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Exempt Action Final Regulation Agency Background Document

Agency name	State Board of Elections
Virginia Administrative Code (VAC) citation(s)	1 VAC20-60
Regulation title(s)	Election Administration
Action title	2013 Periodic Review Chapter 60 Election Administration
Final agency action date	06/28/2016
Date this document prepared	07/05/2016

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA) or an agency's basic statute, the agency is not required, however, is encouraged to provide information to the public on the Regulatory Town Hall using this form. Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

On May 15, 2013, the previous membership of the State Board of Elections announced a periodic review of all of its regulations pursuant to Regulation 20-10-120 calling for a review of all regulations after each presidential election. The objectives of this periodic review was similar to those set forth in Executive Order 14 for all executive agencies—effectiveness, efficiency, necessity, clarity and cost of compliance.

The original comment period for Chapter 60 opened June 3, 2013, and closed June 24, 2013. During this time period, only four comments from one commenter were received. These comments, and the suggested edits based thereon, were presented to the Board during its meeting

held on December 2, 2013. The proposed changes addressed the use of electronic devices in the polling place, replacement of the word “precinct” with the more appropriate term “polling place,” provided parameters in the regulation defining when a ballot is cast for provisional ballots, and provided guidance to election officials on the process of emptying an overfull ballot container in single-party primaries. To ensure that the public fully had the opportunity to address its concerns with the suggested regulations, the Board voted to open the regulations up to a foreshortened public comment period. This second comment period opened on December 30, 2013 and closed on January 8, 2014. No comments were received during the second public comment period.

The previous Board did not take up the matter again before the expiration of its term and the current Board was left to complete the process. Due to the extended period of inaction on this item, the underlying standards upon which previous analyses were based changed considerably.

During the 2015 Session of the General Assembly a bill was passed (SB 1351) that specifically allows authorized representatives to use devices containing a camera or filming capacity so long as those functions are not used in the polling place. This concept was already contemplated in the edits suggested at the December 2, 2013 meeting, but now the statutory standard is counter to the current regulation’s provisions.

The edit suggested at the December 2, 2013 meeting fully disallowed persons other than members of the media to film or take photographs in the polling place, including voters. It was determined at the Board’s March 15, 2016 meeting that this standard was not tenable. The U.S. Court of Appeals for the First Circuit recently ruled in favor of voters that took photographs of their voted ballot in violation of a New Hampshire law disallowing such acts. The Court ruled that taking pictures of one’s own ballot is a form of protected political speech, and thus any curtailment must be narrowly tailored to further a compelling state interest. In the opinion of the Court, protection against vote buying was not a compelling state interest without specific instances of vote buying facilitated by use of “ballot selfies.” To avoid potential litigation on this matter, the proposed regulation allows the use of cameras by voters, but provides specific safeguards to protect others’ privacy within the polling place, and to ensure that the voting process can proceed without unreasonable disturbance. The Board approved a 21 day comment period for the revised proposal which ended on April 25, 2016.

The Board received 33 comments during the revised proposed comment period. Several individuals providing comments pointed out that the structure and formatting of the regulation, as well as some of the language used, was confusing and potentially inconsistent. As a result of these comments the regulation has been edited with the goal of making it clearer and easier to administer. The substance of the regulation before the Board today remains largely the same as that in the revised proposed regulation.

Statement of final agency action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The State Board of Elections, at its June 28, 2016 meeting, approved final revisions to its regulations in Chapter 60 Election Administration, as a result of a periodic review process begun in 2013.

Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

NA

Periodic review/small business impact review report of findings

This section may be used to report the results of a periodic review/small business impact review. Otherwise, delete this section.

