

MINUTES
Fairfax County Electoral Board
September 16, 2024

The Fairfax County Electoral Board (Board) met on Monday, September 16, 2024, in Conference Room 315 at the Fairfax County Government Center located at 12000 Government Center Parkway, Fairfax. Chairman Hon. Katherine K. Hanley; Vice Chairman Jeffrey K. Shapiro; Secretary Amb. (ret.) Christopher P. Henzel; General Registrar Eric L. Spicer; Deputy Director Cheryl Jones; and Clerk to the Electoral Board Beth Dixon Methfessel were present.

Election Manager Ravi Udeshi; Deputy Registrar for Voter Registration Bushra Ardalan; Deputy Registrar for Absentee Voting Sean Stewart; Deputy Registrar for Voter Satellite Offices Florence Brown; Human Resources Manager Yoon Choi-Lee; Voting Equipment and Logistics Manager Tyrone Allen; Training and Operations Manager Sean Rogers; Election Officer Manager Gretchen Coleman; Supply Manager Kay Garrison; Ann Hines and Bill Turley (Office of Elections (Office) staff); Gregory Brandon (Fairfax County Democratic Committee (FCDC) Central Communications); Richard Chew (Hunter Mill District Chair - FCDC); Christine Brim (Fairfax County Republican Committee (FCRC) Election Integrity Task Force); Patricia O'Brien and Barbara Palmer-Tengs (members FCRC); John Barker, James Jacks, Raouf Raef Kher, Laurel May, Bill Millhouser, and Sharon Wood (Fairfax County election officers and/or residents of Fairfax County).

The following individuals participated using the Zoom videoconferencing platform: Office staff and/or rovers Nazila Arefi, Carrie Clark, Lisa Hogle, B. Gissell Jimenez, Dan Per-Lee, William Mahoney, Alejandra Malanowski, Kathryn Martin, Abigale Peters, Cindy Tackett, Jerald Taylor, Jean Thoensen, and Fily Vilasanta; Aaron Yohai (FCDC Chairman); Maria Vorel (FCDC Precinct Operations); Megan Challender (FCDC Election Law and Voter Protection); Peggy Morrison (FCDC Voter Registration and Education); Carol Allen and Stephen Spitz (members FCDC); Arina van Breda (Director, Voter Registration and Voter Information LWV - Fairfax); and Mark Beale, Diane Cullo, Phyllisa Goldenberg, and Greg Licamele (Fairfax County rovers and/or election officers and/or residents of Fairfax County or neighboring jurisdictions).

Ms. Hanley called the meeting to order at 10:00 a.m. and introduced the Board. Mr. Henzel moved approval of the agenda, and the motion passed by a vote of 3-0.

Ms. Hanley moved that the Board enter a Closed Session to consult with legal counsel employed or retained by a public body regarding list maintenance procedures requiring the provision of legal advice by such counsel, as permitted by Va. Code § 2.2-3711(8). The motion passed 3-0, and without objection, the Board entered a Closed Session at 10:01 a.m.

At 10:53 a.m. the Board concluded the Closed Session. Chairman Hanley read the following statement:

“In accordance with *Virginia Code* § 2.2-3712(D), I am asking the Secretary of the Electoral Board to conduct a roll call vote to certify that to the best of each member’s knowledge that (i) only public business matters lawfully exempted from open meeting requirements of the Virginia Freedom of Information Act were conducted in the closed meeting and (ii) only such public business as was identified in the motion for the closed meeting, by which the closed meeting was convened, was heard, discussed or considered in the closed meeting of the Electoral Board. That roll call vote shall be recorded and included in the minutes of the Electoral Board.”

Secretary Henzel then called the roll for the vote on the above statement:

Voting Yes: Chairman Hanley
 Vice Chairman Shapiro
 Secretary Henzel

Mr. Henzel moved to adopt the Draft Minutes of the Board meeting held on August 15, 2024. By a vote of 3-0, the Minutes of the Board meeting held on August 15, 2024, were adopted.

