affidavit from the voter was an acceptable justification for reconsideration. Vice Chair  
84 Wheeler re-stated the Chair’s comment, postulating that Mr. Wells did not have a reason  
85 as to why those signatures should be reconsidered, and that without an affidavit, the  
86 signatures should not be reconsidered. Ms. Buckley said it was the Board’s decision  
87 whether or not to use an affidavit as a way of validating signatures. Ms. Birkenheier  
88 clarified that the Board was not making a decision on whether or not an affidavit was  
89 usable, but rather if providing an explanation of waiting on an affidavit was. Ms.  
90 Birkenheier asked if there were actually any affidavits provided as explanations by Mr.  
91 Wells. Ms. Buckley said yes, but that they were affidavits from voters whose signatures  
92 had already been validated by ELECT. Ms. Birkenheier asked if those affidavits had been

93 considered by ELECT already in presenting the numbers to the Board, and Ms. Buckley  
94 said yes; Ms. Birkenheier clarified that the only affidavits in question were those yet to be  
95 provided by the time of the meeting. Vice Chair Wheeler stated deadlines existed for a  
96 reason, and acknowledged the hard work that goes into collecting petitions for candidacy.  
97 Chairman Alcorn stated that an affidavit that was not received did not satisfy the regulatory  
98 requirement for a reason to reconsider a signature.

99 Bo Brown, Chairman of the Libertarian Party of Virginia, said the Libertarian Party  
100 had different procedures than other major parties do. Mr. Brown said that normally the  
101 Party would submit a minimum of 1,400 signatures, providing a 40% gap to cover any  
102 invalid signatures. Mr. Brown expressed concern that over 500 signatures were rejected  
103 by one local general registrar's office. Mr. Brown said the local general registrar did not  
104 provide the required notice of insufficient signatures which must be provided to a candidate  
105 within ten days of the determination. He added that the Party only submitted 299  
106 signatures for review to limit ELECT's work given the short timeline for review. He  
107 explained the difficulties of attempting to obtain the affidavits from signatories to submit  
108 as proof for reconsideration. Mr. Brown noted the signatures rejected due to an incomplete  
109 date only lacked the year. Mr. Brown added that the Party did not file for the election until  
110 2018, and did not (nor could have) collected signatures prior to 2018, making the  
111 requirement that the year be on the petitions redundant.

112 Chairman Alcorn then examined the 16 signatures rejected due to an incomplete  
113 date, and referred to 1VAC20-50-30 which states that dates are omissions to be treated as  
114 non-material, provided the GR can independently and reasonably verify the validity of a  
115 petition or signature. The Chairman asked ELECT if one could argue that the signatures  
116 could not be counted if the date was not there. The Chairman asked if the petition  
117 signatures were collected in 2018, and if the notary notarized the document in 2018, was it  
118 possible to reasonably conclude that the individuals signed the petition in 2018, despite not  
119 writing the year next to their signatures. Vice Chair Wheeler clarified that the signatures  
120 had a month and day, but were just missing the year. Mr. Brown said that that was so, and  
121 that the entire petition page was discarded because of this lack of year in the date. Vice  
122 Chair Wheeler asked who made the decision to discard the entire page, and Chairman  
123 Alcorn said both the local registrar and ELECT staff determined to do so.

124 Commissioner Piper said that 1VAC-20-50-20 read that the “following omissions  
125 shall be treated as nonmaterial provided the general registrar can independently and  
126 reasonably verify the validity of the petition or signature,” in the case that “the signer fails  
127 to provide the date but a period of time that qualifies can affirmatively be established with  
128 previous and subsequent dates provided by other signers upon the petition page.” The  
129 Commissioner pointed out that because no signer provided a date upon the petition page,  
130 that the GR could not verify the date of any signature in accordance with the language in  
131 the regulation. Chairman Alcorn asked if there was something that said the Board was not  
132 allowed to count those signatures, because the regulation did not clearly state that the GR  
133 could or could not accept signatures based on the date, but rather left the issue in a grey  
134 area. The Chairman asked if there was any question that the signatures were collected  
135 outside of the proper date frame; he stated that the section of the regulation the  
136 Commissioner read outlined guidance to help establish what to do with signatures that were  
137 clearly within the date frame. The section did not make clear what to do with signatures  
138 that are not clearly within the date frame. Chairman Alcorn asked if there was concern that  
139 the signatures were collected outside of the date frame; if that was not a concern, then he  
140 considered the issue not material.

141 Commissioner Piper raised concerns that the discussion was getting into the area of  
142 re-writing the regulation. The Commissioner asked if the reason the Chairman was  
143 providing was that the notary signed the petitions; Chairman Alcorn clarified that he was  
144 stating that there were multiple indications of when the signatures were collected, including  
145 the date of the notary’s signature, and that the petitions were submitted in the year 2018.  
146 The Chairman said that the only question was when in 2018 the signatures were collected.  
147 Chairman Alcorn asked if ELECT had the date that Mr. Wells filed for office, stating it  
148 would be highly unlikely that signatures would be collected before the candidate filed for  
149 office. Ms. Buckley said Mr. Wells filed for office on June 1, 2018, stating he submitted  
150 his certificate of candidate qualification (SBE-501) and declaration of candidacy (SBE-  
151 505). Mr. Brown informed the Board that candidates could not begin collecting signatures  
152 until January 2 of the year that the candidates filed.

