



COMMONWEALTH of VIRGINIA
DEPARTMENT OF ELECTIONS

Edgardo Cortés
Commissioner

Elizabeth L. Howard
Deputy Commissioner

December 31, 2015

Ms. J. Kirk Showalter, General Registrar
Ms. C. Starlet Stevens, Chairman
Ms. Ophelia M. Daniels, Vice-Chairman
Ms. Cecelia A.B. Dabney, Secretary
VIA EMAIL

Re: Request to Appear

Dear Electoral Board Members and Registrar Showalter:

The State Board of Elections (“State Board”) is authorized to supervise, coordinate, and adopt regulations governing the work of local electoral boards, registrars, and officers of election. The Department of Elections (“the Department”) conducts the board’s administrative and programmatic operations and discharges the board’s duties consistent with delegated authority. In carrying out these duties, the Department was made aware of several election administration problems occurring in the 2015 General Election in the City of Richmond through complaints and calls from voters and media reports.

Multiple sources indicated that there were consistent and alarming errors with respect to, among other things, improper programming and maintenance of Electronic Poll Books (“EPBs”), incorrect issuance of ballots, and poll worker training. Further, local media reports attribute seemingly inaccurate statements regarding these issues to Registrar Showalter. State Board of Elections Chairman James Alcorn has been notified of these reports and has requested additional information. The Department plans to provide the requested information to the State Board at its next regularly scheduled meeting on January 8, 2016.

To ensure that the Board has sufficient details regarding this series of Election Day concerns, please provide the following information no later than Wednesday, January 6, 2016 at 5:00 p.m.:

- 1) Confirmation of the following facts:
 - a. Ms. J. Kirk Showalter is the General Registrar (“GR”) for the City of Richmond.
 - b. The following individuals serve on the City of Richmond Electoral Board:
 - i. C. Starlet Stevens, Chairman
 - ii. Ophelia M. Daniels, Vice-Chairman
 - iii. Cecelia A.B. Dabney, Secretary

- c. The General Registrar is responsible for the proper programming of electronic pollbooks deployed on Election Day.
- d. Shortly after the polls opened on Election Day, November 3, 2015, election officials from multiple precincts reported systemic electronic pollbook failures to Registrar Showalter.
 - i. List the precincts which reported electronic pollbook failures to your office:
- e. Shortly after the polls opened on Election Day, November 3, 2015, multiple voters complained that they were unable to cast a ballot at their polling location due to EPB failures.
- f. From approximately 6:15am to 6:40am, Department staff attempted to contact Registrar Showalter.
- g. As Department staff were unable to reach Registrar Showalter by phone, Terry Wagoner, Registrar Liaison & Absentee and Accessibility Coordinator, walked over to the City of Richmond GR's office at approximately 6:40am to obtain an update regarding the multiple reports of EPB failures across the City and the best contact number for Registrar Showalter.
- h. At 6:49am, Commissioner Cortés sent Registrar Showalter an email stating:

Kirk – here's additional reports that have come in regarding Richmond polling places.

Precincts reporting issues to us

101 – unclear issue – voter claims to have been turned away

102 – EPB issue – appears to be resolved

203 – EPB issues?

404 – voting machines down

Report of a citywide issue with EPBs?
- i. Registrar Showalter did not respond to this communication.
- j. At approximately 7:15am, when the Department was still unable to reach Registrar Showalter, Mr. Eugene Burton, Voting Technology Coordinator, was sent to the closest Richmond precinct: Main Street Station.

- k. Mr. Burton arrived at the Main Street Station precinct at approximately 7:30 a.m. The Main Street precinct is a split precinct. It serves voters in both the 9th and 16th State Senate Districts.
- l. Upon his arrival, Mr. Burton observed election officials attempting to use the electronic pollbooks (“EPBs”) to check in voters upon their arrival. He observed that the election officials were unable to finalize the check-in process because, contrary to standard procedure, the EPBs were programmed to require a ballot ID number. Because of this improper programming, Mr. Burton observed that election officials were unable to finalize the check-in process using the EPBs.
- m. Mr. Burton then observed election officials recording voters’ names on a white piece of paper. The election officials included a number next to each name written. Upon further observation, Mr. Burton concluded that the election officials were initiating the check-in process on the EPBs, but when unable to finalize the check-in procedure, the election officials wrote down a number and the voter’s name on the piece of paper.
- n. Mr. Burton quickly determined a solution to the problem which merely required the election officials to enter a unique number for ballot ID number during the EPB check-in process. He recommended using the number included on the ticket provided to the voter during the check-in process to City of Richmond voters.
- o. The election officials at the Main Street precinct promptly implemented this solution and began finalizing the check-in process using the EPBs.
- p. At approximately 8:00 a.m., Mr. Burton left the Main Street precinct. He went directly to Registrar Showalter’s office. He spoke with Registrar Showalter directly and informed her that the pollbooks had been improperly programmed and provided the solution. Mr. Burton also instructed Registrar Showalter to promptly communicate this solution to the election officials at every precinct in the City of Richmond.
- q. During this meeting with Registrar Showalter, the staff member responsible for EPB deployment entered Registrar Showalter’s office. Mr. Burton asked him, “Why was the Ballot ID number option inserted into the EPB template during programming?” The staff member responded, “I apologize. I asked Registrar Showalter if I could insert this option into the [EPB] template, and she told me, ‘Yes.’” Mr. Burton responded that the Department never instructed election officials to use this feature. Further, this “ballot ID number” function was only for use in other states – not Virginia.
- r. At approximately 8:00 a.m., Governor McAuliffe appeared at Precinct 607 – Main Library, 101 E Franklin St., to cast his vote. The Governor provided his DMV-issued license and the election official asked him for an additional photo ID, contrary to state law, State Board of Elections regulations and Department of Elections Guidance

