Bylaws of the Montgomery County Board of Elections

Adopted on April 19, 2010

Section 3.2, Rules of Order (B), Participation, Subsection 2, was amended at the Board's November 18, 2013 Meeting and approved by the Maryland State Board of Elections in January 2014.

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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. "Member" means a regular and substitute member of the board unless a specific reference to a regular or substitute member is provided.
C. "Board term" means the four-year term of the board beginning the first Monday in June in the year immediately following a gubernatorial election.
D. "Vacancy" means a duly appointed member was removed, died, or resigned from the board.

Section 1.2 – Purpose

These bylaws, adopted by the members of the Montgomery 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 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 majority vote of the full board (including substitute members).
B. These bylaws are effective and binding on all board members and substitute members as evidenced by each member and substitute member signing this document.
C. When a new member is appointed to fill a vacancy during a board term, 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 majority vote of the full board (including substitute members) at the next regularly scheduled meeting of the board.
E. The bylaws shall be reviewed and amended, as necessary.
F. A copy of the approved bylaws and any amendments shall be sent to SBE.

Article 2 – Organization of the Board

Section 2.1 – New Members

New members must be sworn in by the Clerk of the Montgomery County Circuit Court within 30 days of receiving the commission of appointment from the Governor.

Section 2.2 – Officers

A. As required by § 2-202 of the Election Law Article, within the first 20 days of a new board term, the board shall elect by a majority vote of the regular members a regular member to serve as president. The duties of the president include:
1. Running the board meetings and setting agendas;
2. Serving as the board's primary spokesperson for media inquiries; and
3. Acting as the board's primary point of contact for the election director.

B. Within the first 20 days of a new board term, the board shall elect by a majority vote of the regular members a regular member to serve as a vice president. The vice president shall fulfill the duties of the president if the president is unable to carry out the assigned duties. The vice president shall be of the same party as the president.
C. Within the first 20 days of a new board term, the board shall elect by a majority vote of the regular members a regular member to serve as secretary. The secretary shall be responsible for ensuring that board minutes are accurately compiled and transmitted to the State Board of Elections. The secretary shall not be of the same party as the president.

Section 2.3 – Board of Canvassers
A. As required by § 11-301(a) of the Election Law Article, the members shall serve as the board of canvassers following each election.
B. These bylaws remain in effect while the members are serving as the board of canvassers.
C. A Chairperson and a secretary shall be elected by a majority vote of the regular members. A substitute member may not serve as Chairperson or secretary unless the substitute is serving as a regular member.
D. No later than 5:00 p.m. on the day of the election, the members of the board of canvassers shall take an oath, administered and recorded by the Clerk of the Montgomery County Circuit Court, to canvass and declare the votes cast truthfully and to perform other duties required by law.
E. In order to take action as a board of canvassers:
1. A quorum, as provided for under section 3.2A, shall be present; and
2. A member of the minority party shall be present.
F. The rules of order established under section 3.2 below shall be followed at all canvassing sessions. The rules for minutes established under section 3.3E shall be followed for all canvass sessions.
G. The canvass shall be conducted pursuant to State law, regulations, and instructions issued by SBE.

Article 3 – Meetings

Section 3.1 – Time and Location
A. Regular meetings. The Montgomery County Board of Elections shall meet every month, unless specified by the board.
B. Location. Unless circumstances dictate otherwise, board meetings will be held in the election office.
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.
D. Cancellation of a regular meeting. The president may cancel a regular meeting of the board upon a determination that there is no new business that needs to be acted upon by the board. Notice of cancellation must be given at least one week prior to the meeting.
E. Special Meetings. The president of the board may call a special meeting. The President of the board shall notify the board members, election director and counsel.

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 (including substitute members) of the board and at least one member of each political party represented on 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. Participation
1. A substitute member of the board shall exercise the powers and duties of an absent regular member, except as limited by law.
2. Any member, including a substitute member, may make or second a motion.
3. Only regular members may vote on motions.
4. Whenever a regular member is absent, the substitute member of the same party shall assume the role of a regular member for all or the part of the meeting when the regular member is absent.*

C. Public participation at a meeting must be pre-scheduled *24* hours in advance and pre-approved by the president. The president may exercise discretion in determining whether to allow participation that has not been pre-scheduled and pre-approved.
D. 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[1].

