

# Bylaws of the Maryland State Board of Elections

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## **Article 1 – Adoption of Bylaws Generally**

### **Section 1.1 – Definitions**

- A. “Administrator” means the State Administrator as defined under §1-101(qq) of the Election Law Article.
- B. “Absence” means a duly appointed member is not present at or able to take part in a meeting.
- C. “Member” means a member of the board, regardless of whether the member has been duly confirmed by the Maryland Senate.
- D. “Vacancy” means a member was removed, died, or resigned from the board.

### **Section 1.2 – Purpose**

These bylaws, adopted by the members of the Maryland State Board of Elections, provide the rules of governance for the board during the conduct of all duties assigned under State and federal laws and regulations. Further, these bylaws set a standard of personal conduct for members of the board requiring them to conduct themselves in accordance with high ethical standards in order to ensure the public that members are independent of partisan pressures and conflicting interests.

### **Section 1.3 – Enactment**

- A. These bylaws shall be approved by a supermajority vote of the full board.
- B. These bylaws are effective and binding on all board members as evidenced by each member signing this document.
- C. When a new member is appointed to fill a vacancy, the new member must sign the bylaws.
- D. In order to amend the bylaws, a member must make a motion and present the amendment during a regularly scheduled meeting of the board. The motion to amend the bylaws must be approved by a supermajority vote of the full board at the next regularly scheduled meeting of the board.
- E. The bylaws shall be reviewed by the members of the Board on an annual basis at the first meeting of the calendar year. Members may propose changes to the bylaws at that time. If the bylaws are amended they will be voted and approved as provided by subsection A above.
- F. A copy of the approved bylaws and any amendments shall be posted on the SBE website.

## **Article 2 – Organization of the Board**

### **Section 2.1 – New Members**

New members must be sworn in by the Clerk of the Circuit Court in the county in which the member resides within 30 days of receiving the commission of appointment from the Governor.

### **Section 2.2 – Officers**

- A. As required by § 2-102 of the Election Law Article, not later than August 1<sup>st</sup> of each year, the board shall elect by a supermajority vote a member to serve as chairman. The duties of the chairman include:
  - 1. Running the board meetings and setting agendas;
  - 2. Serving as the primary board member spokesperson for media inquiries; and
  - 3. Acting as the board’s primary point of contact for the administrator.
- B. At the same time the chairman is elected, the board shall also elect by a supermajority vote a member to serve as a vice-chairman. Beginning after the term of the current vice-chairman, the vice-chairman shall not be a member of the same party as the chairman. The vice-chairman shall fulfill the duties of the chairman if the chairman is absent or unable to carry out the assigned duties.

## **Article 3 – Meetings**

### **Section 3.1 – Time and Location**

- A. Regular meetings. The Maryland State Board of Elections shall meet every month on the fourth Thursday at 2:30PM.
- B. Location. Unless circumstances dictate otherwise, board meetings will be held in the election office located at 151 West Street, Suite 200, Annapolis, Maryland.
- C. Public Notice. Except as provided in E of this section, public notice of regular meetings must be provided for at least one week prior to the meeting. Information on the SBE website and public display of the meeting agenda constitute public notice for purposes of this section.
- D. Cancellation of a regular meeting. The chairman may cancel a regular meeting of the board. Notice of cancellation must be given at least one week prior to the meeting.
- E. Special Meetings. The chairman of the board may call a special meeting. However, no votes may be taken at a special meeting unless three days prior notice has been given to all members, staff and the public.
- F. If the chairman determines that an issue needs immediate board action that cannot wait until the next regularly scheduled meeting, the chairman may direct staff to poll the members to obtain their vote on the issue.

### Section 3.2 – Rules of Order

- A. Quorum
  - 1. A quorum must be present in order to hold a meeting.
  - 2. A quorum of the board of elections shall consist of a majority of the membership of the board.
  - 3. In the event of a vacancy on the board, a quorum shall consist of a majority of members currently serving on the board.
  - 4. There shall be no effect on the quorum when a member of the board abstains or declines to vote or if a member is disqualified from participating under section 4.3 of these by-laws.
- B. Public participation at a meeting must be pre-scheduled and pre-approved by the chairman. The each Board member shall receive notice of all requests for public participation. The chairman may exercise discretion in determining whether to allow participation that has not been pre-scheduled and pre-approved.
- C. The board, with the advice of counsel, shall follow the requirements of the Open Meetings Act as specified under Title 10, Subtitle 5 of the State Government Article<sup>1</sup>.

