

BYLAWS OF THE FREDERICK COUNTY BOARD OF ELECTIONS

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BYLAWS OF THE FREDERICK COUNTY BOARD OF ELECTIONS

ARTICLE 1 – ADOPTION OF BYLAWS GENERALLY

Section 1.1 – Definitions

- A. "Absence" means a duly appointed member is not present at or able to take part in a meeting.
- B. "Board" means the local board of elections for the Frederick County Board of Elections.
- C. "Member" includes a regular member of the Board unless a specific reference to a member is provided.
- D. "Board term" means the four-year term beginning the first Monday in June in the year immediately following a gubernatorial election.
- E. "Vacancy" means the position of a duly appointed member who was removed, died, or resigned from the Board.
- F. "SBE" means Maryland State Board of Election.
- G. "Election Director" means the Frederick County Board of Elections Election Director.
- H. "Board Counsel" means the lawyer hired by the Frederick County Board of Elections to represent them.

Section 1.2 – Purpose

These bylaws, adopted by the members of the Frederick County Board of Elections provide the rules of governance for the Board during the conduct of all duties assigned under State and federal laws, regulations, and guidelines and policies of the State Board of Elections (SBE). 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 to assure the public that members act independently of partisan pressures and conflicting interests and make decisions that are not influenced by personal views regarding any political party.

Section 1.3 – Adoption and Amendment of Bylaws

- A. Initial Bylaws Approval. Bylaws shall be reviewed and approved by a majority vote of the full Board at the first meeting of each new Board term or as soon as practical thereafter.
- B. Effective. These bylaws are effective and binding on all members as evidenced by each member's signature on this document.
- C. New Member. When a new member is appointed to fill a vacancy during a Board term, the new member must sign the bylaws.
- D. Amendments. To amend the bylaws:
 - 1. Each proposed amendment must be presented to the Board at a regularly scheduled meeting of the Board for the Board's review, discussion, and any revisions.
 - 2. At the next regularly scheduled meeting of the Board, a motion to adopt the amendment, including any revisions made when the proposed amendment was initially presented, must be adopted by at least three members of the Board.
- E. Forward to SBE. A copy of the approved bylaws and any amendments shall be sent to SBE for review and approval.
- F. Effective date. Any amendment to the bylaws shall take effect on the date at which SBE approves the amended bylaws.

ARTICLE 2 – ORGANIZATION OF THE BOARD

Section 2.1 – New Members

New members must be sworn in by the Clerk for the Circuit Court for Frederick County Board of Elections or the Clerk's duly appointed designee within 30 days of receiving the commission of appointment from the Governor.

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Section 2.2 – Officers

- A. Election of Officers. The Board shall elect, by a majority vote that includes at least one member of each party, a member to serve as President, a member of a different party from the President to serve as Vice President, and a member to serve as Secretary.
- B. Timing of Election. The election of officers shall occur within:
 - 1. The first 20 days of a new Board term; or
 - 2. The first 30 days after the date on which an officer dies, resigns, is removed, or become ineligible, or at the next regularly scheduled Board meeting, whichever is sooner.
- C. Duties – President. The duties of the President include:
 - 1. Presiding at meetings and setting agendas with the assistance of the Election Director;
 - 2. Along with the Election Director, serving as the Board's spokesperson for media inquiries or appointing an appropriate designee to serve as the contact for media inquiries; and
 - 3. Acting as the Board's primary point of contact for the Election Director.
 - 4. Ensuring that all public business is conducted in compliance with the Open Meetings Act.
- D. Duties – Vice President. The Vice President shall perform the duties of the President if the President is unable to carry out the assigned duties until a new President can be elected or the President is able to resume full duties.
- E. Duties – Secretary. The Secretary shall ensure that minutes are accurately compiled and transmitted to SBE.