153 Commissioner Piper voiced concern, stating that if the Board accepted the  
154 signatures without a year, there could be potential for arguing that a page submitted with

155 no date on it anywhere should be accepted. The Commissioner deferred to the Board on  
156 the matter. Mr. Brown asked how many signatures had no date on them. Chairman Alcorn  
157 asked if there was cause to think the signatures were collected prior to January 2. The  
158 Chairman then asked if the Board could see an example of the notary section of the petition  
159 page, and the Commissioner and Deputy Commissioner showed the Board an example.

160 The Board clarified that the notary was not attesting what day the signatures were  
161 received, but rather notarizing the affidavit, signed by petition circulators, at the end of a  
162 petition page. The affidavit is a statement, signed by petition circulators, stating that they  
163 witnessed each signature on the petition page. After viewing the example page, Vice Chair  
164 Wheeler clarified that no signatures could be dated after the date of notarization. The Vice  
165 Chair stated that Mr. Brown was saying that the candidate did not collect signatures prior  
166 to January 2, 2018 as per Code; therefore, the dates on the petition pages could not be from  
167 any year other than 2018. Commissioner Piper restated his concerns.

168 Chairman Alcorn asked that whether the missing date would be a material omission  
169 if the Board did not doubt that the signatures were collected in 2018. Vice Chair Wheeler  
170 said she would hate for a candidate to submit more than the required number of signatures  
171 only to not have access to the ballot because of a missing year that appears in other places  
172 on the petitions— given that, in her estimation, it would be impossible for a voter to have  
173 signed the petition prior to 2018.

174 Ms. Birkenheier stated that though the notary's signature, and inclusion of the year,  
175 created an end date for when petitions were collected, that it does not create a start date.  
176 The Board could not be positive that signatures were not collected before January 2, 2018,  
177 and there was no marker to determine when the petition was in circulation. Chairman  
178 Alcorn asked if a signer included a date, and no other signer did, if ELECT would accept  
179 that date for all of the other signatures. Commissioner Piper said ELECT could make that  
180 assumption if the signature was at the top, since it could be assumed that any signer after  
181 that signed the petition after or on the same date as the first signer. Chairman Alcorn asked  
182 whether that would apply if the signers at the bottom were the only ones to include a date.  
183 Commissioner Piper replied that in his opinion, in that case only the signers at the bottom  
184 that included the date should be counted.

185 The Commissioner restated his concerns in regards to the particular petition page  
186 in question, which had no dates from any of the signers on it, stating it could open the door  
187 to potential nefarious actions. Vice Chair Wheeler stated that the Board was not rewriting  
188 or discussing Code, but discussing a regulation. The Vice Chair said the regulation had  
189 grey area, and encouraged the Board to make a decision to fix that grey area and to not  
190 disenfranchise people who want to vote for Mr. Wells, who gave over the required number  
191 of signatures. Vice Chair Wheeler stated she did not think the missing year was an issue,  
192 given the other details laid out during the meeting. The Vice Chair suggested revising the  
193 petition forms to clearly state that “date” meant “day, month, year.”

194 Chairman Alcorn laid out the situation, and concluded that if the Board were to  
195 decide that the date was not an issue, that ELECT staff would still have to verify the  
196 signatures on the petition page in question. Vice Chair Wheeler asked if the signatures had  
197 been validated besides the issue with the missing year in the date. Ms. Buckley said they  
198 had not been validated. The Chairman stated that because the Code, and the petition form  
199 itself, did not state that the date had to be put next to the signatures for the signatures to be  
200 valid, that he did not find the missing date as a material omission. Vice Chair Wheeler  
201 agreed with the Chairman’s determination. Vice Chair Wheeler moved *the Board accept*  
202 *the signatures that did not have the year 2018*. Chairman Alcorn amended the motion to  
203 instead move that the Board recess to allow staff to research the signatures for their validity.  
204 Mr. Brown asked if there was an appeal process for signatures thrown out during the  
205 meeting, and Chairman Alcorn said that the decision made during the meeting, under Code,  
206 was final. Vice Chair Wheeler motion *the Board recess to allow staff to research the*  
207 *petition signatures*. Chairman Alcorn seconded the motion, and the motion passed  
208 unanimously. The Board began recess at 3:40 PM, to reconvene at 4:10 PM.

209 The Chairman moved *the Board reconvene*. Vice Chair Wheeler seconded the  
210 motion, and the motion passed unanimously. Chairman Alcorn moved *the Board accept*  
211 *the staff’s recommended signatures as presented in the materials provided to the Board;*  
212 *the Chairman further moved the Board not accept the affidavits presented today because*  
213 *they do not meet the requirements of IVAC20-50-30 (G), which requires a specific reason*  
214 *two days before the meeting*. Vice Chair Wheeler seconded the motions and the motion  
215 passed unanimously. The motion brought the official number of valid petition signatures

216 to 987. Chairman Alcorn then moved *the Board accept the new signatures that were*  
217 *counted during recess by the staff that did not have the year, but that were not considered*  
218 *a material omission after the conversation held earlier.* Vice Chair Wheeler seconded the  
219 motion and the motion passed unanimously.