Please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review and (2) indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, as required by 2.2-4007.1 E and F, please include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

Commenter	Comment	Agency response
David Bjerke, City of Falls Church Office of Voter Registration & Elections	I favor these proposed changes. As a Director of Elections and General Registrar of Voters for the City of Falls Church, I am in favor of these proposed changes.	Finalize regulation
Eric Goldstein, Officer of	Needs some changes A find the changed 1VAC20-60-30 to	Language clarified in final regulation

<p>Election, Arlington County</p>	<p>confusing and contradictory. Section A is about observers (the term I'll use to refer to "representatives of candidates and political parties authorized to observe the election"), Section B is about voters, then it switches back to being about observers again in Section C, and then back to voters again in Section D. That makes it hard to follow. Additionally, it provides no guidance on voter use of cell phones. Section B refers to "cameras or audio or visual recording devices" and section D refers to all electronic devices. It isn't clear to me whether a policy barring all use of cell phones by all voters is allowed (as long as other electronic devices are allowed).</p> <p>Also, Section C and the second paragraph of Section A seem to be on essentially the same topic: just more detail in Section C as to the standards that should be used in Section A? Why are these in separate sections? Additionally, Section A prohibits observers from using the camera function on a phone, but the clause of Section C "regulate"ing the use of a camera (old clause iii) is being removed. This seems counterintuitive if not down right contradictory. The more I read it, the more Section C seems problematic. I recommend it just be removed; Section A's grant of discretion to the majority of the officers of the election seems sufficient.</p> <p>As to the substance of the policy, assuming I am reading it right, observers are allowed to use cell phones but not allowed to use cameras. Conversely, voters can use cameras, but it isn't perfectly clear if they can use cell phones. Seems unnecessarily inconsistent, but maybe there is a good rational behind it.</p> <p>Section B used to apply to all people other than observers, now it just applies to voters. This means there does not seem to be a policy applicable to anyone else in the polling place: media, officers of the election, people assisting voters, children of voters, etc. It would seem to me there should be a policy that</p>	
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	<p>applies to them, too.</p> <p>Lastly, regarding 1VAC20-60-50, I believe language "who may be members of the same party" would best be replaced with "who represent the same party" to better align with the first sentence and with §24.2-115.</p>	
<p>Jody D. Brown</p>	<p>Vol 32, Issue 16</p> <p>"Any voter may be required to cease using the device, but no voter may be removed from the polling place for using a device until after the voter has cast his ballot." Consider changing the sexist language in this paragraph and any other places similar language occurs. The easiest way to avoid this problem is to use plural constructions. This sentence would become: Voters may be required to cease using such devices, but voters may not be removed from the polling place until after they have cast their ballots."</p> <p>C. has three subsections. Those subsections should use parallel construction to improve the readability of the section.</p> <p>Current C</p> <p>Grounds for regulating [or prohibiting the] use of electronic devices [by authorized representatives of candidates and political parties] include [but are not limited to] (i) the making or receiving of calls that interfere with or become disruptive to the voting process; (ii) the making or receiving of calls in an attempt to solicit or influence any person in casting his vote; [or] (iii) the [usage of the camera function to film within the polling place or beyond the 40-foot prohibited area; or (iv) the] person using the device is conducting himself in a noisy or riotous manner at or about the polls so as to disturb the election.</p> <p>More readable C</p> <p>Grounds for regulating [or prohibiting the] use of electronic devices [by authorized representatives of candidates and political parties] include [but are not limited to] (i)</p>	<p>Language clarified in final regulation</p>