Mr. Henzel made a motion to appoint 695 election officers (EO) (384 Democrats, 143 Republicans, and 168 Unaffiliated) for a term ending February 28, 2025. The motion passed by a vote of 3-0.

Under the General Registrar’s (GR) report dated September 12, 2024 (attached and made a part of this record), Mr. Spicer presented the General Registrar’s report and updated the voter registration numbers since the last Electoral Board meeting:

Voter Registration

Registered Voters	As of 8/1	As of 8/31	Change from 7/31
Active Registered Voters	723,604	729,179	+5,575
Inactive Registered Voters	81,087	79,015	-2,072
Total	804,691	808,194	+3,503

Active Voter Registration Subtractions (Cancellations and Transfers Out)	8/1 – 8/31	Year-to-Date 2024 (1/1 to 8/31)
Deceased (multiple sources) ¹	472	3,583
Out-of-State (multiple sources) ²	522	4,551
Declared Non-Citizen (from ELECT)	28	210
Declared Mentally Incapacitated (from Court)	3	38

Felony Conviction (from ELECT)	15	119
Voter Request (paper form from voter)	61	284
Transfer Out to Another Jurisdiction in VA	2,979	13,814
Other Subtractions (administrative error, other)	12	49
Total Cancellations and Transfers	4,092	22,648

Active Voter Registration Additions	8/1 – 8/31	Year-to-Date 2024 (1/1 to 8/31)
New Voter Registrations (multiple sources)	5,295	29,035
Transfer In from Another Jurisdiction in VA	2,269	11,804
Other Additions (reactivated, reinstated, other)	2,103	5,883
Total	9,667	46,722

Voter Registration Transactions³ (includes transactions that result in additions, subtractions, and no change)	8/1 – 8/31	Year-to-Date 2024 (1/1 to 8/31)
Online DMV (from ELECT)	25,295	148,454
Online Citizen Portal (from ELECT)	7,851	25,832
Online Third-Party DMV Verified (from ELECT)	406	1,703
Va. Paper Form Third Party (delivered to the office)	308	3,747
Va. Paper Form In-Person (office walk-ins, new citizen ceremonies, at polling locations)	328	1,420
Va. Paper Form By Mail (delivered to the office)	475	2,440
Federal Post Card Application (multiple sources)	1,476	3,201
National (EAC) Paper Form (delivered to the office)	108	544
Same Day Registration (office or voting locations)	0	1,301
Others (voter card, confirmation notice, update form)	348	2,382
Public Assistance, Disability Offices	1	9
Discretionary Agencies (BVS, NTIS, Social Security Administration)	554	4,537

¹ Deceased (multiple sources) includes: Bureau of Vital Statistics through ELECT, Report of Death information provided by relative, Death Certificate provided, and General Registrar Report of Death created based on an obituary

² Out-of-State (multiple sources) includes: DMV, State mail, NCOA, and other voter registration update forms

³ All categories include: new voter registrations, change of address, change of name, voter cancellations (including out-of-state), and duplicates (no change of data)

After receiving the Certification of No Objection from the Attorney General on August 20, 2024, staff published the consolidation of Hummer and Woodburn precincts, as well as the change in the polling place for Greenspring precinct from Village Square to the Conference Center. All voters affected by these changes have been sent the required notification. Signs in four languages will be posted at Fred Packard Center and Village Square (Hummer and Greenspring's retired polling places, respectively). Additionally, the Gerry Hyland Governmental Center was removed as a voter satellite office.

The ballot creation and approval process were delayed by the appeal process for an individual who initially did not qualify as a presidential candidate. Mr. Cornel West was added to the ballot on September 6. Fairfax County's 19-inch ballot was approved by ELECT on September 7. Sample ballots are now posted on the Office website.