Section 2.3 – Board of Canvassers

- A. Membership. As required by § 11-301(a) of the Election Law Article, the members shall serve as the Board of Canvassers for each election.
- B. Applicability. These bylaws remain in effect while the members are serving as the Board of Canvassers.
- C. Officers. The Board shall elect, by a majority vote of the members, a President and a Secretary of the Board of Canvassers.
- D. Oath. Before convening for the first time as the Board of Canvassers, the members shall take an oath, administered and recorded by the Clerk of the Circuit Court for Frederick County Board of Elections or the Clerk's duly appointed designee, to canvass and declare the votes cast truthfully and to perform other duties required by law. The Clerk of the Circuit Court or his or her designee shall administer the oath:
 - 1. Before the first mail-in canvass if the Board of Canvassers will convene before early voting to canvass mail-in ballots;
 - 2. Before the start of early voting if there is early voting; or
 - 3. By 5 pm on election day if there is no early voting.
- E. Requirements. In order to take action as the Board of Canvassers:
 - 1. There shall be a quorum, as defined in § 3.2A below; and
 - 2. A member of the minority party present.
- F. Rules. At all canvassing sessions, the Board shall follow the rules of order established under § 3.2 below and rules for minutes established under § 3.3 below.
- G. Governing Authority. The Board shall conduct the canvass pursuant to State law, regulations, and instructions issued by SBE.

ARTICLE 3 – MEETINGS

Section 3.1 – Time and Location

- A. Regular Meetings. Unless circumstances dictate otherwise, the Board shall meet every month at 2 PM on the first Wednesday of the month.

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- B. Location. Unless circumstances dictate otherwise, meetings will be held in the election office.
- C. Notice. Except as provided in § E below, public notice of regular meetings shall be given at least one week prior to the meeting.¹
- D. Cancellation of Regular Meeting. The President may cancel a regular meeting of the Board if the President determines that there is no new business that needs to be shared with or acted upon by the Board.
 - 1. Notice of cancellation for lack of new business or the inability of a quorum of members to attend shall be given at least one week prior to the meeting if those circumstances are known at that time.
 - 2. Notice of cancellation for lack of a quorum or circumstances arising during the week before the meeting shall be given as soon as practicable after the reason is known.
- E. Special Meetings. The President may call a special meeting. Except for meetings convened to address issues that arise during an election, including early voting, election day, and canvassing, the Board shall not take any votes at a special meeting unless three days prior notice has been given to all members, staff and the public.

Section 3.2 – Rules of Order

- A. Quorum
 - 1. Quorum for meetings when the Board is not constituted as the Board of Canvassers.
 - a. There shall be a quorum to hold a meeting.
 - b. A quorum of the Board shall consist of a majority of the membership and at least one member of each political party.
 - c. If there is a vacancy, a quorum shall consist of a majority of members currently serving on the Board.
 - d. There shall be no effect on the quorum when a member abstains or declines to vote or if a member is disqualified from participating under § 4.3 below.
 - 2. Quorum for meetings when the Board is constituted as the Board of Canvassers.
 - a. There shall be a quorum to hold a meeting.
 - b. A quorum of the Board of Canvassers shall consist of a majority of the membership and at least one member of each political party.
 - c. If there is a vacancy, a quorum shall consist of a majority of members currently serving on the Board.
 - d. There shall be no effect on the quorum when a member abstains or declines to vote or if a member is disqualified from participating under § 4.3 below.
- B. Participation in Meetings
 - 1. Any member may make and second motions.
 - 2. Any member can vote on motions.
 - 3. Public participation at a meeting shall be pre-scheduled and pre-approved by the President. The President has the discretion to allow public participation even if the request was not pre-scheduled and pre-approved. Time to be limited to 3 minutes per speaker.
 - 4. If the meeting is an in-person meeting, a member wishing to attend a meeting via phone or video conferencing shall make this request to the President.
- C. Open Meetings Act Compliance

¹ Section 2-303(h) of the Election Law Article (Amended by Chapter 221 (2023) (introduced as House Bill 410)) establishes additional notice requirements for meetings at which proposed polling place changes may be made.

