

VIRGINIA Lawyers Weekly

CLE available for work on Election Day

By: Maura Mazurowski | September 7, 2020



The Virginia Bar Association and the Virginia Board of Elections will offer CLE credits to attorneys who volunteer as election officers in November.

Election officers, or individuals who help conduct elections at polling places, are crucial to successful Election Day operations, but there could be a shortage this year.

Historically, the vast majority of election officers are over the age of 65; according to the Pew Research Center, in the 2018 general election, approximately 58% and 27% of U.S. poll workers were ages 61 and older and over 70, respectively.

This places most poll workers in the “high risk” category of COVID-19. Many have already alerted local election officials they will not serve in November, according to the VBA.

“The Virginia Department of Elections estimates a significant drop in participation from past election officers along with a significant increase in need,” stated a VBA press release. “Such a shift represents a critical threat to our Democracy and to the confidence of the public in our most basic political systems.”

To help off-set the lost number of election officers, the VBA's Public Service Committee has partnered with the VBOE to seek volunteer attorneys to take on the election officer role and help mitigate the pandemic's impact on volunteer participation.

"The people who are already reaching out and offering to volunteer are knowingly taking on the [medical] risk... Which I find very inspiring, and love that people are willing to do it," said Seth Ragosta, chair of the VBA Public Service Committee.

Ragosta said that the service committee knew they would focus on elections this year long before the coronavirus pandemic began. Their original plan was to focus on election education, with plans to visit Virginia high schools and colleges with presentations on how to vote, how voting works and what voting systems are currently in place.



Seth Ragosta, chair of the VBA Public Service Committee

But as schools shut down and stay-at-home orders fell into place, the VDOE began estimating a significant drop in participation from past election officers along with a significant increase in need.

Ragosta therefore contacted Chris Piper, commissioner of the VDOE, to redirect the committee's efforts to help address the volunteer shortage. After reading that the Ohio Supreme Court allowed state attorneys to receive CLE credits for serving as precinct election officials on Election Day, Piper suggested that Virginia do the same.

Volunteer attorneys will receive training approved by the Board of Elections that has been submitted for CLE credit to the VSB MCLE Board, approval still pending.

"[Having lawyers volunteer] was such a great idea," Piper said. "Election officers are in so many different scenarios that involve election law, and having an attorney at the polling places to handle some unique situations is a benefit."

Many of the "unique situations" that Piper may occur on Election Day are due to an increase in absentee voters in Virginia this year, as local jurisdictions saw record numbers of absentee ballots in May.

According to the Virginia Public Access Project, huge percentages of state residents voted absentee: 76% in Fredericksburg, 74% in Fairfax City and 68% in Williamsburg. As of Aug. 6, the Center for Voter Information had already mailed 2.25 million applications for absentee ballots to voters across the state, according to the Washington Post.

Piper said that some states, such as Oregon and Colorado, have been voting by mail for years and are therefore "insulated" by the impacts the COVID-19 are having on voters. But Virginia voters are not accustomed to voting by mail; according to Piper, the most absentee ballots seen in Virginia was 6% of the total turnout of voters in the 2016 presidential election.

"A lot of [Virginians] don't know anything about voting by mail... We weren't set up for it," Piper said. "There's been a lot of pressure to make sure voters aren't confused."


Some "confusions" that Piper anticipates include voters showing up at the wrong polling place, forgetting their ID or forgetting to update their voter registration after a recent move. He also expects many voters to arrive at polling places who registered to vote absentee, but forgot to send in their ballot.

"They can do one of two things: if the [absentee ballot] is unopened, they can hand it back to the election officer and vote," Piper said. However, if the voter does not have their absentee ballot in hand, they are offered a

“provisional ballot,” which is sealed in an envelope and reviewed by the election board to ensure the voter did not send in an absentee ballot before casting their vote.

“There are a million and one particular situations that need to be accounted for, and election officials need to be very good at contingency planning,” Piper said. “Which is a great reason to bring attorneys into the Election Day process.”

Volunteering attorneys will not specifically be offering legal services on election day; their election officer duties will include staffing poll-books, assisting voters and ensuring that the laws are followed in “enabling every Virginian who has the right to vote successfully cast that vote,” according to the VBA.

 ***“There’s nothing more important to democracy than voting. We need to keep folks safe by getting folks that do not fall into high risk categories to volunteer to serve.”***
— Patricia Lee Refo, ABA president

Still, Piper said their presence as attorneys “can’t hurt.”

“We understand that [volunteers] may not be election law experts, but understanding the law is a positive to having them there,” Piper said.

Virginia is not alone in its efforts to recruit lawyers as election officers. Last month, the American Bar Association announced its partnership with the National Association of Secretaries of State and the National Association of State Election Directors to issue a “rally cry” aimed at mobilizing lawyers and law students to assist as poll workers for the 2020 election.

“There’s nothing more important to democracy than voting,” said ABA president Patricia Lee Refo. “We need to keep folks safe by getting folks that do not fall into high risk categories to volunteer to serve.”

Though volunteering attorneys may not fall into “high risk” categories, being in any crowded public setting – such as polling places – puts them in danger of contracting COVID-19.

“We’re asking people to go into a public setting in a time when people are supposed to be avoiding public settings as much as reasonably possible,” Ragosta said. “It’s a concern, but it’s very clearly a part of our call. It’s the reason for the call.”

The VBA and Virginia Department of Elections are taking thorough precautions to keep election officers safe. Through funds from the CARES Act, the VDOE has purchased face masks, face shields, gloves, hand sanitizer and disinfectant wipes to be available at all polling places on Election Day, Piper said.

In the June primary, VDOE partnered with the Medical Reserve Corps, a network of volunteering medical professionals, to assist election officers in ensuring polling places were safe and thoroughly sanitized. MRC volunteers will be present for the November elections, as well.

“We feel that we are putting election officers in a very safe space,” Piper said.

Ragosta, who will also be volunteering on Election Day, said he is more concerned for the safety of in-person voters.

“Election officials will be inside in a controlled environment,” Ragosta said. “The question that keeps me up at night are the people that start to gather and line up outside.”

Approximately 120 Virginia attorneys have registered to volunteer so far. Ragosta anticipates even more to sign up after the second call for volunteers goes out next week.

“It’s a really amazing piece of service – one that’s asking for a real physical sacrifice on top of real valuable time, Ragosta said. “I think that’s a wonderful thing, and I think it speaks a great deal to how important making people feel confident in our [election] systems is during this troubling time.”

To register as a poll worker, visit the ABA website. For more information on volunteering as an election officer in Virginia, email Ragosta at sjr@fplegal.com.

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