

January 13, 2020

Jasmine Shannon (via email: [jshannon@sos.ga.gov](mailto:jshannon@sos.ga.gov))  
Office of the Secretary of State  
Elections Division  
2 Martin Luther King Jr, Drive S.E  
8<sup>th</sup> Floor West Tower  
Atlanta, GA 30334

**RE: Verified Voting Comments on proposed amendments to State Election Board rules**

Dear Ms. Shannon:

Verified Voting welcomes the opportunity to comment on the proposed amendments to Georgia’s State Election Board rules published on December 19, 2019. These amendments are wide-ranging, and we recognize that substantial work has gone into drafting them. Our comments focus on certain aspects especially relevant to cybersecurity and election verification. We substantially endorse the comments jointly submitted by the Brennan Center and Common Cause, but we have prepared these comments separately and more briefly.

Georgia’s new statewide voting system combines ballot marking devices, printers, and scanners on an unprecedented scale. The new system raises questions about voter verification and resilient election procedures about which little direct evidence exists. Accordingly, our recommendations are based on our review of this preliminary research recognizing that more research needs to occur.

*Rule 183-1-12-.10 Before the Opening of the Polls*

Voters will be instructed to verify their ballots, but it is unclear where or how. Providing a “station” for voters to verify their ballots – ideally, with good lighting and a magnifying glass available for any who need it – will help some voters to do so, and will encourage others even if they prefer not to use the station.

- We recommend that election superintendents provide a verification station and/or otherwise accommodate voter verification in every polling place (and advance voting location).
- We recommend that election superintendents provide a combination of interventions, some of which are described below, to encourage voters to check the accuracy of the printed ballots.

*Rule 183-1-12-.11 Conducting Elections*

As you know, one concern about ballots produced by ballot marking devices is that voters will not carefully verify these ballots, leaving doubts about whether the ballots reflect voter intent. In

Matthew Bernhard et al.’s<sup>1</sup> experimental study of BMD voter verification, fewer than 7% of voters detected and reported errors on their printed ballots; signage alone did not measurably improve voter verification. Bernhard et al. found that verbally encouraging voters, as they approached the scanner, to check their ballots measurably improved their error detection. Voters who also used printed “slates” of how to cast their votes achieved much higher detection rates.

Although we must be cautious in making inferences from this or any other experimental study, it appears that the voter verification problem is real; that speaking to voters as they approach scanners can help to mitigate it; and that encouraging voters to bring sample ballots with them can help quite substantially. We applaud that the rule requires “specific verbal instruction” to voters, as they check in, to review their ballots before scanning them (section 1), and – probably more important – the similar language in (8) applicable to voters as they approach the scanners.

- In (8), we recommend clarifying that “all voters” or “each voter” approaching the scanner should be instructed to check their ballots, parallel to the language in (1).
- We recommend establishing specific language for these instructions. Although the “best” prompt is unknown, the Bernhard et al. study suggests that a mere reminder to “check your ballot carefully” will not be very effective. The instruction should include what to do if the voter finds a mistake: report the problem and request to spoil the ballot and start again. Without clear guidance, poll workers may use ineffective instructions – and then will be tempted to omit the instructions entirely.
- We recommend making sample ballots readily available at check-in, and inviting voters to mark them before proceeding to vote. Voters should not bear the burden of specially requesting sample ballots, as implied in 183-1-12-.10 (7) and here in (1).
- We also strongly recommend that public education efforts encourage voters to bring their own, pre-marked sample ballots. Sample ballots should be made available as widely as is feasible, in print and via the internet.

Voter verification itself is only part of the challenge. If voters do detect printing errors due to malfunction or subversion, how will election officials know the extent of these problems, and will they be able to respond appropriately? Moreover, will election officials be able to report on the extent of voter-spoiled ballots after the election? Robust reporting can help diagnose problems, take timely emergency action if necessary, and bolster public confidence if problem reports are rare – although the absence of problem reports cannot prove that devices performed as designed.

Subsections (2)(c) and (d) provide for the election superintendent – or, when necessary, a poll officer – to declare the existence of an “emergency situation” in which ballot marking devices are taken out of service and emergency paper ballots are used instead. This possibility is

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<sup>1</sup>Bernhard, M., McDonald, A., Meng, H., Hwa, J., Bajaj, N., Chang, K., Halderman, J.A., “Can Voters Detect Malicious Manipulation of Ballot Marking Devices?” Available at <https://jhalderm.com/pub/papers/bmd-verifiability-sp20.pdf>

important, but election officials will be understandably reluctant to declare an emergency. Election officials at all levels must be equipped to respond to a range of concerns.

- We recommend establishing a procedure for poll officers to record all spoiled ballots, with a reason for each. (For instance, some ballots may be spoiled due to fleeing voters.) These reports should be aggregated across the entire election.
- We recommend specifying that any voter reports that ballots do not reflect their intended votes be reported to the election superintendent as soon as possible. To the extent feasible, this information should in turn be immediately shared with the Secretary of State. This reporting could be crucial in distinguishing isolated voter confusion or malfunctions from serious and widespread problems.
- We recommend that if poll officers believe that a ballot marking device may be malfunctioning, they should report their concern to the election superintendent and take appropriate action, which may include taking one device out of service or declaring an emergency situation as specified here.
- We recommend allowing poll officers at their discretion to make emergency paper ballots available to voters who complain that their BMD-printed ballots are mismarked.
- We recommend that the Secretary of State specify the number of emergency paper ballots that must be available to enable voting to continue in the event that any ballot marking device is taken out of service. That number should be ample enough to supply all voters who wish to vote with a ballot and be calculated based on the number of registered voters in the precinct.

*Rule 183-1-12-.04 and 05 Storage, Maintenance, and Transport of Statewide Voting System Components and Security of Voting System Components at County Elections Office or Designated County Storage Area*

We agree that physical security of all the components of the election system is necessary and we appreciate that the SEB has spelled out such requirements. We note, however, that the rules do not provide for a log of anyone who has accessed the secure location in either of the proposed rule.

- We recommend that a log of anyone who has entered the secure storage areas where voting system components, including the election management system, be kept. The log should note the persons who have entered, the date and time of entrance and exit.
- We recommend that the logs be maintained for a specified period of time and be available for public inspection in accordance with Georgia law.

*Rule 183-1-14-.02 Advance Voting*

Several of the comments on rule 183-1-12-.11 apply with minor changes to advance voting.

We recognize that, in general, it is not feasible to provide complete sample ballots for all ballot styles at all advance voting locations.

- We recommend, if feasible, providing voters at advance voting locations with partial sample ballots that show the shared content of the ballots, including placeholders for federal and state legislative contests when appropriate.

A minor comment: in (9), the sentence order appears to imply that after “the polls close on the day of the [election],” the various equipment “shall then be secured overnight” – but not otherwise. We assume that “then” is intended to refer to “the close of voting each day” in the first sentence.

- We recommend clarifying the language in (9), perhaps by moving the second sentence elsewhere.

Thank you for your consideration of Verified Voting’s comments to the Proposed Amendments to Georgia SEB Rules.

Respectfully submitted,

A handwritten signature in blue ink that reads "Marian K. Schneider". The signature is written in a cursive style with a large initial 'M'.

Marian K. Schneider, President  
Verified Voting