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Periodic Review and Small Business Impact Review Report of Findings

Agency name	The Virginia Department of Elections
Virginia Administrative Code (VAC) Chapter citation(s)	1 VAC20-20
VAC Chapter title(s)	General Administration
Date this document prepared	March 18, 2026

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Acronyms and Definitions

Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.

ELECT: Virginia Department of Elections

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The State Board of Elections is authorized to promulgate regulations pursuant to § 24.2-103 of the Code of Virginia, which grants the Board authority to supervise and coordinate the work of local electoral boards and general registrars and to make rules and regulations to promote the proper administration of

elections in the Commonwealth. This periodic review is conducted in accordance with § 2.2-4007.1 and § 2.2-4017 of the Code of Virginia, and the procedures of the Office of Regulatory Management.

Alternatives to Regulation

Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.

As part of the periodic review, ELECT considered whether alternatives to the existing regulatory framework could achieve the same objectives. Alternatives evaluated included relying solely on statutory provisions, replacing regulatory language with nonbinding guidance documents, or repealing portions of the regulation deemed redundant. These alternatives were determined to be insufficient for several reasons. Election administration requires uniform statewide procedures to ensure consistent application of election laws across all jurisdictions. Reliance solely on statute would not provide the level of procedural clarity necessary to guide local election officials in the day-to-day implementation of election law. Similarly, replacing regulatory provisions with informal guidance would not provide the same level of transparency, enforceability, or stability expected in a regulatory framework. For these reasons, retaining the regulation, with amendments where appropriate to improve clarity and ensure conformity with current law and administrative structure, remains the least burdensome and most effective approach for achieving the regulatory objectives.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency’s response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Commenter	Comment	Agency response
Center for Election Confidence	<p>§ 24.2-107 of the Code of Virginia provides that “the presence of two or more [electoral] board members while the ballots, election materials, or voting equipment are being prepared . . . shall not constitute a meeting, provided that no discussion or deliberation takes place that would otherwise constitute a meeting.” If such a gathering were to qualify as a meeting pursuant to the Virginia Freedom of Information Act, both public access and prior notice would be required.</p> <p>The Virginia Freedom of Information Act defines a meeting as “meetings, including work sessions, when sitting physically, or through electronic communication means . . . as a body or entity, or as an informal assemblage of . . . a quorum . . . of the constituent membership,</p>	<p>ELECT has reviewed this comment and considered whether additional clarification would be helpful regarding the distinction between preparatory activity that does not constitute a meeting and gatherings that may constitute a meeting under applicable law. ELECT recommends amendments to provide additional clarity consistent with existing statutory requirements.</p>

