

STATE BOARD OF ELECTIONS

P.O. BOX 6486, ANNAPOLIS, MD 21401-0486 PHONE (410) 269-2840

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Linda H. Lamone
Administrator

Nikki Charlson
Deputy Administrator

June 3, 2019

Via U.S. Mail and E-mail (to Counsel)

Jim Shalleck, Chairman
Montgomery County Board of Elections
P.O. Box 4333
Rockville MD 20849-4333

Re: Implementation of Upgrade/Replacement of Voting Equipment

Dear Mr. Shalleck:

Thank you for your letter concerning the implementation of new voting equipment. I appreciate the opportunity to provide you with information that has previously been shared with the local boards as well as information that we have recently learned.

Use of Ballot Marking Devices

As you stated in your letter, the members of the State Board of Elections (State Board) have discussed at multiple meetings the use of the ballot marking devices. Although we all expected the navigation issues to be resolved before the 2018 election cycle, Election Systems and Software (ES&S), the voting system vendor, only partially addressed the navigation in a pre-2018 election software release. As a result, we decided against installing this version¹.

During these discussions, the members of the State Board requested feedback from local election officials. In addition to the on-going opportunity at each board meeting, the State Board dedicated one meeting in 2017 – the August 27, 2017 meeting² – to receive feedback from local election officials on the use of the ballot marking device. All local election officials were invited to provide feedback at this meeting, but no one from the Montgomery County Board of Elections provided feedback.

¹ Your letter implies that there was no explanation why the necessary upgrades were not performed. That is simply not the case. The reasons were discussed at the April 20, 2017, meeting of the State Board and an Election Directors' meeting held on the same day. The Montgomery County Board of Elections was represented at both meetings – the Vice President, a board member, and the Deputy Director attended the State Board meeting, and one or more representatives attended (either in person or by phone) the Election Directors' meeting. An electronic version of the minutes of the State Board meeting are available at https://elections.maryland.gov/pdf/minutes/2017_04.pdf. See page 1 for a list of individuals present at the meeting and page 6 for a summary of the discussion.

² An electronic version of the minutes is available at https://elections.maryland.gov/pdf/minutes/2017_08.pdf.

Electronic Pollbooks

You are correct that electronic pollbooks have been used for more than ten years, but you are not correct that “poll book problems continue to increase with every election cycle.” We received **no** reports from the Montgomery County Board of Elections about pollbook performance issues in the 2016 or 2018 elections. A recent test of the pollbook batteries showed that only one of the 20 batteries tested by the Montgomery County Board of Elections failed to hold a charge for 2½ hours. If the Montgomery County Board of Elections has pollbooks that have not performed as expected, please direct the staff to report this information on the tracking spreadsheet all local boards use to report equipment issues.

In 2017, we started working with our pollbook vendor to design a new device on which the pollbook software could run. After many months of work, it became apparent that the proposed prototypes would not meet our requirements and we would not be able to implement new pollbook hardware for the 2020 elections. This information – and the implementation of new hardware for the 2022 elections – was shared with the local boards at a March 21, 2019, Election Directors’ meeting. At least one representative of the Montgomery County Board of Elections participated in this meeting.

At this same meeting, we updated the local boards on the status of implementing same day registration on election day. Before any final decisions could be made, the General Assembly had to pass legislation defining the requirements³. Once the legislative session ended, we notified our pollbook software vendor of the necessary changes and expect that testing on the revised software will start in the summer and continue into early fall.⁴ Although there may be additional networking requirements on election day, the process flow for same day registration on election day will be the same as the process during early voting.

Communication and Role of the Local Boards of Elections

Although you give three examples to suggest a larger problem – that is, the failure of the local boards to participate in the selection process and the lack of clear, definitive dates when equipment will be upgraded or replaced, the examples do not support your conclusion. With respect to the procurement of the current voting system, an individual representing the local boards of elections⁵ was a member of the committee evaluating the voting system proposals. As detailed above, we keep the local boards updated via monthly Election Directors’ meeting, a biweekly newsletter, and of course, informal communications initiated by individual local boards. We also work and share system-related information with the Maryland Association of Election Officials’ Elections Technical Committee.