	<p>making or receiving of calls that interfere with or become disruptive to the voting process; (ii) making or receiving of calls in an attempt to solicit or influence any person in casting his vote; for (iii) [using the camera function to film within the polling place or beyond the 40-foot prohibited area; or (iv) using the device in a noisy or riotous manner at or about the polls so as to disturb the election.</p> <p>D3 is different from 24.2-802 C although I suspect the intend was not to change it. In 24 2-802 C, "each candidate or petitioner and governing body or chief executive officer", recommends to the Court "an equal number of the officers of election to be recount officials." The proposed D3 contains the sentence, "Such list shall note recommended recount officials who the court may appoint if the officials and alternates recommended by the parties to the recount are not of sufficient number to conduct the recount within a reasonable period." The D3 language seems to me ambiguous about whether the parties could recommend recount officials to the Court who had not been election officials in the election. If my reading is a possible interpretation, then I think we could have chaos trying to incorporate people who have had no training as officers of elections.</p> <p>Section E seems to take away from the Court the possibility of asking for information directly from the localities. This assertion of control over the Court is easily remedied by adding a phrase to the last sentence in E. The electoral board of each county or city in which the recount is to be held shall provide the requested information to the Secretary State Board Commissioner of the State Board Department of Elections or directly to the Court if so requested.</p> <p>Finally, in G, in every other location in this revision paper ballot is changed to printed ballot. I'm not entirely sure why printed is better than paper, but if it is, shouldn't it be changed here?</p>	
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<p>Philip Schetrompf</p>	<p>Good changes but needs some editing</p> <p>I support the changes proposed but Goldstein and Brown have made some good points that should be addressed concerning the new wording.</p>	<p>Language clarified in final regulation</p>
<p>Stephen Hunt, Fairfax County Electoral Board</p>	<p>1VAC20-60-40. When ballot cast - Provisional ballots</p> <p>The change to paragraph B regarding the provisional ballot is not correct. The permanent record does not occur when a provisional ballot is submitted by the voter. It occurs when the electoral board accepts it and it is counted. If the electoral board rejects the provisional ballot, it is as though the voter never voted. Consequently it is as though there was never a permanent record. I recommend that the language be changed to include the acceptance by the local electoral board</p> <p>"or (iv) relinquishing possession of a completed provisional ballot envelope containing the ballot to the possession of an officer of election <i>and the subsequent approval of that provisional ballot by the local electoral board.</i>"</p>	<p>Proposed change removed for further consideration</p>
<p>G S Riddlemoser, Director of Elections and General Registrar, Stafford County</p>	<p>1VAC20-60-40</p> <p>change para D to read:</p> <p>"D. If any voter's ballot was not so cast by or at the direction of the voter, then the ballot cannot be cast by any officer of election or other person present. Notwithstanding the previous sentence, if a voter inserts a ballot into an optical scanner and departs prior to the ballot being returned by the scanner due to an undervote, or overvote or equipment malfunction, the officer of election may MUST cast the ballot for the absent voter."</p>	<p>Proposed change removed for further consideration</p>
<p>G S Riddlemoser,</p>	<p>1VAC20-60-50</p>	<p>None (issue goes beyond the scope of the</p>

<p>Director of Elections and General Registrar, Stafford County</p>	<p>Change para 2 to read:</p> <p>"2. Any such auxiliary ballot container used shall (A) meet the requirements of § 24.2-623 of the Code of Virginia, or (B) meet the requirements for the sealing and transportation of Envelope or Box 3 as contemplated in the PROCEDURES CONCERNING ELECTION RECORDS FOR CLERK OF CIRCUIT COURT issued by the Department immediately prior to each election." ... or something similar because...</p> <ul style="list-style-type: none"> • There is no reason not to prepare ballots that were removed under this rule to be ready to be transported to the clerk at the close of polls. In other words, remove the ballots, box them up, seal them with tamper tape, and have all officers of election present sign the box label - just like they would do after 7pm except that they are doing so immediately after solving the overfull problem. • Localities can easily afford good cardboard boxes - they may or may not be able to afford lockable containers to be used once every four to eight years. • In addition to the cost issue is one of storage. Few localities have extra storage space and would find it hard to find a place to store something that is used so infrequently. 	<p>current review)</p>
<p>Bruce Brown, Chair – City of Alexandria EB</p>	<p>Use of cameras</p> <p>I do not think that cameras, other than by official media or designated public officials, should be allowed in a polling station.</p>	<p>None</p>

<p>Brenda Cabrera</p>	<p>Clarification for Curbside Voter</p> <p>1VAC20-60-40. When ballot cast</p> <p>Where does the curbside voter fit into this scenario related to “when the vote is cast”? In current practice, the vote is cast when the voter hands the ballot to the Election Officer at the curb. The procedure described in Part D has been the procedure with a curbside ballot, "if a voter inserts a ballot into an optical scanner and departs prior to the ballot being returned by the scanner due to an undervote or overvote, the officer of election MUST (I agree with Mr. Riddlemoser's recommended change) cast the ballot for the absent voter." The ballot is cast as-is, or placed in an emergency bin to be hand counted. B(ii), states that a ballot is technically “cast” when it is inserted into a scanner and B(iv) speaks strictly to relinquishing a provisional ballot to the election officer. As written, this could mean that an officer would have to ask the curbside voter to remain until the ballot is inserted into the scanner and would then require the officer to return to the voter to either make a correction or advise the voter that the ballot was accepted by the scanner.</p> <p>Please clarify by either adopting the same procedure in Part D for the curbside voter or stating at what point the ballot of a curbside voter is considered cast.</p>	<p>None (issue goes beyond the scope of the current review)</p>
<p>Patricia Brendel</p>	<p>camera</p> <p>I worry that a voter will take a picture of the way they voted and then go out to sell their vote. I have no problem with media taking a picture as long as the vote is protected.</p>	<p>None</p>
<p>Penny R. Limburg, General Registrar</p>	<p>1 VAC 20-60-30 voter using cell phone</p> <p>In regard to the following, "Voters are permitted to use cameras or audio or visual recording devices inside the</p>	<p>None</p>