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1. The Board shall follow the requirements of the Open Meetings Act as specified under Title 3 of the General Provisions Article.²
2. For the purposes of the Open Meetings Act:
 - a. There is a quorum when a majority of the members meet in person, by phone, or other means (including email) and discuss a matter that is not an administrative function.
 - b. Three members constitute a quorum, regardless of their respective political affiliations.
3. At least one member (preferably two members) shall be trained in the Open Meetings Act³.
 - a. A member trained on the Open Meetings Act shall provide the Election Director with a certificate of completion.
4. A Board cannot meet in closed session if none of the members completed the Open Meetings Act training.
5. In the absence of the trained member, a Board may not meet in closed session until the presiding officer has completed the Compliance Checklist (see footnote 1).
6. A quorum may not consider public business without giving reasonable advance notice to the public of an open meeting.

Section 3.3 – Meeting Agenda and Minutes

- A. Agenda. Each regular 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. County Council Liaison
 5. Election Director's Report
 6. Board Attorney's Report
 7. Old Business (including specifically identifying any policies affecting voting rights to be considered at the Board meeting)
 8. New Business (including specifically identifying any policies affecting voting rights to be considered at the Board meeting)
 9. Disclosures
 10. Confirmation of Next Meeting
 11. Closed Session (if needed)
 12. Adjournment
- B. Additional Topics.
 1. The President, at his or her discretion, may add before the meeting additional topics.
 2. If the new topic is identified at least one day before the meeting, the agenda should be updated to reflect the new topic and re-posted.
- C. Duties of Election Director. The Election Director or the Director's designee shall:
 1. Before each meeting (and, where policies affecting voting rights will be considered, at least 48 hours before the meeting), make the agenda available to the public;
 2. At each meeting, provide a written report of the office's activities since the last meeting, including 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;
 3. At each meeting, provide a verbal summary of the office's activities since the last meeting;

² For information and guidance on the Open Meetings Act, see the Compliance Checklist and other resources on the open meetings page of the Attorney General's website. See

<https://www.marylandattorneygeneral.gov/Pages/OpenGov/Openmeetings/default.aspx>.

³ This training is available at https://www.igsr.umd.edu/VLC/OMA/class_oma_title.php.

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4. Except as provided in § D(2) below, prepare minutes for both open and closed meetings; and
5. Transmit to SBE approved meeting minutes within five days of approval.

D. Minutes.

1. Minutes shall be prepared in accordance with SBE's *Guidelines for Conducting Meetings and Writing Minutes*⁴. This document shall be given to Board members at their first meeting.
2. If the Election Director or staff does not attend a closed meeting, the Secretary or one of the members shall prepare the minutes and a summary (for the open meeting minutes) of the closed meeting.
3. Full minutes of open meetings and summaries of closed meetings shall be presented for approval at the next Board meeting.
4. Full minutes of closed meetings shall be presented for approval at the next closed meeting held by the Board.
5. After approval, minutes of a closed meeting shall be stored in a sealed envelope in a secure location that only the Election Director can access.
6. Open meeting minutes shall be prepared, submitted, and approved in written format. The official meeting minutes of the Frederick County Board of Elections shall be maintained in electronic written format on the Frederick County Board of Elections website once approved.

ARTICLE 4 – RULES OF CONDUCT

Section 4.1 - Attendance

- A. Minimum Attendance. As provided under § 8-501 of the State Government Article, a member who fails to attend at least 50% of the meetings during any consecutive 12-month period shall be considered to have resigned.
- B. Attendance Report. Within 30 days of the conclusion of the 12-month period during which a member failed to attend at least 50% of the meeting, the President or, if the President failed to attend meetings, the other members shall forward to the Governor and the State Administrator:
 1. The name of the member considered to have resigned; and
 2. A statement describing the member's history of attendance during the period.