### Section 3.3 – Meeting Agenda

- A. Each board meeting shall include, at a minimum, the following agenda items:
  - 1. Declaration of Quorum Present
  - 2. Approval of Prior Meeting Minutes
  - 3. Additions to the Agenda
  - 4. Administrator's Report
  - 5. Assistant Attorney General's Report
  - 6. Old Business
  - 7. New Business
  - 8. Confirmation of Next Meeting
  - 9. Closed Session (if needed)
  - 10. Adjournment
- B. Additional items may be added to the agenda in advance of the meeting at the discretion of the chairman.
- C. The administrator shall provide the agenda to the members and publicly post the agenda at least one week prior the meeting.
- D. Prior to each meeting, the administrator shall submit to the board a written report of the activities of the office since the last meeting. The report shall include information on personnel changes, meetings attended, significant correspondence received, voter registration activities, voting system activities, candidate filings, precinct and polling issues, and other projects or initiatives undertaken by the office. An oral summary of the written report shall be provided at each board meeting.
- E. Minutes for both open and closed meetings shall be prepared by the administrator pursuant to SBE's *Guidelines for Conducting Meetings and Writing Minutes*<sup>2</sup>. If the administrator does not attend the closed meeting, the assistant attorney general or one of the members shall be responsible for preparing the closed meeting minutes.
  - 1. The complete open meetings minutes and a summary of the closed meeting shall be presented for approval at the subsequent board meeting.
  - 2. Complete closed meeting minutes shall be held until the next closed meeting for presentation to the board. After approval, the closed meeting minutes shall remain in a sealed envelope in a secure location that only the administrator or the administrator's designee(s) can access.
  - 3. The administrator shall post the approved open meeting minutes on the SBE website within 5 days of approval.

## Article 4 – Rules of Conduct

### Section 4.1 - Attendance

- A. As provided under § 8-501 of the State Government Article, a member of the board who fails to attend at least 50% of the meetings of the board during any consecutive 12-month period shall be considered to have resigned.
- B. Not later than January 15<sup>th</sup> of the year following the end of the 12-month period, the chairman shall forward to the Governor:
  - 1. The name of the member considered to have resigned; and
  - 2. A statement describing the member's history of attendance during the period.

<sup>1</sup> For information and guidance on the Open Meetings Act, see the Attorney General's *Open Meetings Act Manual* (6<sup>th</sup> ed., October 2006) - <http://www.oag.state.md.us/Opengov/Openmeetings/support.htm>.

<sup>2</sup> The guidelines are available on the SBE online library in the local board folder – [www.elections.state.md.us/online\\_library](http://www.elections.state.md.us/online_library).

- C. In the case where the chairman fails to attend meetings, the referral to the Governor shall be made by the vice-chairman.

#### Section 4.2 - Political Activity

- A. Statutory requirements. The members shall abide by the restrictions to political activities provided under § 2-301 of the Election Law Article. See Appendix 1.
- B. Additional requirements.
1. Members shall place their public duties ahead of partisan, political considerations.
  2. A member may not take an active part in the campaign management of a candidate or any matter that is subject to an election under the Election Law Article.
  3. A member may attend campaign fundraisers held by candidates, political parties, or ballot issue committees provided the member discloses this fact to the board<sup>3</sup> and does not publicly indicate that he or she is a member of the board.
  4. A member may make campaign contributions to candidates or issues on the ballot in an election for which the member will be serving on the board provided the member discloses the contributions to the board.
  5. A member may publicly display (including yard signs, bumper stickers, etc) support or opposition to candidates or issues on the ballot in any election for which the member will be serving on the board.
  6. Members may wear campaign paraphernalia that shows support or opposition for or against candidates or issues on the ballot in any election for which the member will be serving on the board provided the member does not wear the campaign paraphernalia while performing board functions or while wearing a board name badge.
  7. Party Activity
    - a. Members may attend party central committee meetings provided they disclose this fact to the Board.
    - b. Members may not serve on an executive committee of the party or assume a role within the party that has decision making authority.
  8. Petitions
    - a. A member may sign a petition.
    - b. A member may not circulate petitions.
- C. Members shall provide any required disclosure of an activity specified under subsection B to the Administrator or the Administrator's designee within a reasonable period of time following the activity that required disclosure. The Administrator shall provide copies of each disclosure received from members at the Board meeting immediately following the receipt of the disclosure.

#### Section 4.3 – Ethics

- A. Members shall follow the provisions of the Maryland Ethics laws<sup>4</sup>, including:
1. By April 30<sup>th</sup> of each year, file the Financial Disclosure Statement<sup>5</sup> required under § 15-601 et seq. of the State Government Article; and
  2. Adhering to the prohibition against the solicitation or acceptance of gifts or honoraria<sup>6</sup> as required under § 15-505 of the State Government Article.
- B. Disqualification due to Conflict of Interest
1. A member of the board shall recuse himself or herself and may not participate as to a matter if the member:
    - i. Has a relative with an interest in the matter and the member knows of the interest;
    - ii. Is part of a business entity which has an interest in the matter;
    - iii. Is negotiating employment or has arranged prospective employment with a business entity which has an interest in the matter;
    - iv. Has a direct financial interest in the matter;
    - v. Has provided support through a contribution to or volunteering for or a candidate or petition that is the subject of the matter; or
    - vi. Otherwise believes that participation would create a conflict of interest.
  2. A member of the board may seek the advice from the assistant attorney general as to the presence of a conflict of interest or other good cause for disqualification.

<sup>3</sup> This notice will provide the other board members with information to determine whether a conflict exists that will require recusal.

