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STATE BOARD *of* ELECTIONS

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# PUBLIC HEARING

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Tuesday, August 20, 2024  
Senate Room 3  
General Assembly Building  
Richmond, VA  
1:00 P.M.

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SBE Public Hearing Working Papers



**PUBLIC HEARING FOR  
1VAC 20-90-40  
AGENDA**

*DATE: Tuesday, August 20, 2024*  
*LOCATION: General Assembly Building*  
*Senate Room A – 3rd Floor*  
*Richmond, VA*  
*TIME: 1:00 PM*

**I. CALL TO ORDER**

*John O'Bannon,  
Chairman*

**II. Regulation 1 VAC 20-90-40 Disclosure statement  
requirements; print media advertisement.**

*Steven Koski  
ELECT Compliance  
Advisor*

**III. PUBLIC COMMENT**

**IV. ADJOURNMENT**

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



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Regulation 1 VAC 20-90-40  
Disclosure statement  
requirements; print media  
advertisement.

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BOARD WORKING PAPERS  
State Board of Elections

Steven Koski  
ELECT Compliance Advisor



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**Memorandum**

**To:** Chairman O'Bannon, Vice-Chair Dance, Secretary Alvis-Long, Delegate Merricks, and Mr. Weinstein

**From:** Steve Koski, Compliance Advisor

**Date:** August 20, 2024

**Re:** Print Media Disclosure Regulation Public Hearing

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***Applicable Code Sections***

§ 24.2-956.1. Requirements for print media advertisements sponsored by a person or political committee, other than a candidate campaign committee.

§ 2.2-4000 *et seq.* Administrative Process Act

***Background***

Previously, §24.2-956.1(5) of the Code of Virginia required that a disclosure statement on print media be displayed in a conspicuous manner with at least 7-point font size. Acts of Assembly Chapter 557 of 2020 amended this section to remove the specific font size requirement and simply require that the font size be proportionate to the size of the advertisement. Further, it directs the State Board to promulgate standards for complying with the requirements. This proposed regulatory action, 1VAC20-90-40, creates the required standards.

The proposed standards largely mirror the standards used at the federal level by the Federal Election Commission and includes the following requirements:

- Sufficient font size to be clearly readable by the recipient of the communication. For an advertisement 24x36 inches or smaller, twelve (12)-point font size is sufficient.
- The disclosure statement must be in a printed box apart from the other contents.
- The disclosure statement must have reasonable color contrast with the advertisement background. Black printed on a white background meets the requirement. Also met if contrast between disclosure and the advertisement's background is no less than the contrast between the background and the largest text on the advertisement.

Previously, the Board adopted a short-term emergency version of this regulation to ensure an effective date of July 1. However, as stated at that time, the short-term version did not circumvent the full regulatory process, especially pertaining to public participation. Currently, the public has an opportunity to provide comment through September 13, 2024, and, further, the Board is holding this required public hearing to allow for additional testimony. Once the

opportunity for public comment has expired, the Board will have an opportunity to make changes and the process will proceed to the final stage.

*Attachments*

1VAC20-90-40, as proposed.

**1VAC20-90-40 Disclosure statement requirements; print media advertisements**

A. The following standards apply to print media advertisements under § 24.2-956 and § 24.2-956.1 of the Code of Virginia.

B. Any disclosure statement required under either § 24.2-956 or § 24.2-956.1 of the Code of Virginia must be presented in a clear and conspicuous manner to give the reader notice of the candidate, candidate campaign committee, person, or political committee that paid for and, where required, that authorized the communication. A disclosure statement is not clear and conspicuous if it is difficult to read or if the placement is easily overlooked.

C. The disclosure statement must be of sufficient type size to be clearly readable by the recipient of the communication. A disclosure statement in twelve (12)-point type size satisfies the requirements of this paragraph when it is used for signs, posters, flyers, newspapers, magazines, or other printed materials that measure no more than twenty-four (24) inches by thirty-six (36) inches.

D. The disclosure statement must be contained in a printed box set apart from the other contents of the communication.

E. The disclosure statement must be printed with a reasonable degree of color contrast between the background and the disclosure statement. A disclosure statement satisfies the color contrast requirement of this paragraph if it is printed in black text on a white background or if the degree of color contrast between the background and the text of the disclosure statement is no less than the color contrast between the background and the largest text used in the communication.

F. The disclosure statement need not appear on the front or cover page of the communication as long as it appears within the communication, except on communications, such as billboards, that contain only a front face.

G. A communication that would require a disclosure statement, if distributed separately, that is included in a package of materials, must contain the required disclosure statement.



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# Public Comment

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