Section 4.2 – Political Activity

- A. Statutory Requirements. Each member shall abide by the restrictions to political activities provided under § 2-301 of the Election Law Article. See Appendix 1.
- B. Additional Requirements.
 1. A member shall place his or her public duties ahead of partisan, political considerations.
 2. A member shall 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 Board⁵ 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 local Board of Canvassers provided the member discloses the contributions to the Board.
 5. A member may not publicly display support or opposition to candidates or issues on the ballot in any election (including yard signs, bumper stickers, etc.) for which the member will be serving on the local Board of Canvassers.

⁴ This document is available on SBE's Online Library under "LBE Resources" and "Reference Materials."

⁵ The notice will provide the other members with information to determine whether a conflict exists that will require recusal.

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6. A member may not wear campaign paraphernalia showing support or opposition for or against candidates or issues on the ballot in any election for which the member will be serving on the local Board of Canvassers.
7. Party Activity
 - a. A member may attend central committee meetings and consult with party members.
 - b. A member shall 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 shall not circulate petitions.

Section 4.3 – Ethics

- A. Compliance. Each member shall comply with the State's ethics laws,⁶ including:
 1. Timely, electronic filing of the Financial Disclosure Statement⁷ required under Title 5, Subtitle 6 of the General Provisions Article; and
 2. Adhering to the prohibition against the solicitation or acceptance of gifts or honoraria⁸ as required under § 5-505 of the General Provisions Article.
- B. Conflict of Interest.
 1. A member shall recuse himself or herself and shall not participate in 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, volunteering, 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 of the Board's counsel 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 members may disqualify that member upon a unanimous determination that the member has a conflict of interest that should disqualify that member from acting on a particular matter. This disqualification and the reason for it shall be included in the meeting minutes.
 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 included in the meeting minutes.

Section 4.4 – Resignation and Vacancies

- A. Resignation. A member who chooses to resign shall:
 1. Write a letter to the Governor informing the Governor of the member's decision to resign;
 2. Inform the county central committee of the party with which he or she is affiliated of the resignation; and

⁶ 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 document shall be given to Board members at their first meeting.

⁷ Chapter 31 of the 2017 Laws of Maryland (House Bill 879) requires electronic filing by members of the local boards of elections. Electronic filing is available at <https://efds.ethics.maryland.gov/>. Paper filing is no longer accepted.

⁸ See *Ethics and Standards for Election Officials and Employees* for detailed standards of conduct. This document is available on SBE's Online Library under "LBE Resources" and "Reference Materials."

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3. Inform the Election Director, the President, and the State Administrator of the resignation.
- B. Filling Vacancy. If a member dies, resigns, is removed, or becomes ineligible, the Governor shall appoint an eligible person from the same political party as that member in accordance with § 2-201(h) of the Election Law Article.

Section 4.5 – Level of Effort

Each member shall expend the time and effort necessary to attend meetings and election activities to ensure that they fully understand their duties as members, and their role as members of the Board of Canvassers. Members shall familiarize themselves with 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 process, the absentee ballot process, and important election deadlines.

Section 4.6 – Fiduciary Duty to the Board

- A. Each member has a fiduciary duty of care and loyalty to the Board.
- B. Each member 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.

Section 4.7 – Non-Disclosure/Confidentiality

- A. A member shall not share confidential or sensitive information with outside entities and individuals who are not Board members or employees of the Frederick County Board of Elections.
- B. A member who conducts Board business with a personal email account shall cooperate with Board staff in connection with any response to a request pursuant to the Public Information Act.

ARTICLE 5 – ROLES AND RESPONSIBILITIES

Section 5.1 – The Board

The Board shall:

- A. Carry out all duties assigned to it under the Election Law Article and the regulations, policies, and procedures established by SBE⁹;
- B. Not be involved in day-to-day activities of the election office; and
- C. Account to the public for the services of the agency and its expenditures.

Section 5.2 – The Election Director and Staff

- A. The Election Director shall carry out all duties assigned to him or her under the Election Law Article, regulations, policies and procedures established by SBE, and duties assigned or delegated by the Board.
- B. The Election Director is responsible for duties listed in the *Assignment of Local Board of Elections' Duties to Members of the Local Board, Election Director, and Staff*.