³ The General Assembly ultimately passed legislation authorizing same day registration on election day. The legislation as introduced, however, required same day address changes on election, but these provisions were removed by amendment. The evolution of this legislation indicates why it is necessary to wait until the conclusion of the legislative session to begin work; if we had proceeded with the legislation as introduced, we would have developed requirements that would not have been needed.

⁴ This information was provided to the local boards at the March 21, 2019, Election Directors’ meeting.

⁵ This individual is employed by a local board of elections in a county with a large number of voters and was well qualified to consider the voting system from this perspective.

Responses to Specific Questions

In your letter, you list a series of questions. Answers to each question are provided below.

1. Have the necessary upgrades been made to the [ballot marking devices] so that they can be used for early voting and election day voting in 2020? If not, what is the expected timeframe?

Answer: No, the voting system in Maryland has not been upgraded to address to the ballot layout and navigation issues identified for the ballot marking devices. Last month, ES&S submitted for federal testing and certification a software version that addresses these issues and expects that the U.S. Election Assistance Commission will certify this version no later than October 31, 2019. We are now testing a beta version of this software and identifying the impact of changes on how elections are administered in Maryland. The timing of federal certification and the impact of additional software changes are significant factors in our decision to upgrade the voting system⁶.

The members of the State Board intend to discuss the use of the ballot marking device at its June 27, 2019, meeting. To prepare for this meeting, we issued to each local board a survey requesting feedback on the use the ballot marking device and we expect that this feedback will inform the State Board's decision. You or another representative of the Montgomery County Board of Elections are, of course, welcome to attend this meeting and share your thoughts in person with the State Board members.

2. Is the State pursuing procurement of new electronic pollbooks for use in 2020 and, if so, when will those pollbooks be delivered to the local boards for testing and implementation? If not, what is the expected timeframe and does the State envision any upgrades to the current pollbooks to enhance their functionality until a new solution is implemented?

Answer: As explained above, new pollbooks are planned for the 2022 elections. There will be a software upgrade before the 2020 elections. The new software will facilitate same day registration on election day and resolve previously identified defects.

3. Has a plan been developed for implementation of same day voter registration? When will the final plan for implementation of same day registration be shared with the local boards?

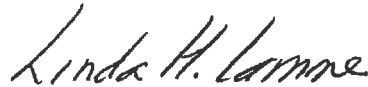
Answer: As explained above, the pollbook software is being updated to implement same day registration on election day. The process flow for voters and election judges will remain the same. We are currently testing various connectivity options and expect to provide the local boards with instructions and equipment to determine the ability of polling places to connect to a central network.

⁶ This upgrade requires installing new software on every part of the voting system – servers, desktops, scanning units, and ballot marking units. Planning for this upgrade is well underway, and the upgrade – if it is approved and installed – will be complete in early 2020.

It should be apparent from this letter that we keep the local boards informed in various ways and you have my commitment that we will continue to do so⁷. Since it appears based on the questions in your letter that you do not have relevant information, I encourage you to request that staff provide you with copies of summaries of State Board⁸ meetings and Election Directors' meetings and request that other board members share information presented at meetings they attend. This will ensure that you and your fellow board members have a better understanding the status of various election administration changes and systems. If, after receiving these summaries, you have additional questions, we will be happy to answer those questions.

I hope the information in this letter is useful to you and that receiving and reviewing summaries of future meetings of the State Board and Election Directors' meetings will provide you with updated information. I look forward to working with the Montgomery County Board of Elections and all local boards of elections to prepare for the 2020 elections.

Sincerely,



Linda H. Lamone
State Administrator

cc: Members, State Board of Elections

⁷ State procurement and budget rules limit the disclosure of certain information. We regularly balance these limitations with the need to share information with the local boards. When we unable to share information, it is because we are prohibited from doing so.

⁸ Minutes of the State Board are posted at <https://elections.maryland.gov/about/board.html>.