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. Election Director's Report
5. Board Attorney'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 president.
C. The election director shall provide the agenda to the members and publicly post the agenda at least one week prior the meeting. This includes posting on the Board's web site.
D. The election director shall submit to the board a 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 election director pursuant to SBE's *Guidelines for Conducting Meetings and Writing Minutes*[2]. If the election director does not attend the closed meeting, the board attorney 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 election director can access.
3. The election director shall transmit approved meeting minutes to SBE in a timely manner.

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

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 15th of the year following the end of the 12-month period, the president 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.

C. In the case where the president fails to attend meetings, the referral to the Governor and State Administrator shall be made by the other four regular members.

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.

Section 4.2 – Political Activity

B. Additional requirements.

3. A member may attend campaign fundraisers held by candidates, political parties, or ballot issue committees in any election for which the member will be serving on the local board of canvassers provided the member pays for his/her own ticket for the event and the member does not publicly indicate that he or she is a member of the board.
4. A member may make campaign contributions to candidates or committee issues on the ballot in an election for which the member will be serving on the local board of canvassers, but a member may not use his/her name as a host of a political event or solicit a political contribution from anyone or allow his/her name to be used to solicit such a contribution.
5. A member may not publicly display (including yard signs, bumper stickers, etc.) or publicly comment to show support for or opposition to candidates or issues on the ballot in any election for which the member will be serving on the local board of canvassers.
6. A member may not 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 local board of canvassers.
7. Party Activity

a. A member may attend party central committee meetings and may consult with party members.
b. A member 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 not sign a petition
b. A member may not circulate petitions.

[2] The guidelines are available on the SBE online library in the local board folder – www.elections.state.md.us/online_library.

Section 4.3 – Ethics
A. Members shall follow the provisions of the Maryland Ethics laws[4], including:
a. Timely filing the Financial Disclosure Statements[5] required under § 15-601 et seq. of the State Government Article; and
b. Adhering to the prohibition against the solicitation or acceptance of gifts or honoraria[6] 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. Otherwise believes that participation would create a conflict of interest.
2. A member of the board 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 board members may disqualify that member if a unanimous determination is made 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. 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
3. Inform the State Administrator of the resignation.
B. If a member dies, resigns, is removed, or becomes ineligible, the substitute member affiliated with the same political party shall become a regular member and the Governor shall appoint an eligible person from the same political party to be the new substitute member.

Section 4.5 – Level of Effort
Members shall expend the time and effort necessary to ensure that they fully understand their duties as board members, their role as members of the local board of canvassers, 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 system; the absentee ballot process; 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 information determined by the board or the election director, with outside entities.

[4] 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.
[5] Financial Disclosure Statements can now be easily filed online - https://efds.ethics.state.md.us/.
[6] See *Ethics and Standards for Election Officials and Employees* for detailed standards of conduct. Available on the SBE online library.

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, regulations, and policies and procedures established by SBE. (See *Duties of the Board and Election Director).*
B. The board shall attend 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 unless requested to do so by the election director.
C. Specifically, the board shall:
1. Govern through broad policies and objectives, including assigning priorities and ensuring the agency's capacity to carry out programs by continually reviewing its work.
2. Account to the public for the services of the agency and expenditures of its funds, including:
i. Providing for fiscal accountability, approve the budget, and formulate policies related to contracts from public or private resources

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. (See *Duties of the Board and Election Director).*
B. In general, the election director is responsible for:
1. The day-to-day operation of the office;
2. Work to the achievement of the mission of the Montgomery County Board of Elections;
3. Advising and informing board members of the status of projects and initiatives;
4. Interfacing between board and staff;
5. Overseeing the design, promotion, delivery and quality of programs and services;
6. Recommending the yearly budget for board approval and prudently managing the agency's resources within those budget guidelines;
7. Effectively managing the human resources of the organization according to authorized personnel policies and procedures that fully conform to current laws and regulations; and
8. Assuring the board of elections and its mission, programs, and services are consistently presented in a strong and positive manner to relevant stakeholders.