The sample ballot brochure is expected to be mailed this week to active voters. It features a prominent encouragement for voters to check their registration. The brochure informs voters in four languages of their precinct name and polling location, early voting schedule and locations, and information on the three ways they can vote – by mail, early in person, or on Election Day. After the brochure is sent, the printer is expected to immediately mail the Office's address confirmation form to the voters who appear on the NCOA list that the USPS furnishes. This will allow staff to cancel the Fairfax County registration of voters who inform the Office that they have moved out of the county, or update addresses of voters who moved within the county. Undeliverable brochures will be returned to the office and treated as normal undeliverable mail. Mr. Spicer confirmed for Mr. Henzel that undeliverable mail brochures will be entered into the voter's VERIS record and trigger inactive status for those voters.

As of September 11, 77,726 absentee ballot applications were approved for the November 2024 General and Special Elections (November General Election). This includes 61,244 permanent applications, 4,902 applications from overseas and military voters, and 11,580 one-time applications.

In-person absentee voting will begin on September 20 at the Fairfax County Government Center and the Mount Vernon and North County Governmental Centers. At the Government Center, early voting will take place in Room 251, a significantly larger space than Rooms 2/3 in the Conference Center. Ms. Brown and Mr. Turley, the outstanding early voting team, made several improvements, particularly at the Government Center, in preparation for the high voter turnout anticipated for a presidential voting year. They utilized a line optimization/wait time model developed by MIT to determine the proper mix of check-in and marking stations. At Government Center, for example, the number of check-in stations will be doubled to eight with an increase to 36 in the number of marking stations.

The same model was applied to the other early voting locations and similar changes were made to optimize the smaller room sizes. The early voting locations periodically will collect wait time data that will be published on the Office's website to give voters near real-time information on how quickly the lines are moving at each location.

The 2024 Page Program continues to receive applications at a robust rate. Over 500 students have applied from 32 area high schools, including private high schools and homeschool. For the first time, pages will have the opportunity to serve at one of the early voting satellite offices.

Due to delays by the Virginia Department of Elections in certifying qualified presidential candidates, dates for some logic and accuracy testing activities have been adjusted.

- Poll Pads to be used for early voting at the Fairfax County Government Center and all voter satellite offices will now be tested and prepared on September 17-18, 2024.
- The ballot-on-demand systems to be used for early voting at the Fairfax County Government Center and two additional 45-day voter satellite offices will now be tested and prepared September 12-18, 2024. This included Saturday, September 14 to adjust the print function for the write-in votes.
- The voting equipment to be used at the Fairfax County Government Center and all voter satellite offices will now be tested and prepared September 12-18, 2024.

Approximately 3,700 election officers will be assigned to serve on Election Day. In every precinct, Chief election officers will represent the Republican Party with Assistant Chief officers representing the Democratic Party. Staff is prioritizing new officers to fill specific geographic needs and to meet party balance. The final deadline to apply as an election officer is Tuesday, October 15. In addition to online training, over 40 in-person training opportunities will be offered.

An Election Security meeting for the November General Election will be held on Monday, September 16 in the Board Auditorium. Key stakeholders from public safety and other agencies have been invited to participate. Discussion includes potential security threats and issues, action taken by the Office to minimize security threats, and action needed by public safety agencies and other county staff to minimize security threats.

The Virginia State Board of Elections voted to conduct two risk-limiting audits (RLAs) of the November General Election. The first will be an RLA of the U.S. Senate election using the ballot-polling method. All localities will participate. The second RLA will consist of a randomly selected U.S. House of Representatives contest and the batch-comparison method will be used. Fairfax County includes three congressional districts, so there is a 3 in 11 chance of being included in this RLA.

