



# **COMMONWEALTH of VIRGINIA**

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## **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:** May 25, 2021

**Subject:** Letter of Assurance for Periodic Review of Regulations – General Administration [1 VAC 20-20]

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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 regulations referenced above. In my view, as counsel to the State Board of Elections and Department of Elections, these regulations may be promulgated pursuant to Title 24.2 *et seq.* of the Code of Virginia (Code). The regulations do not appear to conflict with the Constitution of the United States or the Constitution of the Commonwealth of Virginia, nor do they appear to conflict with any federal law or state law.

The provision 1 Va. Admin. Code 20-20-30 should be amended. Subsections (B) through (F) refer to administrative authority of the Secretary of the Board of Elections, but that appears to be outdated. The Commissioner of the Department of Elections handles administrative matters for the State Board of Elections. Accordingly, it would be logical to strike all references to the Secretary in the aforementioned subsections and instead refer to the Commissioner. Similarly, the State Board of Elections may wish to revise the entirety of 1 Va. Admin. Code 20-20-60, which details the authority of the Secretary.

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.