



COMMONWEALTH of VIRGINIA

Office of the Attorney General

Jason S. Miyares
Attorney General

202 North Ninth Street
Richmond, Virginia 23219
804-786-2071
Fax 804-786-1991
Virginia Relay Services
800-828-1120
7-1-1

TO: John O'Bannon, Chairman
State Board of Elections

Susan Beals, Commissioner
Department of Elections

FROM: Travis Andrews *TJ Andrews*
Assistant Attorney General

Date: February 28, 2023

Subject: Letter of Assurance for Proposed Amendments to Regulation 1VAC 20-60-80

I have reviewed the proposed amendments to regulation 1VAC 20-60-80, regarding the process by which local electoral boards may request a risk-limiting audit for contested races within their jurisdiction. In my view as counsel to the State Board of Elections, the Board has the authority to promulgate this regulation pursuant to Virginia Code § 24.2-103 and Virginia Code § 24.2-671.2(D). This regulatory action is exempt from the Administrative Process Act pursuant to Virginia Code § 2.2-4002(B)(8) because it relates to the conduct of elections. The proposed amendment does not appear to conflict with the Constitution of the United States or the Constitution of the Commonwealth of Virginia, or any federal or state law currently in effect.

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 proposed amendment.