



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

# BOARD MEETING

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Tuesday, June 1, 2021

Video and Teleconference

Videoconference:

[https://covaconf.webex.com/covaconf/j.php?MTID=m165d5c13b33f33261c  
bfba475c102d38](https://covaconf.webex.com/covaconf/j.php?MTID=m165d5c13b33f33261c<br/>bfba475c102d38)

Meeting password: *Wwa3eGnpG32*

Teleconference:

1-517-466-2023 US Toll

1-866-692-4530 US Toll-Free

Access Code: 161 142 9475

**Richmond, VA**

**1:00 P.M.**

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SBE Board Working Papers



**STATE BOARD OF ELECTIONS  
AGENDA**

**DATE: Tuesday, June 1, 2021**

**TELECONFERENCE:**

**+1-517-466-2023 US Toll**

**+1-866-692-4530 US Toll Free**

**Access code: 161 142 9475**

**VIDEO CONFERENCE:**

**<https://covaconf.webex.com/covaconf/j.php?MTI>**

**[D=m165d5c13b33f33261cbfba475c102d38](https://covaconf.webex.com/covaconf/j.php?MTI)**

**Password: Wwa3eGnpG32**

**TIME: 1:00 P.M.**

**I. CALL TO ORDER**

*Robert Brink, Chairman*

**II. CITY OF RICHMOND ELECTORAL BOARD**

*Robert Brink, Chairman*

**III. PUBLIC COMMENT**

**IV. ADJOURNMENT**

**NOTE:** Public comment will be offered prior to Board action, but comments will be limited to the specific agenda item in question. An open public comment period will be offered prior to adjournment. Members of the public participating virtually who wish to give public comment on any of the agenda items may do so; if using WebEx, by using the raise hands feature, or if by phone, identifying themselves when the Chair opens the floor to those members of the public attending via telephone.

**<https://townhall.virginia.gov/L/ViewMeeting.cfm?meetingid=32527>**



★ VIRGINIA ★  
STATE BOARD *of* ELECTIONS

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# City of Richmond Electoral Board

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BOARD WORKING PAPERS



OFFICE OF THE  
**COMMONWEALTH'S ATTORNEY**  
JOHN MARSHALL COURTS BUILDING  
400 NORTH 9<sup>th</sup> STREET  
RICHMOND, VIRGINIA 23219-1998

**Colette Wallace McEachin**  
Commonwealth's Attorney

(804) 646-3500  
FAX: (804) 646-0506

April 30, 2021

Robert H. Brink  
Chairman, State Board of Elections  
1100 Bank Street  
Washington Building, First Floor  
Richmond, Virginia 23219

Re: Allegations of unlawful conduct under Titles 24.2 and 2.2 of the Code of Virginia

Dear Mr. Brink:

Thank you for your letter of April 26, 2021, requesting that my office investigate certain allegations of impropriety by members of Richmond's Electoral Board. Your request appears to be in three parts, seeking an investigation into (1) allegations of improper handling of election returns and canvassing, in violation of Title 24.2, (2) allegations of improper abdication of responsibilities in removing a general registrar, in violation of Title 24.2, and (3) allegations that the Electoral Board violated the Virginia Freedom of Information Act, in violation of Title 2.2.

While it is appropriate for election complaints to be filed with the attorney for the Commonwealth in the first instance, Code § 24.2-1019, it is my position that the Office of the Attorney General is better suited to conduct this particular investigation. As you know, the Attorney General is generally restrained from conducting criminal investigations and prosecutions. One of the few exceptions to this prohibition, however, is "violations of laws relating to elections and the electoral process..." Code § 2.2-511(A) (ii). Additionally, Code § 24.2-104(A) provides that

The Attorney General shall have full authority to do whatever is necessary or appropriate to enforce the election laws or prosecute violations thereof. The Attorney General shall exercise the authority granted by this section to conduct an investigation, prosecute a violation, assure the enforcement of the elections laws, and report the results of the investigation to the State Board.

**MANCHESTER COURTHOUSE**  
10<sup>th</sup> and Hull Streets  
Richmond, Virginia 23224  
(804) 646-8704

**OLIVER HILL COURTS BUILDING**  
1600 Oliver Hill Way  
Richmond, Virginia 23219  
(804) 646-2950



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From a practical perspective, as well, the involvement of the Office of the Attorney General would greatly assist in a thorough investigation of these allegations. Unlike the Office of the Attorney General, my office has no investigators on staff. If attorneys from my office were to conduct the investigation and interviews of witnesses, they risk becoming witnesses themselves, potentially creating a conflict of interest for the entire office. The Office of the Attorney General has both the statutory authority and the necessary investigatory infrastructure to accommodate your request. Consequently, as to the first two parts your request (*viz.*, those dealing with election law violations), I would respectfully request that the State Board find "that the public interest will be served" by the assistance of the Attorney General and that the State Board make such a request to that office, pursuant to Code § 24.2-104(B).

The third part of your request relates to an allegation of a violation of the Virginia Freedom of Information Act ("VFOIA"). Specifically, the allegation is that one or more of the members of the Electoral Board made communications "regarding board business while not in a publicly noticed meeting." Code § 2.2-3713 empowers anyone who is "denied the rights and privileges conferred by" VFOIA to "proceed to enforce such rights and privileges by filing a petition for mandamus or injunction, supported by an affidavit showing good cause." As a violation of VFOIA is civil rather than criminal, Code § 2.2-3714, it is my position that any party aggrieved by the alleged conduct may institute civil process to cure the violation without intervention by my office.

Thank you again for bringing these matters to my attention. Please do not hesitate to contact me with any questions or concerns.

Sincerely yours,

Colette Wallace McEachin  
Commonwealth's Attorney

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