Under the first of the two action items from the August Board meeting, with reference to the “Awareness Campaign for Election Security” in Governor Youngkin’s Executive Order dated August 7, 2024, the Department of Elections (ELECT) prepared and distributed a notification to the localities with the instruction to post it in a conspicuous location. The signage is now displayed at the front of Suite 323. Mr. Shapiro asked how voters who register online would be made aware of this notice. Although there was no instruction from ELECT to post the notice online, the Board agreed that the Office website should be updated to include this information.

Under the second action item, the draft policy discussed in the earlier closed session was distributed. The policy addresses the action the Office will take to refer to the investigative and enforcement authorities individuals who were removed from the voter rolls after being identified by ELECT as non-citizens, Mr. Henzel moved to accept the policy as finalized after legal review (attached and made a part of this record). Mr. Shapiro stated that under the policy the General Registrar will refer to the Commonwealth's Attorney and the Attorney General, individuals who were removed from the voter rolls after being identified by ELECT as non-citizens to determine if they violated election law. He stated that "the referral is not a finding that there has been a violation." If an individual is identified as a non-citizen and does not provide a confirmation statement of citizenship status within the 14-day statutory response deadline, it will be up to the Commonwealth's Attorney and/or Attorney General to investigate and take appropriate action. All of the names will be reported whether or not they have a voting history. Mr. Shapiro expressed support for this policy because it complies with the Governor's Executive Order. He emphasized that it is a violation of law for non-citizens even to register to vote and appear on the rolls, and was of the opinion that possible violations should be referred to law enforcement otherwise "the law is just a dead letter." Law enforcement may or may not take action; however, by enacting this policy, the Office will be in compliance with Virginia Code and doing its part to further the integrity of the elections in Fairfax County.

Mr. Henzel agreed with Mr. Shapiro's statement, adding that local election offices do not have the investigative resources or authorities to do the necessary research. Providing the list directs the information to those who do have the resources and authority if they choose to use them.

Mr. Spicer confirmed for the Board that the individuals currently on the referral list are no longer on the rolls and must reregister to vote. ELECT is continuing to forward names, and the number on the list through September 1 is 1,006. In August ELECT sent over 300 names. Ms. Hanley commented that the names received in August may fall within 90 days of the November General Election. She also stated that she is receiving phone calls that the confirmation of citizenship status letter looks like a hoax and may be contributing to the lack of response. Due to the challenges involved in administering a presidential election, adding the additional work that takes time away from election processes, and to avoid confusing the electorate by "casting a pall" over whether they are on or off the voter rolls, Ms. Hanley moved an amendment to the motion to defer referring the implementation of the policy until December 1 after the certification of the November General Election and its required RLAs. Mr. Spicer clarified that the 1,006 figure is now reduced to 828 individuals based on reregistration, relocation, death, etc. Before any names are referred, the 828 names need to be triple checked to ensure that no one receives the non-citizen confirmation letter in error. In response to a question from the public, he added that the 14-day requirement starts when the confirmation notice is printed. If the confirmation is not received within 14 days, VERIS automatically cancels the voter's registration record. Mr. Shapiro offered to explain his opposition to the amendment, but Ms. Hanley ruled that it was unnecessary because the amendment to the motion failed for lack of a second.

The motion to approve the policy for referral of persons identified by ELECT as non-citizens, effective immediately, including the cover letter, passed by a vote of 2-1 with Ms. Hanley voting nay.

Under Electoral Board reports, there was no additional Vice Chairman's or Secretary's reports.

Under the Chairman's report, Ms. Hanley announced that the teachers will work from home on Election Day. This relieves the potential parking situations at the elementary schools.

With respect to the referral policy, Ms. Hanley stated that her understanding of the systematic removal of individuals from the voter rolls falls under federal law and cannot be performed 90 days before a federal election. The first week of August marked 90 days before the November General Election, and ELECT is continuing to remove people from the voter rolls. ELECT is taking the position that the removals are "corrections in the record." Ms. Hanley observed that this type of list maintenance appears to be a systematic removal and not a correction.