	<p>polling place. Officers of election may regulate or restrict the use of these devices by voters if the use hinders, delays, or disrupts the voting process, or the voter attempts to intimidate other voters through use of the device."</p> <p>I understand the culture of voters desiring to take a "selfie" with thier own ballot, however, I think it would be wise to include taking a picture of another person's ballot is prohibited without the other voter's expressed permission in order to protect the privacy of the ballot.</p>	
<p>Judy Flaig, Election Manager, Fairfax County</p>	<p>Please add "or to intimidate officers of election"</p> <p>Voters are permitted to use cameras or audio or visual recording devices inside the polling place. Officers of election may regulate or restrict the use of these devices by voters if the use hinders, delays, or disrupts the voting process, or the voter attempts to intimidate other voters <u>or officers of election</u> through use of the device.</p>	<p>Language clarified in final regulation</p>
<p>David Plunkett</p>	<p>Use of Cameras or other recording devices</p> <p>I do not like the use of cameras or other recording devices inside the polling place.</p> <p>I think they may intimidate voters, some feel it is a breach of privacy or Confidentiality.</p> <p>Having polling places that allow cameras or other recording devices just add to the work load of monitoring what is going on by the Officers of Election, and trying to keep the voting process moving and the polling place secure.</p>	<p>Language clarified in final regulation</p>
<p>Therese Martin</p>	<p>Voters use of cell phones</p> <p>Elimination of "cellphones" -- as distinct from cameras and recording devices--in 1VAC20-60-30, Section B effectively eliminates cell phones as one of the devices to be monitored by</p>	<p>Language clarified in final regulation</p>

	<p>the election officers or covered for voters by this regulation. Was this your intention? If so, what steps can be taken by an election officer when a voter is holding up the check-in line by engaging in a distracting phone conversation simultaneously with check-in? Could the voter be asked to step aside until their call is completed?</p>	
<p>Michael Jukes</p>	<p>town hall</p> <p>Any voter may be required to cease using the device, but no voter may be removed from the polling place for using a device until after the voter has cast his ballot." Consider changing the sexist language in this paragraph and any other places similar language occurs. The easiest way to avoid this problem is to use plural constructions. This sentence would become: Voters may be required to cease using such devices, but voters may not be removed from the polling place until after they have cast their ballots."</p> <p>C. has three subsections. Those subsections should use parallel construction to improve the readability of the section.</p> <p>Current C</p> <p>Grounds for regulating [or prohibiting the] use of electronic devices [by authorized representatives of candidates and political parties] include [but are not limited to] (i) the making or receiving of calls that interfere with or become disruptive to the voting process; (ii) the making or receiving of calls in an attempt to solicit or influence any person in casting his vote; [or] (iii) the [usage of the camera function to film within the polling place or beyond the 40-foot prohibited area; or (iv) the] person using the device is conducting himself in a noisy or riotous manner at or about the polls so as to disturb the election.</p> <p>More readable C</p> <p>Grounds for regulating [or prohibiting the] use of electronic devices [by</p>	<p>Language clarified in final regulation</p>