220 Ms. Buckley informed the Board that of the sixteen signatures researched by  
221 ELECT staff during the recess, thirteen were valid, which would bring the total number of  
222 valid petition signatures to 1,000— which is the number required by Code. Vice Chair  
223 Wheeler asked how many signatures did not have the year included on the petition page.  
224 ELECT did not have that number readily available, so the Vice Chair withdrew her  
225 question. Chairman Alcorn moved *the Board accept the additional 13 signatures as*  
226 *adjudicated by the staff, which gives Mr. Peter Wells a total of 1,000 signatures for the 4<sup>th</sup>*  
227 *district.* Vice Chair Wheeler seconded the motion, and the motion passed unanimously.  
228 Chairman Alcorn moved *that Peter Wells has met the petition requirements in order to be*  
229 *certified for the 4<sup>th</sup> district for the November election according to the signatures counted*  
230 *today and provided in the meeting materials.* Vice Chair Wheeler seconded the motion  
231 and the motion passed unanimously.

232 Chairman Alcorn then moved to adjourn the meeting. Vice Chair Wheeler  
233 seconded the motion, and the motion passed unanimously. The meeting was adjourned at  
234 approximately 4:53 PM. The next Board meeting will be on August 15 at 11:30 AM.

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\_\_\_\_\_  
Secretary

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\_\_\_\_\_  
Chair

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Vice Chair





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# Commissioner's Report

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BOARD WORKING PAPERS  
Jessica Bowman  
Deputy Commissioner



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# Virginia Elections Benchmark Index Workgroup

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BOARD WORKING PAPERS  
Allison Robbins  
Chair of the Benchmark Index Workgroup,  
Wise County GR/Director of Elections

VIRGINIA ELECTIONS BENCHMARK INDEX WORKGROUP  
Status Report for August 15th, 2018

The Virginia Elections Benchmark Index Workgroup was created by the Virginia State Board of Elections (SBE) with the approval of their resolution dated April 25, 2018. Three meetings of this workgroup have been held to date: June 25, July 24, and August 10th, 2018.

The Workgroup has produced a project plan ("Plan") to achieve the tasks set forth in the resolution. The tasks set forth in the resolution have been re-stated in the Plan for purposes of data collection and analysis,

The Statement of the Problem to be examined is: **To identify criteria applicable to the performance of specific election system elements, establish baselines of performance, and develop benchmarks as goals for superior performance.**

To this end the Workgroup is proceeding as follows based upon the Plan concepts:

1. Examine the following specified election system elements: Virginia Department of Elections (ELECT); the General Registrar/ Director of Elections (GR/DOE); the local Electoral Board (EB); and the three local Electoral Board members.
2. Determine election system performance criteria or indices applicable to the specified election elements.
3. Collect data to establish baseline measurements for each of the identified election performance indices.
4. Develop appropriate benchmarks for indices relative to the specified election system elements that represent superior performance when achieved.
5. Obtain data and compare resources available to GR/DOEs, EBs, and EB members in the performance of their constitutional and statutory duties.
6. Provide recommended documentation for the continuation of processes necessary to maintain quality election performance, public recognition of exemplary achievement, and the actions that may be used to mitigate or remedy inadequate performance .
7. Ensure recommended processes consider the very limited resources available to ELECT, GR/DOEs, and EBs to undertake additional data collection, data analysis, supervision, and reporting requirements.

Respectfully submitted,

Allison Robbins

Chair, Wise County GR/DOE

VIRGINIA ELECTIONS BENCHMARK INDEX WORKGROUP

Status Report – August 8, 2018

The below table summarized the election system elements and their evaluation requirements. The Code does not always use the word "evaluate" but this is implied in the context of supervise and coordinate.

Evaluation of	Evaluated by	Code of Virginia Reference
GR/DOE	Electoral Board	§24.2-109, 109.1
	SBE via ELECT	§24.2-103A and 103C
Electoral Board	SBE via ELECT	§24.2-103A
Electoral Board members	SBE	§24.2-103C
ELECT	To be determined	To be determined



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Request to use  
Approved Voting  
Systems in the City  
Of Petersburg  
Pursuant to §24.2-603

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BOARD WORKING PAPERS  
Eugene Burton  
Voting Technology Coordinator



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DEPARTMENT *of* ELECTIONS

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## Memorandum

**To:** James Alcorn, Chairman; Clara Belle Wheeler, Vice Chair; Singleton McAllister, Secretary  
**From:** Eugene Burton, Voting Technology Coordinator  
**Date:** August 15, 2018  
**Re:** Request to use Approved Voting Systems in the City of Petersburg pursuant to §24.2.630

---

### Suggested Motion

I move that the Board approve the experimental use of certified optical scan voting system in the City of Petersburg for the November 6, 2018 General Election pursuant to Code of Virginia §24.2.630 Use of Approved Voting Systems.

### Background

The City of Petersburg has requested the Department of Elections to use the ES&S DS200 and ExpressVote in the November 6, 2018 General Election. The plan is ultimately upgrading the entire City of Petersburg with ES&S DS200 and ExpressVotes, this request is entirely based on the heavy write-in campaign in Ward 5 which will allow prompter reporting on election night instead of the Officers of Elections having to hand counting each ballot knowing there are 2 different persons involved.