Mr. Shapiro commented that he has not investigated these statements, but he thinks the 90-day prohibition does not apply to non-citizens because there is no grace period for illegally appearing on the voter rolls. Additionally, under the National Voting Rights Act, his understanding is that the 90-day prohibition on systematic list maintenance does not apply in states with same day voter registration, an option Virginia now permits. He added that it is very difficult to understand how the DMV manages the data provided to them and how and when it is sent to ELECT. This includes reporting individuals applying for a driver privilege card as well as a legal presence card. Individuals who hold driver privilege cards should not be on the voter rolls.

Under Public Comments, Ms. Rostant asked for the list of individuals that will be referred to the Attorney General and the Commonwealth's Attorney. Mr. Spicer responded that the list will be subject to FOIA. Ms. Rostant also submitted for the record six articles regarding the claims of non-citizens voting.

Ms. Challender remarked that "non-citizen voting is extremely rare", and this effort by Republicans to raise a "false flag is simply a distraction in an attempt to undermine confidence in our elections and to raise fear and anger toward immigrants." She added that it is also a "waste of important resources" while administering an election. She opined that most of the individuals identified as potential non-citizens made an "administrative error" and are not guilty of a crime, and "the Electoral Board should be non-partisan with the goal of advocating for and ensuring free and fair elections." She stated that neighboring jurisdictions, Arlington, Loudoun, King William, and Chesterfield rejected similar measures.

Mr. Brandon commended Mr. Allen and the Logic and Accuracy team for an effective, efficient and thorough process.

Ms. Tengs asked how driver privilege cards will be handled if a voter presents this form of identification. Mr. Udeshi explained that the election officer will check the ID to determine if it meets three criteria, 1) Does it state “Federal Limits Apply” in the top right corner?; 2) Does it state “Restrictions: 9” at the bottom?; and 3) Does it state “Limited Duration” on the back? If it meets these three criteria, then based on the guidance from ELECT, the election officer will inform the individual that the ID is not acceptable for voting purposes. The voter should provide another form of ID or sign the ID confirmation statement. The challenge for the election officer is that the driver privilege card looks the same as a regular driver’s license. Ms. Tengs asked if presenting this type of ID is evidence of someone attempting to vote who is not a citizen. Mr. Shapiro commented that presenting this type of ID is “actually evidence of a non-citizen attempting to vote illegally if they present that card at an election.”

Ms. Brim asked how frequently the Office receives naturalization data. Mr. Henzel responded that ELECT receives naturalization data, not the local election offices. Ms. Brim asked if the KNOWiNK Poll Pad has been tested to determine if it scans the driver privilege card or the legal presence card. Mr. Udeshi replied that the Office does not have these types of cards to test. He added that the Office would welcome consistent guidance from ELECT on how to correctly handle each form of DMV-issued identification so that all Virginia localities can train their election officers in a uniform and consistent manner. Ms. Brim commended the action taken to refer individuals identified by ELECT as non-citizens, as it “represents the majority of the opinions of the American citizens, not just in Fairfax, but across the country.”

Mr. Spitz asked how many of the 1,006 individuals on the referral list became citizens and registered to vote. Ms. Hanley responded that no one who becomes a citizen would appear on the referral list.

Ms. Vorel pointed out that voter registration is conducted at the naturalization ceremonies. She expressed a concern that the process does not inform the local election offices in a timely manner, and the 14-day deadline to respond to the citizenship confirmation notice is too restrictive. The Board responded that the law prescribes the 14-day requirement. She asked if any source other than the DMV provides non-citizen information. The Board explained that ELECT also uses SAVE (Systematic Alien Verification for Entitlements).

Mr. Henzel moved to adjourn. The motion carried, and without objection, the meeting was adjourned at 11:53 a.m.

Attachments

Hon. Katherine K. Hanley, Chairman

Jeffrey K. Shapiro, Vice Chairman

Amb. (ret.) Christopher P. Henzel, Secretary

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