



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

June 23, 2020

Michael R. Cogan, Esq., Chairman
Linda H. Lamone, Esq., State Administrator
P.O. Box 6486
151 West St., Suite 200
Annapolis, MD 21401-2019

Dear Chairman Cogan and Administrator Lamone:

On behalf of the Senate of Maryland, we want to thank you, as well as Board Vice-Chair Hogan, and Deputy Administrator Charlson for your testimony before the Education, Health, & Environmental Affairs Committee last week. We were encouraged by the record turnout in the June 2 Primary Election, and we appreciate the conditions that State and Local Boards struggled with in putting this historic election together in the midst of a global pandemic. At the same time, we were greatly disappointed by some of the issues that were discussed at the hearings, together with other issues raised by elected officials and advocacy groups.

While the decision for the November election rests with the State Board and Governor Hogan, we believe it is in the public's best interest for the State Board to conduct a "hybrid mail-in ballot preferred election" with four critical improvements from the June 2 Primary: (1) expansion of the number of ballot drop-off boxes; (2) expansion of the number of in-person voting sites per jurisdiction on Election Day; (3) use of Early Voting Centers statewide; and (4) an enhanced communication plan that better coordinates State and Local Board engagement with the voting public, particularly within historically disenfranchised communities. Specifically, a "hybrid mail-in preferred election" would require the Board to affirmatively mail General Election ballots to all registered voters in Maryland, and would provide expanded opportunities for in-person voting than those provided in on June 2 Primary for those voters who either do not receive ballots in the mail or who strongly prefer to vote in-person. Public health experts across the country agree that it is impossible to determine the effect of COVID-19 come November. Therefore, a "hybrid mail-in preferred" system is the best approach to maximize voter

participation while minimizing public health risks. Time is of the essence, and we urge the Board to make a final decision about the process of the election for the General Election as soon as possible.

Regardless of the process the Board and Governor ultimately decide, it was clear from the June 16th joint hearing that improvements to the elections process are necessary. In an effort to increase accountability and transparency, as well as provide constructive assistance, we are writing to you with requests and recommendations for preparations ahead of November's General Election. Whether the setup for the General Election is similar to the Primary's mail-in preferred method, or one of a more traditional in-person nature, it is certain that concerns about COVID-19 will make mail-in voting a safer method of voting for the majority of Maryland's voters. Further, we expect historic levels of voter turnout in November, and the Board cannot repeat the same mistakes from the Primary. It is essential that over the next five months, the State Board must increase and improve clear and transparent communications to elected officials, advocacy groups, and the public. Therefore, we request the Board adopt the following recommendations:

1. **Universal Mail-In Ballot Applications (if traditional in-person election):** In the case that the Governor elects to pursue a more traditional in-person voting process for the November election, the Board should still plan for a drastic increase in use of mail-in ballots. With the COVID-19 pandemic likely continuing to spread this fall and winter, and with voters having experienced the ease of vote by mail, we expect voters to continue to pursue this option. Therefore, absent an executive order to mail every voter a ballot ahead of November's General Election, we urge the Board to send an easy to use vote by mail ballot application to every voter, regardless of the status of active or inactive. Such an application could include basic information and allow for a voter to opt-in to receiving a ballot in the mail for the November election. Applications should be delivered no later than *August 15*, to ensure maximum participation before the November election. Furthermore, there were concerns from voters during the June 2 Primary that changes to registration conducted at the Maryland Vehicle Administration (MVA) did not accurately update the registration records at the State Board. By *July 15th*, we request the Board provide documentation to ensure that appropriate address changes and registration changes have been transferred ahead of any mailings for the General Election.
2. **Mail-In Ballot Drop-Box Location Plans:** Recognizing the popularity and success of the ballot drop-boxes during the June election, we ask the Board to expand the number of boxes and develop an easily explainable formula for the number and location of these boxes, and that the State Board require Local Boards to provide

implementation plans that explain a rationale for placement locations. These locations must affirmatively enhance voter access, and the State Board should require implementation plans that demonstrate location placement along transit lines or highly trafficked areas of each county. Importantly, these implementation plans should demonstrate how Local Boards are proactively accounting for access to historically disenfranchised voters. We ask that a comprehensive State plan incorporating all Local Board implementation plans be finalized no later than *September 8*, and that the formula for drop off boxes includes rationale on a population and density component.

3. **Reinstating In-Person Early Voting Centers:** If, considering the long-list of unknowns as to the state of health and COVID-19 in November, the Governor and Board of Elections chooses to move forward with a “hybrid mail-in preferred” General Election in November similar to the June 2 Primary, we would urge the State Board still to reinstate a modified Early Voting Center process for days ahead of Election Day. Doing so will both allow for increased observances of social distancing protocols, and will ensure that there can be increased participation at the polls throughout the election period, not just on election day. Thus, whether mail-in preferred or in-person preferred, the State Board should authorize early voting in all counties this November. In the case of a mail-in preferred election, we recognize that a modified Early Voting process may be adopted. To ensure this is done safely and effectively, we request that the State Board by *September 8th* develop an in-person early voting plan in coordination with Local Boards that outlines the operational needs for early voting locations and specifies social distancing protocols, personnel needs, PPE distribution plans, and any other expected challenges.
4. **Election Day In-Person Voting Locations:** We recognize that with this upcoming historic election, it is difficult to project turnout, and the myriad of issues which could cause lines at the polls; however, the location and distribution of in-person polling places during the Primary was arbitrary and flawed. Specifically, too few were available, particularly in Baltimore city. We would urge the Board to make decisions based on population – similar to how the General Assembly has allocated early vote centers – and consider usage of walk-up voting (percentage walk-up versus mail-in) during the June 2 election. The board should make certain that there are enough places to handle increased turnout on election day. Given the need to reduce lines and accommodate the expected large turnout, even with an all mailed ballot, walk-up locations should at least be doubled. In addition, we request that the Board exercises stronger oversight over Local Boards to ensure that there are polling places easily reachable by historically

