



★ VIRGINIA ★
STATE BOARD *of* ELECTIONS

BOARD MEETING

Tuesday, October 9, 2018
Senate Room 3
Virginia State Capitol
Richmond, VA
11:30AM

SBE Board Working Papers



**STATE BOARD OF ELECTIONS
AGENDA**

DATE: Tuesday, October 9, 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** *Christopher E. "Chris" Piper
Commissioner*
- III. APPROVAL OF MINUTES** *Singleton McAllister
SBE Secretary*
- A. September 20, 2018**
- IV. NEW BUSINESS**
- A. Ballot order drawing for all general and special elections being held between November 7, 2018 and May 7, 2019** *Matthew Abell
Election Administrator*
- B. Proposed Regulation Amendments for Petitions** *Samantha Buckley
Policy Analyst*
- C. Stand By Your Ad hearings** *Arielle A. Schneider
Policy Analyst*
- 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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Call to Order

BOARD WORKING PAPERS

James Alcorn
SBE Chair



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Approval of Board Minutes

BOARD WORKING PAPERS
Singleton McAllister
Secretary of the Board



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Commissioner's Report

BOARD WORKING PAPERS
Christopher E. Piper
Commissioner



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Ballot order drawing
for all general and
special elections
being held between
November 7, 2018
and
May 7, 2019

BOARD WORKING PAPERS
Matthew Abell
Election Administrator



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STATE BOARD *of* ELECTIONS

Memorandum

To: Chairman Alcorn, Vice Chair Wheeler, and Secretary McAllister

From: Matthew Abell, Elections Administrator

Date: October 9, 2018

Re: Political party order for general and special elections ballots

Suggested motion for a Board member to make:

“I move that the Board certify the determination by lot of the ballot order for all general and special elections being held between November 7, 2018 and May 7, 2019, including any not yet ordered.”

Applicable Code Sections:

Va. Code § 24.2-613.B – “For elections for federal, statewide, and General Assembly offices only, each candidate who has been nominated by a political party or in a primary election shall be identified by the name of his political party. Independent candidates shall be identified by the term "Independent." For the purpose of this section, any Independent candidate may, by producing sufficient and appropriate evidence of nomination by a "recognized political party" to the State Board, have the term "Independent" on the ballot converted to that of a "recognized political party" on the ballot and be treated on the ballot in a manner consistent with the candidates nominated by political parties.”

Va. Code § 24.2-613.C – “... the State Board shall determine by lot the order of the political parties, and the names of all candidates for a particular office shall appear together in the order determined for their parties. ... [R]ecognized political parties’ shall be treated as a class; the order of the recognized political parties within the class shall be determined by lot by the State Board; and the class shall follow the political parties as defined by § [24.2-101](#) and precede the independent class. Independent candidates shall be treated as a class under "Independent", and their names shall be placed on the ballot after the political parties and recognized political parties. ...”

Applicable Dates and Elections:

- January 15, 2019 – Pulaski County Commissioner of Revenue Special Election
- May 7, 2019 – Vienna Town Council (Fairfax County) General Election

Attachments:

Ballot order drawing slips.

Background:

There will be two drawings: political parties and recognized political parties.

- | <u>Political Parties</u> | <u>Recognized Political Parties</u> | |
|--------------------------|-------------------------------------|---------------|
| • Democratic | • Constitution | • Libertarian |
| • Republican | • Green | • Whig |
| | • Independent Green | |

All political parties and *potential* recognized political parties will be included in the drawings. Any political party or recognized political party not represented by a candidate will not appear on the ballot and the positions will shift up accordingly.

While these drawings are taking place to determine ballot order, it should be noted that party affiliation is not listed on the ballot for local elections, pursuant to Va. Code § 24.2-613.B.

ELECT Staff Recommendation:

ELECT staff recommends that the Board determine by lot and then certify the ballot order for the general and special elections being held between November 7, 2018 and May 7, 2019, including any not yet ordered.

Democratic

Republican

Constitution

Green

Independent Green

Libertarian

Whig



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Proposed Regulation Amendments for Petitions

BOARD WORKING PAPERS
Samantha Buckley
Policy Analyst



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STATE BOARD *of* ELECTIONS

Memorandum

To: Chairman Alcorn, Vice Chair Wheeler, and Secretary McAllister
From: Samantha Buckley, Policy Analyst
Date: October 9, 2018
Re: Proposal of Amendments to 1VAC20-50-20; Petition Regulations

Suggested motion for a Board member to make:

I move that the State Board adopt the proposed amendments to *1VAC20-50-20. Material Omissions from Candidate Petitions and Petition Signature Qualifications* for enactment on January 1, 2019.

Applicable Code Sections: Va. Code § 24.2-506; 1VAC20-50-20

Attachments:

Your Board materials include the following:

- Current 1VAC20-50-20 regulation
- Proposed amendments to 1VAC20-50-20 regulation

Background:

Virginia Code § 24.2-506 requires the State Board of Elections (the “Board”) to approve “uniform standards by which petitions filed by a candidate for office, other than a party nominee, are reviewed to determine if the petitions contain sufficient signatures of qualified voters.” Under this authority, *1VAC20-50-20 Material Omissions from Candidate Petitions and Petition Signature Qualifications* provides required elements petition pages and petition signatures must satisfy prior to being validated. This regulation also provides for omissions which will render the petition page or petition signature invalid.