**Applicable Code Sections:** §24.2.630 Use of Approved Voting Systems



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# Stand By Your Ad Policy

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BOARD WORKING PAPERS  
Arielle A. Schneider  
Policy Analyst



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STATE BOARD *of* ELECTIONS

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## Memorandum

**To:** James Alcorn, Chairman; Clara Belle Wheeler, Vice Chair; Singleton McAllister, Secretary  
**From:** Arielle A. Schneider, Policy Analyst  
**Date:** August 15, 2018  
**Re:** SBE Policy 2018-001: Stand By Your Ad Hearings

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### Suggested Motion

I move that the Board adopt SBE Policy 2018-001 to govern Stand By Your Ad (SBYA) hearings.

### Background

On March 23, 2018, the Department of Elections (ELECT) presented a proposed set of standard operating procedures to be used by ELECT in processing SBYA complaints. The State Board of Elections (the Board) approved the procedures unanimously, and asked ELECT to prepare proposed procedures for conducting SBYA hearings, a memo outlining express advocacy, and a list providing factors for the Board to consider when determining the appropriate civil penalty to assign for a violation of Chapter 9.5.

ELECT has prepared the below policy to be used by the Board when conducting SBYA hearings pursuant to the Code of Virginia §24.2-955.3.

## **PROPOSED** **State Board of Elections Policy 2018-001**

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A meeting of the Virginia State Board of Elections was held on August 15, 2018 whereby a policy was proposed and approved by the Board:

### Stand By Your Ad Hearings

WHEREAS, the Code of Virginia §24.2-955.3 provides that the State Board shall conduct a public hearing to determine whether to find a violation of Chapter 9.5 and assess civil penalties when appropriate; now therefore let it be

RESOLVED, by the State Board under its authority to issue rules and regulations to promote the proper administration of election laws and obtain uniformity in the administration of elections pursuant to §24.2-103, that:

The below policy applies to the conduct of Stand By Your Ad hearings held pursuant to the Code of Virginia §24.2-955.3.

### **General Provisions.**

- 1. Notice, by electronic and certified US mail, where sent.** Whenever notice is required, if a respondent is a registered voter or registered committee, notice must be sent by electronic or certified United States mail to the most recent physical or email address provided in a statement (registration or statement of organization) filed with the Board.
- 2. Opportunity to be heard.** The respondent must be given an opportunity to appear in person at a Board meeting before the Board makes a determination on the matter. Neither the





- complainant nor respondent is required to appear before the Board. A complainant or respondent may submit a written statement to the Board in addition to or in lieu of an appearance before the Board. The opportunity to be heard does not include the right to call witnesses or to question opposing parties, Board members, or ELECT staff.
3. **Non-appearance.** When notice of the opportunity to be heard has been sent as required, the failure to appear in person or in writing at the noticed meeting constitutes a waiver of the opportunity to be heard at that meeting. ELECT staff will provide notice to the most recently reported mailing or email address. A decision cannot be reconsidered if the respondent does not receive notice due to a changed mailing or email address.
  4. **Waiver.** The Board may, for good cause shown, waive any of the provisions of this policy if, in the judgment of the Board, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law. Any waiver shall be documented in the official record of the meeting for continuity. In any conflict within this policy between general and specific provisions, the specific provisions shall govern.

#### **Definitions.**

1. “Clearly identified” means the candidate’s name, nickname, photograph, or drawing or the identity of the candidate is otherwise apparent through an unambiguous reference such as the candidate’s initials (e.g. FDR), nickname (e.g. Ike), their office (e.g. “the Governor”) or through an unambiguous reference to their status as a candidate such as “the Democratic Senate nominee for District 5”.
2. “Complainant” means the filer of a complaint.
3. “Coordinated, or coordination” means an expenditure that is made (i) at the express request or suggestion of a candidate, a candidate’s campaign committee, or an agent of the candidate or their campaign committee or (ii) with material involvement of the candidate, a candidate’s campaign committee, or an agent of the candidate or their campaign committee in devising the strategy, content, means of dissemination or timing of the expenditure.
4. “Express advocacy” means a direct or indirect contribution, in-kind contribution, independent expenditure or loan made to a candidate or political committee for the purpose of influencing the outcome of an election; an advertisement that refers to a party or candidate(s) by name and states “Vote for...”; “Support”; “Elect...”; “Smith for Congress”; “Send Him Home”; “Oppose”, etc.
5. “Respondent(s)” means the subject of a complaint, or the committee against whom action is sought.

**Coordinated Expenditure.** If an expenditure is alleged or appears to be coordinated, ELECT may provide notice to the named party.

**Minutes and Transcripts.** The minutes of Board meetings and hearings are a matter of public record. The minutes of Board meetings shall include the vote of each member on each complaint and any ruling of the Board.

**Interpreters.** If an interpreter is required, ELECT staff will make appropriate arrangements to ensure an interpreter is present during the hearing.

**Representation.** In a proceeding before the Board, any person or party may appear on their own behalf. Any person or party may be represented by any other person duly authorized in writing to do so for the purpose of the hearing.