- Documents which provide detailed instructions to poll workers regarding voter identification requirements.
- s. The Department spoke with Registrar Showalter at approximately 9:30 a.m. The Commissioner reiterated that the problem with EPBs was the result of improper programming and that multiple voters had contacted the Department to report that they were unable to vote due to the EPB issues.
 - t. After being informed by Department staff that multiple voters had reported being turned away at the polls, the press attributed the following statement to Registrar Showalter: “[T]o our knowledge, [the EPB failures] did not stop voting.”
 - u. Subsequent to the conversation with Mr. Burton in which he informed Registrar Showalter that the EPBs had been improperly programmed by her staff and provided instructions to solve the problem, press reports attributed quotes to Registrar Showalter in which she claims that failure to properly program the EPBs was a result of a “new process” of the Department requiring election officials to “enter a voter ID number” in the EPBs. She continued, “We didn’t realize that was a requirement.”
 - v. At various times on Election Day, employees of the Commonwealth of Virginia attempted to use an acceptable form of identification as voter identification. However, contrary to state law, regulations of the Board of Elections and guidance documents issued by the Department, City of Richmond election officials demanded additional identification from many of these qualified voters who presented proper identification.
 - w. Intermittently during Election Day, multiple voters contacted the City of Richmond Office of Elections to complain that they were provided the incorrect ballot at their precinct.
 - x. Newspaper reports attribute Registrar Showalter to various statements regarding the issuance of incorrect ballots to voters in the City of Richmond on Election Day. These reports include statements indicating that the issuance of incorrect ballots at split precincts was the result of voter error and there was nothing her office could do to prevent such mistakes unless the State Board certified new pollbooks.
 - y. As early as 2013, the EPB vendor, in coordination with the Department of Elections, hosted EPB training for GRs, staff and election officials in Richmond and across the Commonwealth. At these trainings, the proper EPB programming procedure for split precincts was taught and reviewed. The proper programming instructions are included in various documents provided by the vendor. Multiple members of the City of Richmond Office of Election staff attended multiple trainings at which this function was reviewed.
 - z. At approximately 6:20 p.m., Mr. Gary Fox and Mr. Martin Mash were asked to obtain an update on the Richmond City election administration complaints. They phoned

Registrar Showalter to discuss the ongoing complaints received from voters and political parties during the day.

- aa. Mr. Fox shared information about the complaints, specifically the complaints regarding the incorrect issuance of ballots to voters voting at split precincts.
- bb. In response, Registrar Showalter stated, “We’re way ahead of you. We’ve known about this issue. I don’t doubt it happened... This happens in split precincts. Voters get in the wrong line after the greeter greets them and they don’t know what ballot they are supposed to have.” She stated that voters would change lines contrary to the instructions provided by the greeters. “The voter didn’t know that they received the wrong ballot. It happens all the time... If we could have our new pollbooks, we wouldn’t have this issue... This is why I hate split precincts.” Registrar Showalter noted that “Precinct workers were notified to be more careful.”
- cc. Registrar Showalter did not inform at least one of the members of the City of Richmond Electoral Board regarding election officials’ improper demand for additional identification from the Governor and other eligible voters on Election Day.
- dd. The City of Richmond has had consistent and ongoing problems with proper programming of EPBs. On multiple occasions, these problems have resulted in the City of Richmond failing to provide the list of voters in an election to the Department within 30 days of an election as required pursuant to state statute. For example, the City of Richmond failed to provide complete and timely voter lists for the following elections:
 - June 2015 Democratic Primary – 18 precincts did not close their pollbooks properly. The Department of Elections did not receive voter credit information until the court released the drives so they could properly close them and retrieve voter credit.
 - November 2014 – 12 precincts did not close their pollbooks properly. The Department did not receive timely voter credit information.
 - June 2014 Republican Primary – Richmond failed to provide credit information for Precinct 414. This failure was discovered on July 28, 2014. The Department’s subsequent review of the problem resulted in the discovery that the City of Richmond had failed to follow the instructions for proper voter credit reporting during their initial upload. The City of Richmond’s failure necessitated additional Department resources to address and resolve the issue.

The Board, in discussing these issues, stressed that the focus should be upon the lessons learned and plans for corrective actions that might help other localities avoid similar mistakes in the future.

The next scheduled meeting of the Board is Friday, January 8, at 10:00 a.m. in House Room C of the General Assembly Building on Broad Street, Richmond, Virginia 23219.

The General Registrar and the members of the Electoral Board should plan to attend the meeting. Staff members involved in EPB management and programming of the electronic pollbooks should also attend so that technical questions by the Board members may fully addressed.

We appreciate the high level of cooperation we have received from your staff in keeping us updated about your efforts to address this situation.

Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth Howard".

Elizabeth L. Howard
Deputy Commissioner

cc: Members of the State Board of Elections