The proposed amendments to 1VAC20-50-20 will clarify guidance for general registrars when determining the validity of petition pages and petition signatures. The amendments are in response to recent events regarding Shaun Brown’s petitions and the Board’s July 20, 2018 decision regarding petitions submitted by Peter Wells.

ELECT staff recommendation:

ELECT staff recommends the Board adopt the proposed amendments to *IVAC20-50-20. Material Omissions from Candidate Petitions and Petition Signature Qualifications* for enactment on January 1, 2019.

1VAC20-50-20. Material Omissions from Candidate Petitions and Petition Signature Qualifications.

A. Pursuant to the requirements of §§ 24.2-506, 24.2-521, and 24.2-543 of the Code of Virginia, a petition or a petition signature should not be rendered invalid if it contains an error or omission not material to its proper processing.

B. The following omissions are always material and any petition containing such omissions shall be rendered invalid if:

1. The petition submitted is not the double-sided document, or a double-sided copy thereof, provided by the State Board of Elections;
2. The petition does not have the name, or some variation of the name, and address of the candidate on the front of the form;
3. The petition fails to identify the office sought on the front of the form;
4. The petition fails to identify the applicable election district in which the candidate is running for office;
5. The circulator has not signed the petition affidavit and provided his current address;
6. The circulator is a minor or a felon whose voting rights have not been restored;
7. The circulator has not signed the petition he circulated in the presence of a notary;
8. The circulator has not had a notary sign the affidavit for each petition submitted;
9. A person other than the circulator signed the petition affidavit;
10. The notary has not affixed a photographically reproducible seal;
11. The notary has not included his registration number and commission expiration date;
or
12. Any combination of the scenarios of this subsection exists.

C. The following omissions related to individual petition signatures are always material and any petition signature containing such omission shall be rendered invalid if:

1. The signer is not qualified to cast a ballot for the office for which the petition was circulated;
2. The signer is also the circulator of the petition;

3. The signer provided an accompanying date that is subsequent to the date upon which the notary signed the petition;

4. The signer did not sign the petition; or

5. The signer provided an address that does not match the petition signer's address in the Virginia voter registration system, unless the signer provided an address that is within the same precinct where a voter is currently registered in the Virginia voter registration system, and the signer can be reasonably identified as the same registered voter.

D. The following omissions shall be treated as nonmaterial provided the general registrar can independently and reasonably verify the validity of the petition or signature:

1. An older version of the petition is used (provided that the information presented complies with current laws, regulations, and guidelines);

2. The "election information" including (i) county, city, or town in which the election will be held; (ii) election type; and (iii) date of election are omitted;

3. The name of the candidate and office sought are omitted from the back of the petition;

4. The circulator has not provided the last four digits of his social security number in the affidavit;

5. The signer omits his first name, provided he provides a combination of his first or middle initials or a middle name and last name and address that matches a qualified voter within the Virginia voter registration system;

6. The signer provided a derivative of his legal name as his first or middle name (e.g., "Bob" instead of "Robert");

7. The signer prints his name on the "Print" line and prints his name on the "Sign" line; or

8. The signer fails to provide the date but a period of time that qualifies can affirmatively be established with previous and subsequent dates provided by other signers upon the petition page.

E. A signature upon a petition shall be included in the count toward meeting the petition signature requirements only if:

1. The petition signer is a qualified voter who is maintained on the Virginia voter registration system either (i) with active status or (ii) with inactive status and qualified to vote for the office for which the petition was circulated;

2. The signer provides his name; and

3. The signer provides an address that matches the petition signer's address in the Virginia voter registration system, or the signer provided an address that is within the same precinct where a voter is currently registered in the Virginia voter registration system, and the signer can be reasonably identified as the same registered voter.

§§ 24.2-103 and 24.2-506 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 27, Issue 16, eff. March 28, 2011; amended, Virginia Register Volume 29, Issue 1, eff. August 29, 2012; Volume 29, Issue 24, eff. July 12, 2013.

Virginia Administrative Code
Title 1. Administration
Agency 20. State Board of Elections
Chapter 50. Candidate Qualification

1VAC20-50-20. Material Omissions from Candidate Petitions and Petition Signature Qualifications.

A. Pursuant to the requirements of §§ 24.2-506, 24.2-521, and 24.2-543 of the Code of Virginia, a petition or a petition signature should not be rendered invalid if it contains an error or omission not material to its proper processing.