	<p>authorized representatives of candidates and political parties] include [but are not limited to] (i) making or receiving of calls that interfere with or become disruptive to the voting process; (ii) making or receiving of calls in an attempt to solicit or influence any person in casting his vote; or (iii) [using the camera function to film within the polling place or beyond the 40-foot prohibited area; or (iv) using the device in a noisy or riotous manner at or about the polls so as to disturb the election.</p> <p>D3 is different from 24.2-802 C although I suspect the intend was not to change it. In 24 2-802 C, "each candidate or petitioner and governing body or chief executive officer", recommends to the Court "an equal number of the officers of election to be recount officials." The proposed D3 contains the sentence, "Such list shall note recommended recount officials who the court may appoint if the officials and alternates recommended by the parties to the recount are not of sufficient number to conduct the recount within a reasonable period." The D3 language seems to me ambiguous about whether the parties could recommend recount officials to the Court who had not been election officials in the election. If my reading is a possible interpretation, then I think we could have chaos trying to incorporate people who have had no training as officers of elections.</p> <p>Section E seems to take away from the Court the possibility of asking for information directly from the localities. This assertion of control over the Court is easily remedied by adding a phrase to the last sentence in E. The electoral board of each county or city in which the recount is to be held shall provide the requested information to the Secretary Commissioner of the State Board Department of Elections or directly to the Court if so requested.</p> <p>town hall</p> <p>Finally, in G, in every other location in this revision paper ballot is changed to</p>	
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	<p>printed ballot. I'm not entirely sure why printed is better than paper, but if it is, shouldn't it be changed here?</p>	
<p>Rick Miller, General Registrar, Frederick County</p>	<p>1VAC 20-60-30, 1VAC 20-60-40, 1VAC 20-60-50, 1VAC 20-80-20</p> <p>1VAC 20-60-30 in its new format is very confusing. The Officers of Election are extremely busy on Election Day trying to take care of their number one concern - qualifying the voters and having the voters vote. For the Officers to have to try and regulate whether the person in the polls taking pictures is a voter or an authorized representative is asking them to be distracted from their top priority again - qualifying and voting. I would ask that any electronic devices with a camera function, the camera function cannot be used in the polling place by anyone.</p> <p>1VAC 20-60-40 the proposed change are good.</p> <p>1VAC 20-60-50 the proposed changes are good.</p> <p>1VAC 20-80-20 the proposed changes are good.</p>	<p>Language clarified in final regulation</p>
<p>Susan Jett, Lancaster County GR</p>	<p>Cameras in the polls</p> <p>The Officers of Election are extremely busy on Election Day trying to take care of their number one concern - qualifying the voters and having the voters vote. Officers should not have to try and regulate whether the person in the polls taking pictures is a voter or an authorized representative.</p> <p>I also worry that voters could be intimidated with cameras inside the polling place. No cameras in the polling place period.</p>	<p>Language clarified in final regulation</p>
<p>Mike Ziegenfuss Chairman Norfolk Electoral Board</p>	<p>No to rule change</p> <p>We foresee potential lawsuits with accusations from voters regarding freedom of speech vs. the ability to vote without being intimidated. Additionally, the Electoral</p>	<p>Language clarified in final regulation</p>

	<p>Board’s hands are tied as, Under Section D, “No policy disallowing use of all electronic devices by all voters is allowed.” Voters should be permitted to vote in peace with no fear of intimidation or reprisal and as little disruption as possible. The proposed loosening of the current policies in place under Chapter 60 will, effectively, be the first step in creating chaos in the voting place. People will be able to take the few minutes necessary to vote their ballot and update their Snapchat story, Instagram or Facebook status at another time or place. Additionally, no one should be recorded without express permission just to wind up on the local or national news, or worse yet, the worldwide web.</p>	
<p>Karen Alexander</p>	<p>Cell Phone Usage</p> <p>1 VAC 20-60-30 voter using cell phone</p> <p>We can NOT begin to allow the use of cameras and cell phones in the voting precincts. Voters' freedom of confidentiality might as well be thrown out the window if this is permitted. If allowed, any authoritative figure can demand someone to vote a certain way and then insist that the voter take a picture of their vote to prove that their hierarchical will was done. The issue of buying votes, bullying, persuasion, etc... all become REAL problems if this sort of proof can legally exist now. No one needs a "selfie" holding their ballot. That is what their "I VOTED" sticker is for. Allowing for shenanigans like this will inevitably create chaos in the precincts, distracting other voters, limit the ability of Poll Workers to do their jobs, and will therefore slow down the process for everyone. I see absolutely no benefit to allowing for this change.</p>	<p>Language clarified in final regulation</p>
<p>Al Ablowich, Virginia Beach Electoral Board</p>	<p>1VAC20-60-30</p> <p>Para. B. The disadvantages of permitting a voter to photograph</p>	<p>Language clarified in final regulation</p>