disenfranchised voting populations to ensure all Marylanders can exercise the franchise. If the State Board does not believe it has sufficient legal authority to hold Local Boards accountable for appropriate polling place distribution, we request the Board explain such rationale in writing and submit these concerns to the appropriate Senate and House Committees no later than *July 30th*. We also encourage the Board to look at Federal statute, including the Help America Vote Act (HAVA), the Help America Vote College Program, and other resources to increase participation for election judges and volunteers. We stand ready to join the Board to negotiate with Governor Hogan any potential executive order that may be necessary ahead of November's General Election to ensure clear lines of authority and accountability.

5. **Enhanced Public Voter Education Plan:** We acknowledge that the State Board of Elections used its limited funds reasonably to create a strong public relations campaign to ensure Marylanders generally knew how they could vote during the June 2 Primary. However, we do have concerns that the communications did not sufficiently reach Maryland's minority communities. We hope that the funding for such an operation in the General Election will be far larger than the \$1.3 million allocated in the Primary, and we urge the Board to enhance communications to all of Maryland's diverse communities. It will be necessary that the State and Local Boards work with local partners and elected officials to help uplift that message. To that end, we request that the Board determine a plan and share it with the public no later than *September 21*, so the public may proactively engage in making sure all Marylanders are aware of the voting process for the November election.
6. **Publicly Available Election Operations Timeline:** The State Board provides a timeline to the public concerning many facets of the election, but as was noted at the June 16th hearing, no such timeline existed for the decisions leading up to the June 2 Primary. As you offered in the hearing, we would request that by *July 30th* the Board and staff update the General Election calendar so all members of the public have clear information as to how the General Election will proceed.
7. **General Election Progress Update Webinars:** Clearly, collaboration and communication are essential, and were at times the cause of unnecessary pitfalls during the June 2 Primary. Therefore, we ask that you engage ahead of time with critical voting rights organizations and host *no less than five organizational webinars* with statewide community and advocacy organizations between Labor Day and Election Day to make sure these voter empowerment organizations are aware of ongoing changes to the elections process during this ongoing public

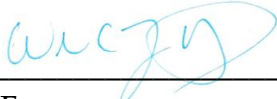
health crisis. Similarly, we urge you to consider inviting political parties on these calls so they can make their voters aware of the updates as well.

8. **Eliminating Vendor Errors:** We recognize that there are limited options available for a mail-in ballot vendor, but we were encouraged to hear you say at the hearing that the Board is exploring all options for November. We request that you update the Education, Health, and Environmental Affairs Committee no later than *July 30th* on the progress of these efforts, as well as what decisions have been made concerning the current ballot vendor if such decisions can be made public at that time. In addition, we ask that you tell the Committee at that time what new procedural safeguards have been put in place to ensure all vendor related issues identified during the June 16th hearing will not happen in the future.
9. **Precinct-Level Results for General Election:** As has been voiced in the past, the lack of precinct-level results reduces transparency in elections. While we understand the context of the unavailability of these results in the June 2 Primary, we expect precinct-level results to be available for November's General Election. No later than *July 30th*, we request that you update the Senate's Education, Health, and Environmental Affairs Committee as to progress towards ensuring availability of precinct-level results for the General Election, and whether the Board has found a path for retroactively providing precinct-level results for the June 2 Primary.
10. **Policies & Procedures for Reporting General Election Results:** Timely elections results are important – though all would acknowledge they pale in comparison to an accurate and well-managed election. Unfortunately, the process for posting and reporting results during the June 2 Primary was confusing and detrimental to public trust. We appreciate that both staff and Board leadership took some blame for some of the issues at the June 16th hearing. What is most important is ensuring that such confusion does not occur again. Thus, by no later than *September 30th*, we request the Board provide the Education, Health, and Environmental Affairs Committee a comprehensive plan that outlines how votes will be counted, reported, and posted on Election Day and each subsequent day of counting outstanding mail-in votes. This plan should incorporate agreed upon policies and procedures from each Local Board as well.

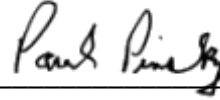
As we have stated, transparency and communication are key to a successful November election. We are pleased that we are all united in the goals of a positive outcome in November, where Maryland will be an example for other states. We stand ready to assist where we can. Please know that we will continue to ask the tough questions where we

must in the months ahead to ensure that this is a successful election for all Marylanders. We look forward to your reply, and stand ready to assist any way we can.

Sincerely yours,



Bill Ferguson
President of the Senate



Paul G. Pinsky
Chairman, Education, Health &
Environmental Affairs Committee