

# 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 after election of new officers. 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 a Clerk of the Circuit Court of Maryland within 30 days of receiving the commission of appointment from the Governor. They must be either sworn in by the Clerk of the Circuit Court of the county in which they reside or, if sworn in another county, must file their commission with the Clerk of the Circuit Court in the county in which they reside.

### **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 chair. The duties of the chair 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 chair is elected, the Board shall also elect by a supermajority vote a member to serve as a vice-chair. The vice-chair shall not be a member of the same party as the chair. The vice-chair shall fulfill the duties of the chair if the chair 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 monthly at the date and time voted at the previous meeting.
- B. Location. Unless circumstances dictate otherwise, Board meetings will be held in the election office located at 151 West Street, Suite 200, Annapolis, Maryland or via a streaming service.
- 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 chair 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 chair of the Board may call a special meeting. However, no votes may be taken at a special meeting unless at least 48 hours prior notice has been given to all members, staff and the public.

### Section 3.2 – Rules of Order

- A. Quorum
  - 1. A quorum must be present to conduct official business of the Board.
  - 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 chair. Each Board member shall receive notice of all requests for public participation at least 24 hours before the meeting begins. Each request or public participation shall be submitted in writing 24 hours before the start of a meeting. The chair 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 3 of the General Provisions Article<sup>1</sup>.

### Section 3.3 – Meeting Agenda

- A. Each regularly scheduled 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

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<sup>1</sup> For information and guidance on the Open Meetings Act, see the Attorney General’s *Open Meetings Act Manual* (10<sup>th</sup> ed., January 2021) - <https://www.marylandattorneygeneral.gov/Pages/OpenGov/omaManual.aspx>.

- B. To better inform the public, the agenda should supply additional detail under old business and new business to the extent possible. Additional items may be added to the agenda up to 8 days prior to the meeting at the discretion of the chair or by written submission of two members from the parties represented on the Board.
- 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 and all significant agency-related events 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, budgetary highlights or constraints, as well as additional details on major projects, special projects and other initiatives undertaken by the office. An oral summary of the written report shall be provided at each Board meeting.
- E. Minutes
  - 1. Minutes shall be prepared by the Administrator pursuant to SBE's *Guidelines for Conducting Meetings and Writing Minutes*<sup>2</sup>.
  - 2. Closed meeting minutes shall include a summary of the meeting, the individuals in attendance, and the actions taken. The closed meeting minutes may be:
    - a. Included in the open meeting minutes; or
    - b. In a separate sealed document, provided that a summary of the closed meeting is provided in the open meeting minutes.
  - 3. 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 summary and minutes.
  - 4. Meeting minutes shall be presented to all Board members within 5 business days of the next regularly scheduled Board meeting. The Board shall vote on approval of minutes at the next subsequent meeting.
  - 5. Once the minutes are approved, the Administrator shall post the approved open meeting minutes on the SBE website within 24 hours.

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

### **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.

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<sup>2</sup> The guidelines are available on the SBE Online Library in the "Reference Materials" folder under "LBE Resources".

3. A member may attend political events held by candidates, political parties, or ballot issue committees provided that the member does not publicly indicate that they are a member of the Board.
  4. A member may make campaign contributions to entities that file with the State Board of Elections provided the member discloses the contributions to the Board<sup>3</sup>.
  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  
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 at the Board meeting immediately following the payment of the campaign contribution.

#### **Section 4.3 – Ethics**

- A. Members shall follow the provisions of the Maryland Ethics laws<sup>4</sup>, including:
1. Within 30 days of receiving a commission from the Governor and by April 30<sup>th</sup> each year thereafter, filing 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 shall recuse himself or herself and may not participate as to a matter if the member:
    - a. Has a relative with an interest in the matter and the member knows of the interest;
    - b. Is part of a business entity which has an interest in the matter;
    - c. Is negotiating employment or has arranged prospective employment with a business entity which has an interest in the matter;
    - d. Has a direct financial interest in the matter;
    - e. Has provided support through a contribution to or volunteering for or a candidate or petition that is the subject of the matter; or
    - f. Otherwise believes that participation would create a conflict of interest.
  2. A member may seek the advice from the assistant attorney general as to the presence of a conflict of interest or other good cause for disqualification.
  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.

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<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. This summary is available on the SBE Online Library.

<sup>5</sup> Financial Disclosure Statements can be filed online - <https://ethics.maryland.gov/>.

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

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 the member 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 mail-in voting process; campaign finance requirements; and important election deadlines. Administrator and staff shall provide Board members with the staff time and resources to best understand these concepts.

#### **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 to the Administrator the duties designated in *Duties of the State Board and State Administrator*. The Board shall review the duties and State Board Administrator document at least annually at the same time the Board reviews the by-laws.

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

- A. As required under § 2-202(b)(2) of the Election Law Article, the Board shall hire the Administrator. Annually in closed session, the Board may provide a performance evaluation and feedback to the State Administrator.
- 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 chair prior to payment.

**Signatures**

<u>Michael Summers</u> Michael Summers (Feb 29, 2024 15:34 EST)	02/29/2024	<u>Jared DeMarinis</u>	02/27/2024
Member, Chair	Date	Witness (Administrator)	Date

<u>William H. Velp</u>	02/27/2024	<u>Daniel Kobrin</u> Daniel Kobrin (Feb 27, 2024 10:41 EST)	02/27/2024
Member, Vice Chair	Date	(Assistant Attorney General)	Date

<u>Janet Millerson</u>	02/27/2024
Member	Date

<u>Yaakov "Jake" Weissmann</u>	02/27/2024
Member	Date

_____	Date
Member	



## 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.