

**SUPREME COURT
STATE OF GEORGIA**

REPUBLICAN NATIONAL
COMMITTEE et al.,

Appellants,

v.

ETERNAL VIGILANCE ACTION,
INC. et al.,

Appellees.

Case No.
S25M0259

Trial Ct. No.
24CV011558

**BRIEF OF AMICI CURIAE DEMOCRATIC NATIONAL COMMITTEE,
TERESA CRAWFORD, LORETTA MIRANDOLA, AND ANITA
TUCKER**

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INTRODUCTION

This amicus brief focuses on the “Hand Count Rule”—one of the rules issued by the State Election Board (“SEB”) and declared unlawful by the Superior Court. The Hand Count Rule would require thousands of exhausted poll workers to count by hand the number of election day ballots under enormous time pressure with no training, direction, or oversight. The contemplated process is flatly unlawful: it conflicts with the existing statutory scheme and departs from sound chain-of-custody procedures in a manner that will make electoral outcomes less rather than more reliable.

The Superior Court was correct to invalidate the Hand Count Rule. But, the court’s constitutional analysis was not necessary to its holding—and need not be addressed by this Court—because the Rule is invalid on multiple statutory grounds that independently justify the Superior Court’s ultimate determination of invalidity. First, the Hand Count Rule sought to impose a procedure that is not authorized by—and indeed directly conflicts with—the Election Code. Second, in promulgating the rule shortly before an election, SEB exceeded its authority to adopt rules that are “conducive to the fair, legal, and

orderly conduct of primaries and elections,” and that “obtain uniformity in the practices” of election officials, O.C.G.A. § 21-2-31(1). The Hand Count Rule runs directly counter to those statutory objectives, as *inter alia*, its eleventh-hour enactment would allow no time for proper training or staffing, raises a serious risk of losing or damaging ballots, and would cause substantial delay at a time when quick and accurate reporting of result is vital. Third, SEB violated basic notice and explanation requirements of Georgia’s Administrative Procedure Act (“APA”) by failing to strictly comply with the APA’s notice requirement and not issuing the statutorily required statement of reasons explaining why the Hand Count Rule was adopted and why the many critical comments SEB received were disregarded. It was for precisely these reasons that the Attorney General took the remarkable step of warning SEB before it adopted the rule that the Hand Count Rule “very likely exceed[s] the Board’s statutory authority and ... appear[s] to conflict with the statutes governing the conduct of elections.” Ex. B at 1–2.

The equities also favor the Superior Court’s judgment enjoining the Hand Count Rule. The rule was set to take effect on October 22—seven days **after** the start of early voting and only two weeks before

election day. That date bears emphasis: the new rules were not set to go into effect **until tomorrow**. Accordingly, the trial court's ruling in this case preserved the status quo. Moreover, the Hand Count Rule would have disrupted election administration across Georgia and brought further disorder on November 5 and beyond—imposing concrete and irreparable harm without any countervailing benefit, given Georgia's established rigorous ballot counting and tabulating procedures.

This Court need not take amici's word. The Secretary of State himself warned that the Hand Count Rule was one of the "most concerning rules under consideration"—it would "require tremendous personnel resources and time," "could lead to significant delays in reporting," and "needlessly introduce the risk of error, lost ballots, or fraud." Ex. A at 2.

In short, the Superior Court's declaration that the Hand Count Rule violated the Election Code maintained the status quo and preserved order in the post-election context, which is governed by strict and prescriptive statutes. Supersedeas would upend that framework

and introduce needless uncertainty. The Court should deny supersedeas as to the Hand Count Rule.

INTEREST OF AMICI CURIAE

The Democratic National Committee (“DNC”) is the principal committee of the Democratic Party, dedicated to electing Democratic candidates and protecting voters’ rights. DNC has a core interest in ensuring proper and legal administration of elections. That interest is harmed when ballots cast for Democratic candidates are lost or discarded through hand counts unauthorized by law. This interest is also harmed when election results from particular counties or precincts are improperly delayed, as would occur under the Hand Count Rule. Such delays introduce opportunities for bad-faith actors to claim that fraud has affected election results, which undermines public confidence in our election system and the election of Democratic candidates.