**Hearing Procedures: General.** The order of procedure during the hearing shall be as follows:

- Call to order and opening statement of the Chairman, to include a list of the respondents whose hearings are scheduled for the meeting, a note that the respondents are required neither to appear nor speak, and a statement explaining that the Board will consider each complaint in alphabetical order by respondent or committee name.
- Introductory statement by the Commissioner, Counsel, or ELECT staff, as appropriate.
- For each complaint heard, ELECT staff will present background information, the evidence submitted, explain the recommended action and provide an opportunity to answer questions from the Board.
- If present, respondent shall be given the opportunity to speak and answer questions from the Board.
- Witnesses before the Board shall be examined orally. Any member of the Board may question any witness at any time during or after the witness speaks.

**Hearing Procedures: Chair's Authority.** The Chair shall have the authority to:

- Regulate the course of the hearing;
- Approve motions to consolidate complaints for hearing;
- Call and examine witnesses;
- Request any party or person at any time during the hearing to state their respective position concerning any issues in the proceeding and theory in support of that position;
- Adjourn a hearing and establish the date when the hearing will be continued;
- Conclude a hearing;
- Establish reasonable time limits for witnesses, and fairly allocate time among the parties and others;
- Exclude unduly repetitious or irrelevant testimony, and permit a witness to adopt the prior testimony of another witness; and
- Take any other action permissible by law or that is necessary under this policy.

**Deliberation.** To assess a civil penalty for a violation of Chapter 9.5 Stand By Your Ad, the Board must find that SBYA requirements apply to the communication in question, and that the communication fails to comply with SBYA requirements. The Board should consider whether the communication constitutes an advertisement subject to Virginia's SBYA laws and whether the advertisement expressly advocates for the election or defeat of a clearly identified candidate. Upon such finding, the Board may then determine whether the advertisement complies with SBYA disclosure requirements and if not, what civil penalty to assess.

**Occurrence.** SBYA penalties are assessed cumulatively, based on the number of violations from the same committee within an election cycle.

**Decision.** The Board's motion should clearly state the Board's determination that the communication in question constitutes an advertisement governed by the SBYA laws, whether it found a violation of Chapter 9.5, and the penalty assessed. The recommendation provided by ELECT for each complaint will include a motion stating whether a violation was found and the penalty assessed, which the Board can use or change. For example, *"I move, subject to the Board's authority under the Code of Virginia §24.2-955.3, to find John Smith in violation of Stand By Your Ad's print media disclosure requirements with regard to two advertisements, and*



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*is thereby fined \$200.”* At the conclusion of the hearing, ELECT staff shall send notice of the decision promptly to all parties.

**Continuance.** A scheduled hearing shall not be delayed by the inability of the respondent to attend the hearing unless a request for a continuance is made in writing to the Chairman of the Board or ELECT staff not less than seven (7) days before the scheduled hearing date. A continuance shall not be granted unless the request, in the opinion of the Chairman of the Board, sets forth good and sufficient cause for the continuance. The availability of counsel shall not be considered good cause for a continuance. A continuance shall not be granted where the requested hearing date would extend beyond the statutorily mandated deadline for Board adjudication. No more than one continuance may be granted.



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# Risk-Limiting Audit Report

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BOARD WORKING PAPERS  
James Heo  
Confidential Policy Assistant