Section 5.3 – Counsel to the Board

- A. Appointment. As required under § 2-205 of the Election Law Article, the Board shall retain as counsel an individual who is a registered voter of the county and admitted to practice law in Maryland.
- B. Duties. In addition to the retainer contract, the individual appointed as counsel or in the counsel's absence, substitute counsel, shall:
 1. Attend Board meetings and attend all canvass sessions;
 2. Attend the biennial conference hosted by SBE and the annual MAEO conference;
 3. Participate in pre-election conference calls hosted by SBE;

⁹ These duties are shown in the *Assignment of Local Board of Elections' Duties to Members of the Local Board, the Election Director and Staff*.

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4. Review major policy guidelines and instructions from SBE;
5. Generally be available to provide advice when needed;
6. Take the oath to serve as counsel to the Board of Canvassers; and
7. Be present for any decision by the Board of Canvassers on the legality or acceptability of any provisional ballot application or of any vote on any ballot.

Section 5.4 – Personnel Management

- A. Duties – Board. As required under § 2-202(b)(2) of the Election Law Article, the Board shall:
 1. Hire and supervise the Election Director;
 2. Perform a semi-annual performance evaluation of the Election Director; and
 3. Comply with the State Personnel and Pensions Article and any applicable regulations or the county merit system requirements in all matters concerning appointment, leave, performance evaluation, discipline, or termination.
- B. Duties – President. The President, in consultation with the Board, shall act as the head of the principal unit for the purposes of appeals and grievances filed under the State Personnel and Pensions Article.
- C. Duties – Election Director. The Election Director shall:
 1. Hire, supervise, and discipline the staff;
 2. Perform or ensure the performance of semi-annual performance evaluations of staff; and
 3. Comply with the State Personnel and Pensions Article and any applicable regulations or merit system requirements in all matters concerning leave, performance evaluation, discipline, or termination.

ARTICLE 6 – MISCELLANEOUS

Section 6.1 – Membership in MAEO

Each member of the Board, the Election Director, the Deputy Director, and other staff shall be members of the Maryland Association of Election Officials (MAEO).

Section 6.2 – Training and Continuing Education

- A. The Board shall encourage and support the efforts of the Election Director and staff to obtain training and continuing education courses to assist the director and staff in the performance of their jobs.
- B. All items as related to training and attendance to any function by the Board Members or Board Appointees shall be brought before the current sitting Board.

Section 6.3 – Public Information Act¹⁰

When a request submitted under the Public Information Act is received, the Board shall ensure that:

- A. The State Administrator is notified of the request; and
- B. The request is completed in timely manner.

Section 6.4 – Litigation

If the Board is notified that it is party to a lawsuit, the Board shall direct the Election Director to immediately notify the State Administrator. A member cannot accept service of process on behalf of the Board.

¹⁰ For information and guidance on the Public Information Act, see information posted on the Office of the Attorney General's website at <http://www.marylandattorneygeneral.gov/Pages/OpenGov/pia.aspx>.

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Section 6.5 – Reimbursement for Travel and Expenses

- A. The budget for the Board shall include funds to reimburse members for expenses incurred while carrying out their duties as members.
- B. The Board shall approve, prior to payment, reimbursement for any unbudgeted expense.

SIGNATURES

Mary Costello 12-18-23
President - Mary Costello Date

B. Wagner 12/18/2023
Witness: Barbara Wagner, Director Date

Nathaniel C. W. Wilson 12/18/23
Vice-President - Nathaniel C. W. Wilson Date

Daniel B. Loftus 12/18/23
Witness: Daniel Loftus, Counsel Date

Shirley McDonald 12-18-2023
Secretary - Shirley McDonald Date

Trenor Neeves 12/18/23
Member - Trenor Neeves Date

Michael Sowell 12-18-2023
Member - Michael Sowell Date

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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.