Section 5.3 – Division of Duties – Examples
A. Board ----- Direct the process of planning
B. Board ----- Approve long range goals
C. Board ----- Approve annual objectives
D. Board ----- Oversee evaluation of products, services and programs
E. Board ----- Finalize and approve budget
F. Board ----- Approve expenditures outside authorized budget
G. Board ----- Decision to request additional positions
H. Board ----- Interpret organization to community
I. Joint ------- Administer oath for election judges and canvass workers – *see Appendix 2*
J. Joint ------- Formulate annual objectives
K. Joint ------- Assess stakeholder needs
L. Staff ------- Prepare performance reports on achievement of goals and objectives
M. Staff ------ Maintain program records; prepare program reports
N. Staff ------- Prepare preliminary budget
O. Staff ------- See that expenditures are within budget during the year
P. Staff ------- Direct work of the staff
Q. Staff ------- Hire and discharge staff members
R. Staff ------- Settle discord among staff
S. Staff ------- Take minutes at board meetings
T. Staff ------- Prepare exhibits, material, and proposals for board
U. Staff ------- Follow-up to ensure implementation of board decisions
V. Joint ------- Provide input to long range goals

W. Joint ------- Monitor achievement of goals and objectives
X. Joint ------- Provide organization linkage with other organizations
Y. Joint ------- Plan agenda for board meetings
Z. Staff ------- Inform the board of public information requests

Section 5.4 – Counsel to the Board
A. 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 is admitted to practice law in Maryland.
B. Pursuant to the retainer contract, board counsel shall:
1. Attend board meetings and all canvass sessions;
2. Attend the biennial conference hosted by SBE;
3. Participate in pre-election conference calls hosted by SBE;
4. Review major policy guidelines and instructions from SBE; and
5. Generally be available to provide advice when needed.

Section 5.5 – Personnel Management
A. As required under § 2-202(b)(2) of the Election Law Article, the board shall hire and supervise the election director.
1. The President shall perform an annual performance evaluation.
2. The board shall follow the requirements of the county merit system requirements in all matters concerning leave, discipline, or termination.
B. The election director shall hire and supervise the staff.
1. The election director shall perform or ensure the performance of annual performance evaluations of staff.
2. The election director shall follow the requirements of the county merit system requirements in all matters concerning leave, discipline, or termination.
C. Staff may appeal an adverse personnel decision made by the election director to the Board. Issues that may be appealed include:
1. Disciplinary actions;
2. Termination; or
3. Denial of leave.

Article 6 – Miscellaneous

Section 6.1 – Training and Continuing Education
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.

Section 6.2 – Public Information Act[7]
When a Public Information Act request is received, the election director shall ensure that:
A. The state Administrator and the board are notified of the request; and
B. The request is completed in timely manner.

The bylaws of the Montgomery County Board of Elections were approved at a Board meeting held on April 19, 2010.

[7] For information and guidance on the Public Information Act, see the Attorney General's *Public Information Act Manual* (10th edition, January 2007) - http://www.oag.state.md.us/Opengov/pia.htm.

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.

Appendix 2

Oath for election judges and staff (Art. 1, Sec. 9 of the Maryland Constitution).
I, ..., do swear, (or affirm, as the case may be,) that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and Laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of . . . . . ., according to the Constitution and Laws of this State, (and, if a Governor, Senator, Member of the House of Delegates, or Judge,) that I will not directly or indirectly, receive the profits or any part of the profits of any other office during the term of my acting as .. . .

Note: The oath required by Article I, § 9 of the *Constitution of Maryland* includes the following language: "I,. . . ., do *swear (*or *affirm*, as the case may be) that I will support the Constitution of the United States. . . " (Emphasis added) There is no legal distinction between "swearing" and "affirming." Generally, an individual who does not believe in a higher religious being opts to "affirm," while an individual who believes in a higher being opts to "swear." The choice to "swear" or "affirm" is made by the individual taking the oath. Local board members, as well as LBE employees who swear in election judges, should be mindful of the distinction and use the language preferred by the individual taking the oath.