



STATE OF RHODE ISLAND BOARD OF ELECTIONS

2000 Plainfield Pike, Suite A, Cranston, RI 02921

phone: 401-222-2345 | fax: 401-222-3135 | web: www.elections.ri.gov

Date agenda posted: October 16, 2020

AGENDA

PURSUANT TO EXECUTIVE ORDER NUMBER 20-25, AS EXTENDED BY GOVERNOR RAIMONDO, THE BOARD OF ELECTIONS MAY CONDUCT ALL OR PORTIONS OF THIS MEETING BY USE OF TELEPHONIC OR ELECTRONIC MEANS WITHOUT THE PHYSICAL PRESENCE OF A QUORUM OF ITS BOARD MEMBERS. PROCEDURES FOR PARTICIPATION USING ZOOM VIDEOCONFERENCING FOR THIS MEETING BY THE PUBLIC ARE POSTED ON THE BOARD WEBSITE.

PUBLIC ACCESS TO THIS MEETING IS ALSO AVAILABLE BY USING ZOOM VIDEOCONFERENCING BY CALLING 1-312-626-6799 OR 1-929-436-2866 THEN ENTER MEETING IDENTIFICATION #82820820153

Tuesday, October 20, 2020 at 2:00 P.M.

1. The Board may discuss and vote to approve the minutes of the 9:00 a.m. meeting held on September 18, 2020.
2. The Board may discuss and vote to approve the minutes of the 1:00 p.m. meeting held on September 18, 2020.
3. The Board may discuss and vote to approve the minutes of the meeting held on September 23, 2020.
4. The Board may vote on the certification of the voting equipment to be used for the General Election to be held on Tuesday, November 3, 2020.
5. The Board may discuss and vote upon an October 13, 2020 request from the ACLU and other voter advocacy groups for guidance regarding the possible availability of in person voting with an emergency mail ballot for those voters who have already applied for and received a regular mail ballot. The Board may vote to issue a directive to local canvassing authorities on this matter.
6. The Board may vote to meet in executive session, pursuant to R.I. Gen. Laws 42-46-5(a)(2), concerning potential litigation regarding its lease premises of its main offices located at 2000 Plainfield Pike, Cranston, Rhode Island.

7. The Board may discuss the terms of its resolution with the United States Attorney concerning violations of the Americans with Disabilities Act at the Board's leased premises of its main offices located at 2000 Plainfield Pike, Cranston, Rhode Island.

All meetings of the Board are open meetings and all interested parties are invited to attend. Any questions concerning the agenda should be directed to Robert Rapoza, Executive Director, at 401-222-2345. Anyone wishing to attend this meeting who may have special needs for access or services such as hearing assistance or interpreter services please contact the Board as soon as possible in advance of the meetings.

STATE BOARD OF ELECTIONS

Robert B. Rapoza
Executive Director



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October 13, 2020

Raymond Marcaccio
Legal Counsel
Rhode Island Board of Elections
200 Plainfield Pike
Cranston, RI 02921

VIA EMAIL

Dear Ray:

In recent days, the ACLU and other voter advocacy organizations have received a number of inquiries about the mail ballot application process and its implications for early and Election Day voting. Since the inquiries involve an interpretation of the relevant statutes, and because we believe it is important that clarity be provided by the Board of Elections about this at the earliest possible opportunity, I'm writing to ask for your views on this matter and to request that you bring them to the Board's attention at the earliest possible opportunity for official action.

The specific issue is this: a number of voters who have submitted mail ballot applications have begun rethinking that decision. Anxious to be absolutely sure that their vote is counted, they are now desirous of instead making use of the early voting process and having the security of knowing that their ballot has been fed through a machine and accepted. The question that has arisen, and that Boards of Canvassers have apparently taken conflicting positions on, is whether these voters are able to instead utilize the early voting process in light of their pending mail ballot application.¹

As far as we are aware, there are no laws or regulations specifically addressing this question, which is not surprising in light of the fact that the early voting law was enacted only a few months ago. However, we believe nothing in state law prevents such a step by a voter, particularly if they present their uncompleted mail ballot to the board of canvassers to be destroyed. In support of this view, I note that state law recognizes the primacy of in-person voting in situations when an individual votes in person while a mail ballot vote is pending:

"In the event that any person votes in person and also attempts to vote by mail ballot or by an official state blank ballot or an official federal absentee ballot, as the case may be, the mail and the official state blank ballot and the official federal absentee ballot, as the case may be, shall be destroyed and not counted." R.I.G.L. 17-20-7(b).

¹ I assume, but would welcome being corrected, that any person who applied for a mail ballot and showed up to the polling place on Election Day would be offered a provisional ballot, something that is not available for the early voting process.

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In order to prevent contradictory instructions from being delivered to voters depending on the municipality in which they reside, we would request that you and the State Board formally address this issue at the earliest possible opportunity and disseminate information to the local boards to ensure that this scenario is addressed uniformly and properly.

With the early voting process set to begin, your prompt attention to this would be appreciated. Thanks.

Sincerely,

Steven Brown
Executive Director

cc: Diane Mederos, Chair
Robert Rapoza, Executive Director
Rob Rock, Director of Elections, Department of State