	<p>anything in the polling location far exceed the benefits that might be gained from allowing it. The impact statement associated with this proposed regulation change does not state what problem is being solved by changing this policy. Voters as well as candidate representatives should be prohibited from using cameras inside the polling location as the current policy states. However, a prohibition against using cameras inside the polling location will not prevent individuals from taking pictures because there are no adverse consequences if they do..</p>	
<p>Al Ablowich, Virginia Beach Electoral Board</p>	<p>1VAC20-60-40 Para. B. Suggest a new (v) A curbside voter provides a permanent record when the voter relinquished possession of a ballot to the possession of an officer of election.</p>	<p>Proposed change removed for further consideration</p>
<p>Catherine D. Allport</p>	<p>The use of electronic devices inside the polling precinct during an election. I am very concerned about any expansion of the use of electronic devices in the polling place. I am concerned about the time it takes for election officers to monitor this. Last election, new voters were taking selfies and pictures of each other in the voting booths. We offered a space near the exit, with a nice background. We suggested that they might want to get their "I voted" sticker on their shirts and then take the picture. This seemed to better suit everyone. Older voters seemed very hesitant when they observed this open use of cell phone cameras in the voting spaces. Several voters complained about an observer who was seated too closely to the check in table and was using a lap top. This becomes particularly challenging when there is a dual primary and everyone is a bit hesitant and suspicious. Our elections take place in a very nice, accessible building. However there is nothing to absorb all the expected level of noise on election day. No</p>	<p>Language clarified in final regulation</p>

	<p>matter how much warning we give everyone about silencing their cell phone, noise making cell phones add to the level of noise and confusion for some voters. At our site there is a range of ages from college students to the very elderly. Frequently our observers are college students or young professionals. I understand that for the younger generation, any proposals limiting their use of electronic devices seems an infringement of their personal freedom. But given that the polling place is open to all ages, we may need a compromise that benefits all, including the election officers that are trying to make the voting experience accessible to all and in a timely fashion for the many working voters in our precinct. We will always need to educate voters on who the observers are, their roles, and what electronic devices they are using and why. Let us not add to this burden for the officers of election who in this year, 2016, have an unusually heavy workload.</p>	
<p>Stephanie Iles, Norfolk Office of Elections</p>	<p>PLEASE DO NOT MODIFY THE EXISTING POLICIES & PROCEDURES RE: ELECTRONIC DEVICES</p> <p>Good morning esteemed Members of the State Board of Elections and Virginia Department of Elections -</p> <p>We have reviewed your proposed changes to the existing policies and procedures currently in place with regards to the use of electronic devices in polling places under 1VAC20-60-30. We are deeply concerned with your proposed changes and are requesting that you strongly reconsider this decision.</p> <p>Permitting voters to use cameras and/or audio or visual recording devices inside the polling place will create disruption and disorder. Voters, as well as, Officers of Election should not feel intimidated by others. If this is permitted, persons may be secretly recorded or photographed -or- knowingly recorded or</p>	<p>Language clarified in final regulation</p>