<sup>4</sup> See the *Maryland Public Ethics Law Summary* provided by the State Ethics Commission to assist election officials and employees in meeting their obligations to voters, candidates, and political parties. Available on the SBE online library.

<sup>5</sup> Financial Disclosure Statements can now be easily filed online - <https://efds.ethics.state.md.us/>.

<sup>6</sup> See *Ethics and Standards for Election Officials and Employees* for detailed standards of conduct. Available on the SBE online library.

3. If a member does not voluntarily recuse himself or herself, the other board members may disqualify that member if a supermajority determines that the member has a conflict of interest that should disqualify that member from acting on a particular matter.
4. If a member recuses himself or is disqualified from participating in a matter before the board, the recusal or disqualification and the reason(s) for it shall be recorded in the meeting minutes.

#### **Section 4.4 – Resignation and Vacancies**

A member who chooses to resign shall provide written notice of the resignation to:

1. The Governor;
2. The state central committee of the party with which he or she is affiliated; and
3. The State Administrator.

#### **Section 4.5 – Level of Effort**

Members shall expend the time and effort necessary to ensure that they fully understand their duties and obligations as members of the State Board of Elections and generally understand important concepts in the administration of Maryland elections, such as: the process to register to vote; the purpose of provisional voting; general information about the voting systems; the absentee ballot process; campaign finance requirements; and important election deadlines.

#### **Section 4.6 – Fiduciary Duty to the Board**

Members have a fiduciary duty of care and loyalty to the board. Members shall put the interests of the board ahead of partisan interests, personal interests, or loyalties to other organizations in an effort to ensure the successful execution of the duties of the board. Members may not share confidential or sensitive information with outside entities, including matters discussed during closed sessions of the board.

### **Article 5 – Roles and Responsibilities**

#### **Section 5.1 – The Board**

- A. The board shall carry out all duties assigned to it under the Election Law Article and federal law. (See *Duties of the State Board and State Administrator*).
- B. The board shall attend exclusively to top-level policies and plans and shall ensure compliance with mandatory requirements. The board shall not be involved in day-to-day activities of the election office.

#### **Section 5.2 – The Administrator and Staff**

- A. The administrator shall carry out all duties assigned to him or her under the Election Law Article, regulations, policies and procedures established by the board, and duties assigned or delegated by the board. (See *Duties of the State Board and State Administrator*).
- B. The administrator, as the State's Chief Election Official, is responsible for all aspects of managing elections in Maryland including the day-to-day operation of the State office, implementing State election laws and regulations, and serving as a subject matter expert for the Board, the General Assembly, and other stakeholders.

#### **Section 5.4 – Delegation of Duties to the Administrator**

The Board delegates the duties designated in *Duties of the State Board and State Administrator* to the administrator.

#### **Section 5.5 – Personnel Management**

- A. As required under § 2-202(b)(2) of the Election Law Article, the board shall hire the administrator.  
The board shall follow the requirements of § 2-103(b)(7) of the Election Law Article if the board determines that the administrator should be removed for incompetence, misconduct, or other good cause.
- B. The administrator shall hire and supervise the staff of the State Board.
  1. The administrator shall perform or ensure the performance of annual performance evaluations of staff.
  2. The administrator shall follow the requirements of the State Personnel and Pensions Article and any applicable regulations in all matters concerning leave, discipline, or termination.

### **Article 6 – Miscellaneous**

#### **Section 6.1 – Per Diem and Reimbursement for Travel and Expenses**

- A. When provided for in the State budget, the budget for the board shall include funds to pay each member per diem compensation for each day that the member is actually engaged in the discharge of official duties.

- B. The budget for the board shall include funds to reimburse members for expenses incurred while carrying out their duties as members.
- C. Reimbursement for an expense that was not budgeted for must be approved by the chairman prior to payment.



## Appendix 1

Election Law Article, Annotated Code of Maryland

§2-301.

(a) This section applies to:

- (1) a member of the State Board;
- (2) a regular or substitute member of a local board;
- (3) the State Administrator;
- (4) an employee of the State Board or of a local board, including the election director of a board;
- (5) counsel appointed under § 2-205 of this title; and
- (6) an election judge.

(b) (1) An individual subject to this section may not, while holding the position:

(i) hold or be a candidate for any elective public or political party office or any other office created under the Constitution or laws of this State;

(ii) use the individual's official authority for the purpose of influencing or affecting the result of an election; or

(iii) except as provided in paragraph (2) of this subsection, as to any candidate or any matter that is subject to an election under this article:

1. be a campaign manager;
2. be a treasurer or subtreasurer for a campaign finance entity; or
3. take any other active part in political management or a political campaign.

(2) Notwithstanding paragraph (1)(iii) of this subsection, an election judge may engage in the activities of a political campaign, except:

(i) while performing official duties on election day; and

(ii) by serving as a campaign manager for a candidate or as the treasurer for a campaign finance entity.

(c) If the State Administrator determines that an individual is in violation of this section, the State Administrator:

(1) shall suspend the individual from duty until the completion of the next election; and

(2) notwithstanding any other provision of law, may make an interim appointment to ensure the orderly administration of this article.