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DEPARTMENT *of* ELECTIONS

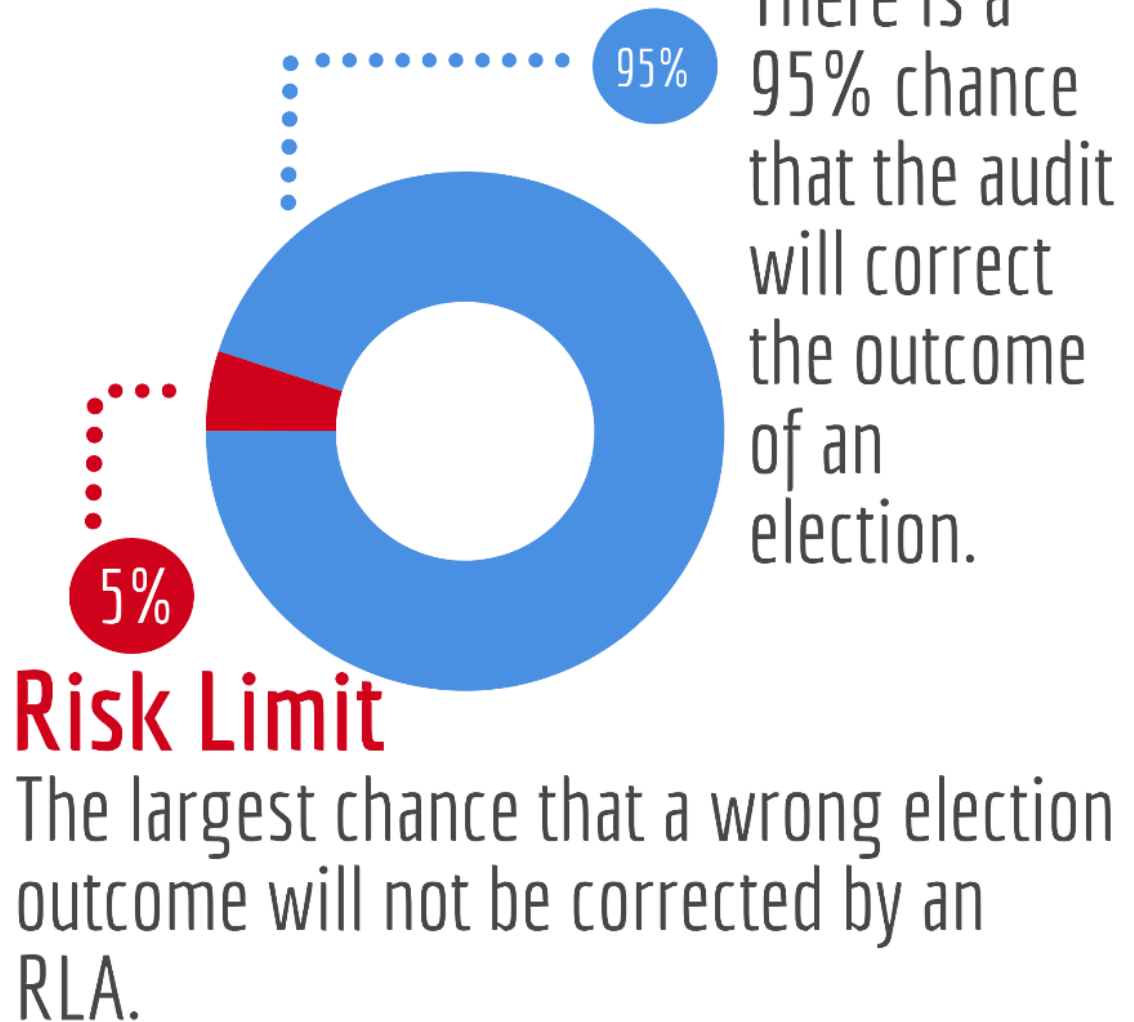
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# City of Fairfax Post-Election, Risk-Limiting Audit Pilot



## What is an RLA?

An audit that provides strong statistical evidence that the election outcome is right, and has a high probability of correcting a wrong outcome.



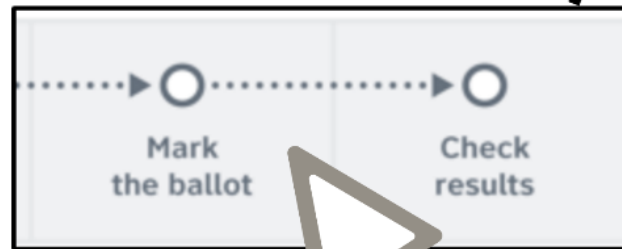
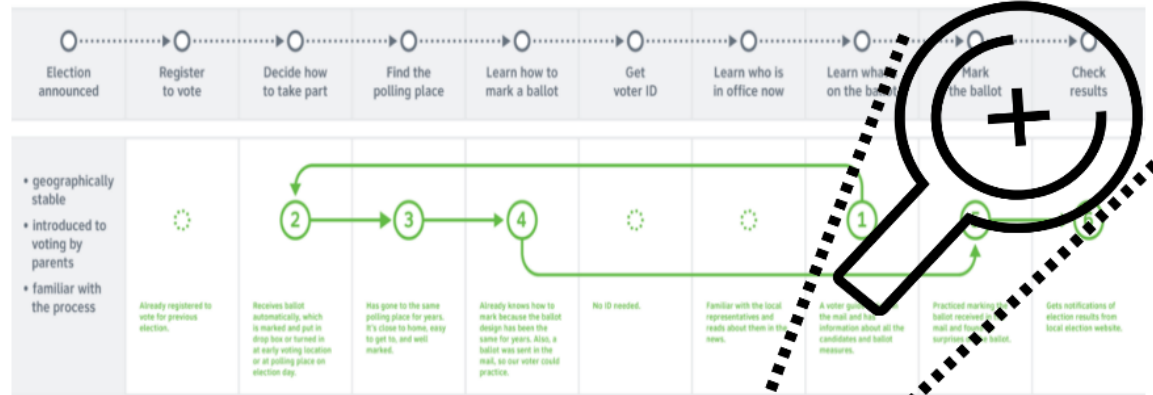


## How can RLAs help?

With voter confidence eroding, the elections community needs new tools to reassure the public that they can continue to have faith in the integrity of our elections.

RLAs are a potential tool to promote voter confidence.

## Center for Civic Design Election Pathway



?????  
**Missing  
Feedback Loop**



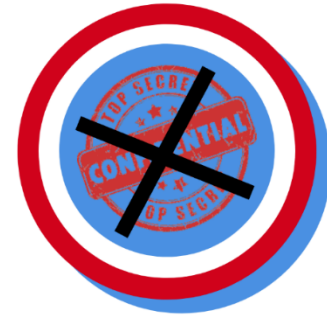
# Why are RLAs Useful?



**Measurable  
Success**



**Minimizes  
Workload**



**Transparent  
Process**



**Third Party  
Validation**



**Usable  
Data**





## Types of RLAs

Comparison



A comparison RLA is based on the blind comparison of the machine's interpretation of ballots and the manual (human) interpretation.

VS

Polling



A polling RLA is similar to an exit poll. In this case, ballots (people) are randomly selected and tabulated (polled).