	<p>photographed WITHOUT consent. No one should be recorded without his/her express permission. Who knows what would happen with this information? Persons (both voters and Officers of Election) might feel threatened and their information may appear on local or national news, or worse yet, the worldwide web and the "Cloud" where it cannot be removed.</p> <p>Furthermore, how do you protect our Protected Voters? How can you guarantee their safety and privacy in the polling place from being compromised? These are members of Law Enforcement and Judges, those under Court or Protective Order who may be stalked or threatened. If this law is changed, then you cannot guarantee that one of these protected voters would not be photographed or recorded. This is a violation of their protected rights. We cannot guarantee their right to privacy if these policies are modified as indicated. Additionally, those protected members of Law Enforcement should have their identities protected given their profession. If photographs or recordings of these persons end up in the wrong hands, they might be targeted.</p> <p>Officers of Election volunteer to serve at the polls as a matter of civic duty. They certainly do not do it for the compensation. They should be able to serve in this civic capacity without further complications in their life, accusations of impropriety or fear of reprisal. To enact these proposed changes would result in our Officers of Election essentially "policing" Authorized Observers and voters on Election Day. It is difficult enough to recruit volunteers to work without adding these additional duties and impositions to them.</p> <p>We foresee potential lawsuits with accusations from voters regarding freedom of speech versus the ability to vote without being intimidated. This is really opening Pandora's box for accusations of misconduct and lawsuits. Additionally, the Electoral Board's hands are tied as proposed,</p>	
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	<p>Under Section D, “No policy disallowing use of all electronic devices by all voters is allowed.”</p> <p>Voters should be permitted to vote in peace without fear of intimidation or reprisal and as little disruption as possible. The proposed loosening of the current policies in place under Chapter 60 will, effectively, be the first step in creating chaos in the voting place. People should be able to take the few minutes necessary to vote their ballot. For individuals who have a problem detaching from their electronic device(s), take the few minutes to vote in peace, without fear or intimidation. A person's Snap chat story, Instagram or Facebook status can always be updated after they leave the building.</p> <p>Thank you for your consideration.</p>	
<p>Carol Gaunt, Director of Elections/General Registrar, Page County</p>	<p>1VAC20-60-30, 1VAC20-60-40</p> <p>(60-30) There is no valid reason for a cell phone and/or camera to be used in the polling place by a voter or observer; our Officers of Election have enough to do without policing the voters for violations of privacy, which will be a concern of others in the polling place. The media is indicated in 24.2-604(J) Code of Virginia, as approved with stipulations. This should be sufficient for a orderly, well conducted election process.</p> <p>(60-40) Not a permanent record until the canvass is complete, adjust the language accordingly.</p>	<p>Language clarified in final regulation (60-30) Proposed change removed for further consideration(60-40)</p>
<p>Marlene Watson</p>	<p>electronic devices in polling place</p> <p>please do not modify the existing policies & proceduresthank u</p>	
<p>W.T. Latham</p>	<p>overfull ballot containers</p> <p>1 VAC 20-60-50 needs to be revised to allow storage of ballots from an overfull ballot container in a sealed storage box instead of another ballot</p>	<p>None (issue goes beyond the scope of the current review)</p>

	<p>container, at least as "ballot container" is defined in the Code.</p> <p>Placing the ballots in a "ballot container" is less secure than placing the ballots in a sealed storage box. It is also less practical and less efficient.</p>	
<p>Cameron Sasnett/ Fairfax County Office of Elections</p>	<p>1VAC20-60-40</p> <p>Seconding a comment made by Stephen Hunt:</p> <p>The change to paragraph B regarding the provisional ballot is not correct. The permanent record does not occur when a provisional ballot is submitted by the voter. It occurs when the electoral board accepts it and it is counted. If the electoral board rejects the provisional ballot, it is as though the voter never voted. Consequently it is as though there was never a permanent record. I recommend that the language be changed to include the acceptance by the local electoral board</p> <p>"or (iv) relinquishing possession of a completed provisional ballot envelope containing the ballot to the possession of an officer of election <i>and the subsequent approval of that provisional ballot by the local electoral board.</i> "</p>	<p>Proposed change removed for further consideration(60-40)</p>
<p>Cameron Sasnett/ Fairfax County Office of Elections</p>	<p>Cameras In the Polling Place</p> <p>I support the alterations to the regulations to allow voters to use electronic devices with imaging devices within the polling place. I believe that this provides voters with an opportunity to digitally capture and even share a memento of their voting experience; something which (other than a sticker) election administrators cannot provide. Additionally, should a voter choose to film an interaction within the precinct, it will provide election administrators access to evidence to support or refute claims of disenfranchisement or even a positive and efficient voting experience.</p> <p>I would caution though, that the State</p>	<p>Language clarified in final regulation</p>

	Board incorporate identical guidelines as established for the media. These guidelines should include the prohibition of filming or photography of: A) other voters without their permission, B) the ballot of any other voter, and C) any voter lists.	
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The final revised regulation of Chapter 60 meets the criteria set out in Executive Order 17 (2014). The regulations are necessary for administering elections, clearly written, and easily understandable. The regulation continues to be necessary to clarify administrative responsibilities and processes under current law. The revised proposed regulation received a number of comments concerned about disruptions in the polling place which the final regulation clarifies can be handled by officers of election, just like any other kind of disruption. The final revision significantly reduces the complexity of the old regulation and makes it easier to understand. The changes to the regulation were made to bring it into conformance with current state and federal law and to update it in light of new technology and associated social practices.