B. The following omissions are always material and any petition containing such omissions shall be rendered invalid if:

1. The petition submitted is not the double-sided document, or a double-sided copy thereof, provided by the State Board of Elections;
2. The petition does not have the name, or some variation of the name, ~~and address~~ of the candidate on the front of the form;
3. The petition fails to identify the office sought on the front of the form;
4. The petition fails to identify the applicable election district in which the candidate is running for office;
5. **The candidate's residence address provided on the petition does not match the candidate's voter registration record at the time of the petition's circulation;**
- ~~5-~~ 6. The circulator has not signed the petition affidavit and provided his current address;
- ~~6-~~ 7. The circulator is a minor or a felon whose voting rights have not been restored;
- ~~7-~~ 8. The circulator has not signed the petition he circulated in the presence of a notary;
- ~~8-~~ 9. The circulator has not had a notary sign the affidavit for each petition submitted;
- ~~9-~~ 10. A person other than the circulator signed the petition affidavit;
- ~~10-~~ 11. The notary has not affixed a photographically reproducible seal;
- ~~11-~~ 12. The notary has not included his registration number and commission expiration date; or
- ~~12-~~ 13. Any combination of the scenarios of this subsection exists.

C. The following omissions related to individual petition signatures are always material and any petition signature containing such omission shall be rendered invalid if:

1. The signer is not qualified to cast a ballot for the office for which the petition was circulated;

2. The signer is also the circulator of the petition;
3. The signer provided an accompanying date that is subsequent to the date upon which the notary signed the petition;
4. The signer did not sign the petition; or
5. The signer provided an address that does not match the petition signer's address in the Virginia voter registration system, unless the signer provided an address that is within the same precinct where a voter is currently registered in the Virginia voter registration system, and the signer can be reasonably identified as the same registered voter.

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3. The name of the candidate and office sought are omitted from the back of the petition;
4. The circulator has not provided the last four digits of his social security number in the affidavit;
5. The signer omits his first name, provided he provides a combination of his first or middle initials or a middle name and last name and address that matches a qualified voter within the Virginia voter registration system;
6. The signer provided a derivative of his legal name as his first or middle name (e.g., "Bob" instead of "Robert");
7. The signer prints his name on the "Print" line and prints his name on the "Sign" line; or
8. The signer fails to provide the date but a period of time that qualifies can affirmatively be established with previous and subsequent dates provided by other signers upon the petition page.

9. The signer fails to provide the year when signing the petition.

E. A signature upon a petition shall be included in the count toward meeting the petition signature requirements only if:

1. The petition signer is a qualified voter who is maintained on the Virginia voter registration system either (i) with active status or (ii) with inactive status and qualified to vote for the office for which the petition was circulated;

2. The signer provides his name; and

3. The signer provides an address that matches the petition signer's address in the Virginia voter registration system, or the signer provided an address that is within the same precinct where a voter is currently registered in the Virginia voter registration system, and the signer can be reasonably identified as the same registered voter.

Statutory Authority §§ 24.2-103 and 24.2-506 of the Code of Virginia.

Historical Notes Derived from Virginia Register Volume 27, Issue 16, eff. March 28, 2011; amended, Virginia Register Volume 29, Issue 1, eff. August 29, 2012; Volume 29, Issue 24, eff. July 12, 2013.



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Stand By Your Ad Hearings

BOARD WORKING PAPERS
Arielle A. Schneider
Policy Analyst



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DEPARTMENT *of* ELECTIONS

Stand By Your Ad

October 9, 2018

State Board of Elections meeting

Print Media

1. Sal Romero
2. Paloma Saucedo de la Pena

Print Media

Advertisement sponsored by candidate or candidate committee

- Does the ad clearly identify another candidate?
- Did the other candidate approve the ad?

No Other Candidate Mentioned in Ad	Another Candidate Mentioned (who approved the ad)	Another Candidate Mentioned (did not approve the ad)	Jointly Sponsored Ad
"Paid for by John Doe." OR "Authorized by John Doe."	Paid for by John Doe. Authorized by Jane Smith, candidate for Delegate.	Paid for by John Doe. Not authorized by any other candidate.	Paid for by John Doe, Donald Duck and Jane Smith.

Substantial Compliance: An advertisement is only substantially compliant if the words used in the disclosure *unambiguously* convey the information required by Chapter 9.5. Under this standard, advertisement disclaimers must communicate to a reasonable person what is intended and may not admit to alternative interpretations.

As documented in the Substantial Compliance Memo, on November 16, 2016 the SBE ruled for the first time on substantial compliance. An advertisement bearing the disclosure legend "Sponsored by [Name of committee]" rather than the approved "Paid for" or "Authorized by" conveyed the information required by § 24.2-956 and was therefore in substantial compliance.

Schedule of Penalties *candidates for General Assembly or local candidates*

Section 15.3 - Penalties for Candidates for General Assembly or Local Office

The following penalties will apply only to General Assembly or local candidates and/or their campaign committees which sponsor political advertisements.

Print Media

Violators shall be assessed a penalty as follows:

- \$50 for a first time violation with explanation, apology and/or remedial measures taken
- \$100 for a first time violation without explanation, apology and/or remedial measures taken
- \$250 for any second violation
- \$500 for any third violation
- \$1000 for any fourth or subsequent violation

If the advertisement is disseminated or on display in the 14 days prior to or on the Election Day for which the advertisement pertains, the above penalties will be doubled and the maximum penalty would be \$2,500.

1. Sal Romero



2. Paloma Saucedo de la Pena