The remaining amici are members of county boards of elections (collectively, the “BRE amici”) that would be forced to implement the Hand Count Rule. Teresa Crawford is a member of the Fulton County Board of Registration and Elections, responsible for overseeing all elections for Fulton County. Loretta Mirandola is a member of the

Gwinnett County Board of Registrations and Elections, responsible for overseeing all elections for Gwinnett County. Anita Tucker is a member and Assistant Secretary of the Forsyth County Board of Voter Registrations & Elections, responsible for overseeing all elections for Forsyth County. As Appellants concede in their Motion, all have an interest in ensuring this rule remains enjoined.¹

ARGUMENT AND CITATION TO AUTHORITY

I. Allowing The Hand Count Rule To Go Into Effect Would Cause Irreparable Harm

The Hand Count Rule disrupts the status quo and, if permitted to take effect prior to the November election, would cause irreparable harm to amici, election officials across Georgia, and voters.

The enormous burdens that the Rule imposes are self-evident. It requires three poll workers at each precinct to count, by hand, hundreds or thousands of ballots. The resulting harms divide into five categories: (1) staffing; (2) training; (3) diversion of financial resources; (4) interference with certification; and (5) introduction of errors.

¹ See Republican National Committee (“RNC”) Mot. for Supersedeas (“RNC Mot.”) at 28 n.7 (BRE member “has standing to challenge whether regulation imposes new duties on the Board of Elections not authorized by statute”).

1. **Staffing.** There are more than 2,500 precincts across the State, which means that, collectively, county election superintendents and county board members must ensure that there are more than 7,500 poll workers available to take on the onerous task of manually counting every election day ballot in the state. Poll workers have also begun warning counties that they will not serve in this election if they must hand count ballots. These refusals are to be expected. Election workers already are expected to work tirelessly on election day (starting as early as five in the morning) while facing immense scrutiny. Potential poll workers have expressed fear that adding the hand counting of ballots on election night, with anxious public onlookers, would be too much. These logistical challenges are exacerbated by the Hand Count Rule giving poll managers the authority to delay commencing the hand count until the day after election day, and to require hand counts take place at the county elections office, which can be more than an hour away from certain precincts. Few poll workers will want—or be able—to make that long drive from home every day the count continues. If the Hand Count Rule were to take effect, counties thus risk losing many experienced poll workers now, with no opportunity to hire and re-train

new poll workers if this Court issues a decision just days before the election.

2. Training. Implementing the new Hand Count Rule would require election staff to develop new training, with no guidance from SEB or the Secretary of State, for the more than 7,500 poll workers that would be required to count by hand each and every election day ballot in the State. Indeed, the Secretary has explained that “[b]ecause the SEB rules are tied up in litigation, and because poll worker training in many counties has already started and there is limited time remaining for additional training, the SOS Elections Division does not intend to provide additional training on SEB rules until after any court decisions are made.” Ex. D at 1. This significant obstacle will invariably result in different training and different approaches across the State.

3. Diversion Of Financial Resources. The Hand Count Rule imposes significant financial burdens on counties without providing any money for implementation. These additional costs include paying existing poll workers for the additional time that would be needed to complete the hand count, hiring more poll workers, and paying for more security personnel to remain stationed at polling places longer than

currently planned. Superintendents are required to prepare their budgets annually, based on the prior two years' actual expenditures and a forecast for the coming year. O.C.G.A. § 21-2-70(12). No superintendent could have properly budgeted for a rule that was not passed until weeks before a presidential general election and which would require extra hours (or days) of personnel, along with extra security and extra transportation of materials to the tabulating center. Implementing the Hand Count Rule would cause the diversion of financial resources to these requirements from other urgent election-related needs, like post-election activities to confirm the count, canvassing, and tabulation.

4. Interference With Certification. The Hand Count Rule may interfere with the statutory requirement to promptly certify the election. Election superintendents must finish computation and canvassing by 5:00 P.M. on the Monday following the election to certify the results. O.C.G.A. § 21-2-493.² The Hand Count Rule interferes with this process by injecting a time-consuming triple hand count of

² Because November 11, 2024, is a legal holiday, election returns this year must be certified by election officials not later than 5:00 P.M. on November 12, 2024. *See* O.C.G.A. § 21-2-14.

every ballot that could spread to several days and multiple locations.