<p>wherever held, with or without minutes being taken, whether or not votes are cast, of any public body.” This would appear to encompass the assembly of a quorum of an electoral board during the pre-election preparatory period, so long as the board members are discussing issues concerning election preparations.</p> <p>Clarification in the Virginia Administrative Code is necessary and justified because the language in § 24.2-107 is vague with respect to when and how such a gathering of a quorum of an electoral board during the pre-election preparatory period qualifies as a meeting. How much “discussion or deliberation” is required before such a gathering becomes a meeting? Who determines when that threshold has been crossed? CEC is interested in this reform because it relates directly to its purpose of “advancing the role of ethics, integrity, and legal professionalism in the electoral process, including safeguarding the right of eligible voters to vote” by undertaking efforts that “increase confidence in election results and election systems.”</p> <p>CEC urges the State Board to update its regulations to interpret, with greater specificity, when § 24.2-107’s exception to the general definition of “meeting” applies to pre-election preparatory gatherings of a quorum of an electoral board. Suggestions for drawing a bright-line standard include distinguishing between a quorum of electoral board members engaging solely in the execution of physical preparations for an upcoming election (e.g., assisting staff with the setup of early voting locations, confirming security seals, or preparing election materials), which may not qualify as a meeting, and a quorum discussing the applicability or implementation of policies, or otherwise performing adjudicative or administrative functions assigned by law or regulation, which should qualify as a meeting.</p>	
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	<p>Further, the State Board should make clear in any updated regulation that the applicable public notice, access, and observation requirements apply whenever such gatherings constitute meetings under the Virginia Freedom of Information Act.</p> <p>Such a rule would positively impact CEC because it would effect considered policy changes consistent with CEC’s mission, and the impact on Virginia voters would likewise be positive because public access to important governmental functions relating to election administration would be clarified and strengthened through greater transparency, thereby increasing public confidence in Virginia’s election system.</p>	
<p>The League of Women Voters</p>	<p>To ensure security, required training for Virginia Voter Registration System, users should be expressly restricted to staff and other authorized individuals.</p>	<p>ELECT has reviewed this comment and agrees that the regulation should clearly reflect that required training and system access are limited to appropriate staff and other authorized individuals. ELECT recommends amendments to clarify this requirement.</p>
<p>Center for Election Confidence</p>	<p>Revise Informal Complaints Consideration and Resolution Processes. 1 VAC 20-20-80 implements § 24.2-103 of the Code of Virginia with respect to the receipt and investigation of informal complaints concerning the administration of elections from “any person”. However, this section does not provide for any process for the actual investigation or resolution of such complaints. Further, while the code section permits “any person” to make an informal complaint, the existing language only provides for a response to “all voter complaints[.]” (emphasis added). CEC urges the State Board to update 1 VAC 20-20-80 to require an investigation of all complaints received from “any person” and to require some process for their adjudication and resolution. Finally, 1 VAC 20-20-80 should require a process for a “locality” forwarding the complaint to ELECT and the State Board and its investigation, adjudication, and resolution at the state level.</p>	<p>ELECT has reviewed this comment and considered whether additional clarification regarding the receipt, review, investigation, and disposition of informal complaints would improve the regulation. ELECT recommends amendments to clarify this section and better align the language with current practice and authority.</p>

<p>Center for Election Confidence</p>	<p>Conform Outdated References to Secretary of the State Board of Elections with Current Law In 2020, Virginia implemented a change to law that provided for a Commissioner of the Department of Elections to serve as agency director for the Department of Elections (ELECT). However, 1 VAC 20-20 retains several outdated references to the Secretary of the State Board of Elections as agency director, which reflects the previous operational structure. In order to reduce confusion, to promote efficiency and transparency, and to provide for conformity between Virginia law and regulations, CEC urges ELECT and the State Board to take all necessary steps to replace all such outdated references to the Secretary of the State Board of Elections with appropriate references to the Commissioner of the Department of Elections. See §§ 24.2-102 and –103 of the Code of Virginia.</p>	<p>ELECT agrees that references to the former administrative structure should be updated where necessary to conform to current law and agency organization. ELECT recommends technical amendments to update references consistent with the current statutory and administrative structure.</p>
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Effectiveness

Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in the ORM procedures, including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

The regulation remains necessary for the protection of the public interest and the effective administration of elections in the Commonwealth. Election administration involves coordination among numerous local officials and requires consistent procedures across all jurisdictions. The provisions contained in 1VAC20-20 support this objective by establishing administrative standards that facilitate uniform implementation of election laws. The regulation also remains clearly written and understandable. While certain provisions reference administrative structures that have since been modified, these issues can be addressed through targeted amendments without altering the overall regulatory framework. Overall, the regulation continues to serve an important role in supporting the orderly administration of elections and ensuring that election officials have access to consistent administrative guidance.

Decision

Explain the basis for the promulgating agency's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

If the result of the periodic review is to retain the regulation as is, complete the ORM Economic Impact form.

The agency proposes to amend the regulation. 1VAC20-20 continues to be necessary and should be retained, but amendment is appropriate to improve clarity, update outdated references where necessary, and ensure conformity with current law, executive branch review requirements, and present agency practice. The recommended amendments are intended to improve clarity, consistency, and usability while maintaining the regulatory structure necessary to ensure uniform statewide administration of elections. Because the chapter continues to provide the procedural foundation for public participation in the Board's regulatory actions, repeal is not warranted.

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

Pursuant to § 2.2-4007.1 E and F of the Code of Virginia, ELECT evaluated the impact of the regulation on small businesses. The regulation principally governs the administration of elections by state and local election officials and does not impose direct obligations on small businesses. Accordingly, the regulation has minimal economic impact on small businesses. ELECT has also determined that the regulation does not duplicate or conflict with federal or state law and remains appropriate given current technology and administrative practices.

[RIS-4]