



COMMONWEALTH of VIRGINIA

**Office of the Attorney General
Richmond 23219**


Mark R. Herring
Attorney General

202 North Ninth Street
Richmond, Virginia 23219
804 - 786 - 2071
804 - 225 - 4541 TDD

MEMORANDUM

To: Robert H. Brink
Chairman, Virginia State Board of Elections

Christopher E. Piper
Commissioner, Virginia Department of Elections

From: Carol L. Lewis
Assistant Attorney General 

Date: December 13, 2021

Subject: Letter of Assurance for Periodic Review of Regulations – Guidance for administration of voter registration by general registrars. [1 VAC 20-40-40]

Pursuant to the Code of Virginia and Executive Order 14 (as amended July 16, 2018), a periodic review of a regulation every four years shall include an examination by the Office of the Attorney General to ensure statutory authority. In that regard, I have reviewed the State Board of Elections regulation referenced above. In my view, as counsel to the State Board of Elections and Department of Elections, this regulation may be promulgated pursuant to Title 24.2 *et seq.* of the Code of Virginia (Code).

The regulation does not appear to conflict with the Constitution of the United States or the Constitution of the Commonwealth of Virginia, nor does it appear to conflict with any federal law. Pursuant to Virginia Code

§ 2.2-4002(B)(8), the regulation is exempt from the provisions of Chapter 40 of Title 2.2 of the Code of Virginia, as it is an agency action relating to the “conduct of elections or eligibility to vote.”

This memorandum addresses legal matters only and is not intended to serve, nor should it be construed, as a comment for or against the merits of the regulations.