# Comparison of RLA Types

## Comparison

- Requires considerably fewer ballots for the audit.
- Audit sample size is not as dependent on election margin.
- Requires less staff.
- Requires voting systems that can produce Cast Vote Records.
- Requires RLA software.
- Requires maintaining ballots in the exact order they are scanned.
- Provides tools for the auditor to correct any errors. Useful for addressing human error.

### ◀ # of Ballots ▶

### ◀ Resources ▶

### ◀ Logistics ▶

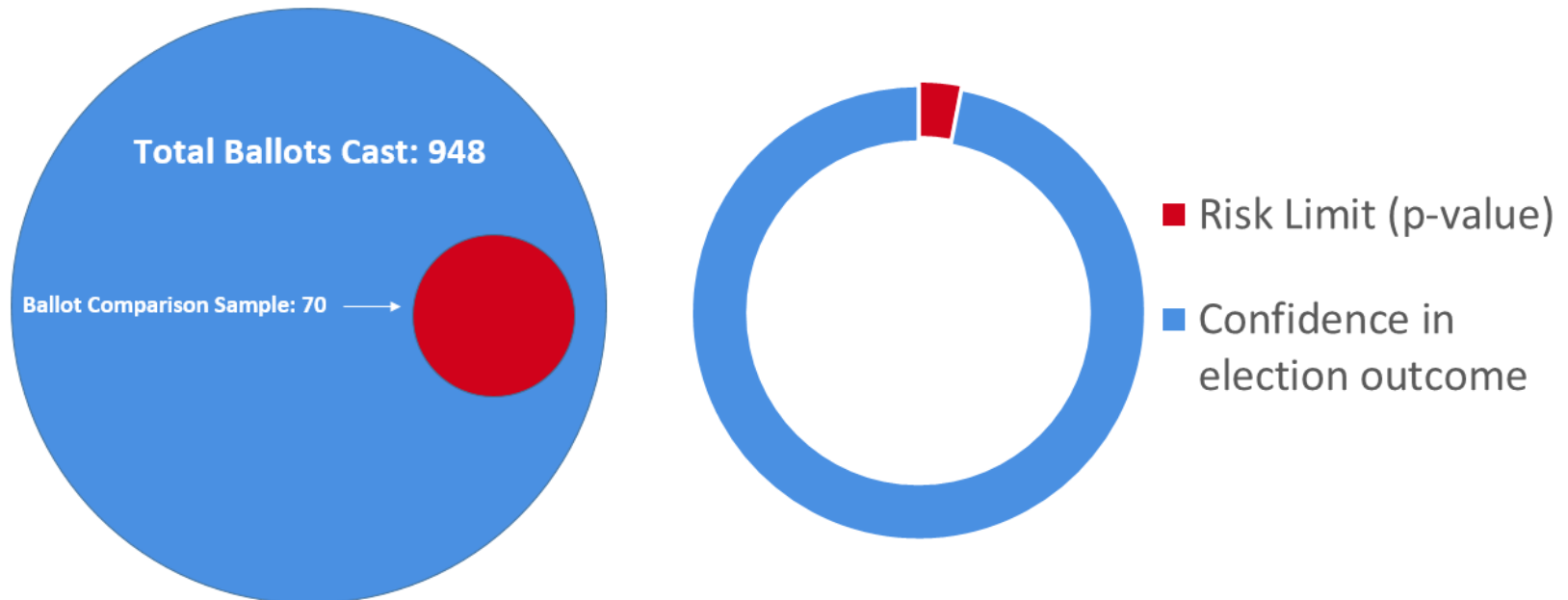
## Polling

- Requires considerably larger sample sizes.
- Sample size is heavily dependent upon the election margin.
- Minimal set-up costs.
- Requires more staffing resources.
- Requires no additional equipment or software.
- Requires more time to conduct audits due to larger sample sizes.
- Does not provide the auditor any tools to address errors.



# Ballot Comparison Audit

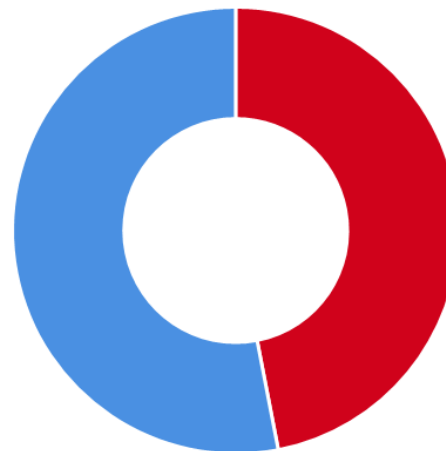
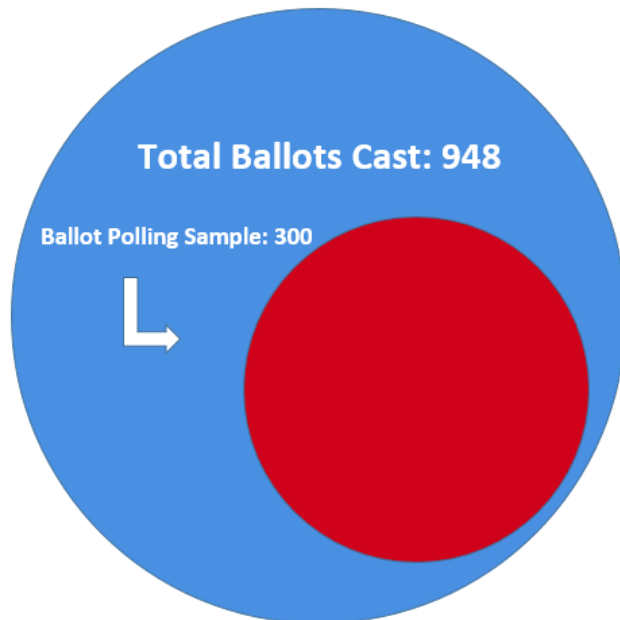
- Established risk limit: 5%
- Sample size: 70 (69 unique ballots)
- Result: p-value [risk limit] of 0.03/3.03%
  - **At least** a 96.97% chance that the audit would have identified an incorrect outcome.





# Ballot Polling Audit

- Established risk limit: 10%
- Sample size: 300 (260 unique ballots) *this number includes ballots adjudicated during the ballot comparison audit*
- Result: p-value [risk limit] of .47/47%
  - **At least** a 53% chance that the audit would have identified an incorrect outcome
    - The Risk limit was not satisfied -- in a true RLA, election officials would have selected a second round of sample ballots and completed the process again, repeating until either the risk limit was achieved or it was determined that there was a need to proceed to a full recount.



- Risk Limit (p-value)
- Confidence in election outcome



## RLA Pilot Findings

- A RLA audit can provide significant insight into the procedural aspects of Election Day in the polling place.
  - For example, during the audit we found an unaccounted for ballot in a precinct. The ballot was an undervote and we suspect that a voter was accidentally given two ballots that were stuck together.



# Response from the Election Community

Determining  
Voter Intent

## Cost

Procedure manuals

## Goals

## Frequency

Auditing more than one contest concurrently

Choosing an audit method    Policy mandate

Timing  
(pre or post certification?)

## Logistics

Math behind the audit

Imprinting ballots

Naming convention of precincts, batches, ballots





## What's Next?

- **September 20, 2018**
  - ELECT will provide the full report of the RLA to the State Board of Elections.



# The Way Ahead

- **Ballot Design and Scanning**
  - Post-Certification imprinting as a means to track ballots.
  - New ballot design requirements for vendors.
- **Larger Locality Testing**
  - City of Fairfax had less than 1000 ballots cast for the audited election, how can the RLA be scaled for larger localities?





★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

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# Review of the Recertification of the 2018 November General Election

---

BOARD WORKING PAPERS  
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# Memo

**To:** Leslie Williams  
**From:** Jacqueline Britt  
**Date:** July 26, 2018  
**Re:** Recertification of the 2018 November General Election

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This memo serves as my response to the request for information as to the need for Nelson County to recertify the results for the 2018 November General Election.

The hand counted totals from the Central Absentee Precinct were not included in the original results figures entered into VERIS. The results were entered into VERIS from the machine tapes. The hand counted tally sheets had been stapled to the back of the Statement of Results and were missed during data entry.

The Statement of Results has been revised to include a list of results documents to be attached on the front of the form in the follow order:

1. Voting results tape
2. Hand tally sheet
3. Zero tape

Going forward, we will be sure to key in the verified total votes cast figure on the Statement of Results that includes the machine and hand counted votes.



Staple tapes above

Attach in this order:

1. Voting results tape with 2 signatures
2. Hand tally sheet
3. Zero tape with 2 signatures

## Statement of Results CAP A Precinct – Central Absentee

Election Date: June 12, 2018

Election Type: Republican Party Primary

County of Nelson

**Place in  
Envelope 2**

### What to do at the beginning of the day

- Print** zero tape and attach to SOR A
- Have** two officers sign the zero tape

### What to do at the end of the day

- Print 3** voting results tape (One for each SOR & Printed Return Sheet)
- Have** two officers sign the voting results tape
- Fill out** every page of SOR A and SOR B.
- Paperclip** tapes on the left side of the page
- Fold** bottom of tape to fit on SOR

<b>1</b>	<b>Voter check in</b> numbers from the pollbook
----------	---

	Total number of voters checked in	
--	-----------------------------------	--

<b>2</b>	<b>Outside polls</b> numbers from the pollbook
----------	--

	Number of voters checked in who voted outside of the polling place	
--	--	--

<b>3</b>	<b>Ballots cast</b> numbers from the <b>voting results tape</b>
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	Number of ballots cast on machine OVO # UVS006199	
--	--	--

	Number of ballots counted by hand	
--	-----------------------------------	--

	Total number of ballots cast	
--	------------------------------	--

**Statement of Results CAP A continued**

**Place in  
Envelope 2**

**4 Does the total number of voters checked in match the number of ballots cast?** Check whether the total from box 1 is the same as the total in box 3

yes  no. If you check no, explain below

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**5 Collect signatures to certify**

For all election officers, read the following statement and sign below.

We hereby certify that:

- the two copies of the Statement of Results are a complete record of this election
- all information entered here is true and correct

1	Chief	X
2	Assistant Chief	X
3	Worker	X