Ex. C at 2–3. Under the Hand Count Rule, superintendents might not receive the ballots until the end of “the week designated for county certification,” *id.* at 3, leaving them little time to complete tabulation.

As a result, counties may be faced with conflicting obligations under the Hand Count Rule and the Election Code—or simply be forced to rush to complete the hand count (risking mistakes). That cannot be reconciled with SEB’s statutory mandate to promote the fair and orderly administration of elections, nor the Rule’s stated purpose of ensuring an accurate tally.³

³ Amici will address each of the arguments raised by Appellants at the merits stage. However, there is one mischaracterization of law that amici must correct in this submission. Appellants argue that the new “reasonable inquiry” regulation is consistent with the law because the “concept” of superintendents conducting a reasonable inquiry is purportedly contemplated by O.C.G.A. § 21-2-493(i) and because such inquiry is necessary to a determination of *whether to count* particular precinct returns. RNC Mot. at 18-19. This same argument was made in *Adams v. Fulton County*, No. 24CV011584 (Ga. Super. Ct. Oct. 15, 2024)—and the superior court flatly rejected it. Rightly so, as election superintendents possess no discretion to throw out returns for fraud. “Nothing in O.C.G.A. § 21-2-493 imbues superintendents with the authority to declare fraud (or, more importantly, determine the consequences for it, if it in fact occurs). And the only errors superintendents can correct are basic tabulation errors set forth in

5. **Increasing The Likelihood Of Error.** Studies show that rather than improving accuracy, hand counts are prone to errors.⁴ These errors become more likely when workers are exhausted. That is why the General Assembly has developed detailed chain of custody procedures in the Election Code that almost never authorize hand counting at any stage of the process, much less by thousands of individual precincts, *see* O.C.G.A. §§ 21-2-435(c), 21-2-437(a), 21-2-483(f), (g). Indeed, the Secretary of State has warned that “having poll workers handle ballots at polling locations after they have been voted

subsections (b) and (c).” *Adams*, slip op. 6 n.12. This Court made the same point a century ago, stating “we ... hold that the superintendents who consolidate the vote of a county in county elections have no right to adjudicate upon the subject of irregularity or fraud which will permit them to ... review the returns ... in order to ascertain whether the district returns are in fact correct or incorrect.” *Bacon v. Black*, 162 Ga. 222, 226 (1926). This Court should not countenance Appellants’ attempt to revive this unequivocally rejected argument, which, if even implicitly accepted, risks significant chaos during the post-election certification process.

⁴ *See, e.g.*, Orey et al., *How Ballot Tabulators Improve Elections*, Bipartisan Policy Ctr. (Apr. 25, 2022), <https://bipartisanpolicy.org/explainer/how-ballot-tabulators-improve-elections/>; Goggin & Byrne, *An Examination of the Auditability of Voter Verified Paper Audit Trail (VVPAT) Ballots*, Rice Univ. (Jan. 2007), <https://accurate-voting.rice.edu/wp-content/uploads/2007/08/evt07-goggin.pdf>.

introduces a new and significant risk to chain of custody procedures.”⁵ As the Secretary explained, hand counting “needlessly introduce[s] the risk of error, lost ballots, or fraud.” Ex. A at 2. The Hand Count Rule poses a distinct risk that the three exhausted poll workers hand counting ballots cannot reconcile their counts. The effect of the Hand Count Rule is disorder and uncertainty. And the sum of these problems undermines the Election Code’s statutory framework (as a matter of law) and the public’s trust in the election (as a matter of practice).

All of these harms come despite the Rule providing no countervailing benefits (explained below) and despite the Rule’s express conflicts (also explained below) with the statutory obligations of county election board members, poll managers, assistant poll managers, and poll clerks.

II. SEB And Appellants Will Not Suffer Irreparable Harm If The Hand Count Rule Remains Enjoined

SEB and Appellants, in contrast, face no real harm if the Rule is enjoined for this upcoming election—indeed, SEB has not even appealed

⁵ Press Release, Brad Raffensperger, Sec’y of State (Aug. 15, 2024), <https://sos.ga.gov/news/raffensperger-defends-georgias-election-integrity-act-last-minute-changes-delaying-election> (“SOS Release”).

the decision below, much less sought emergency relief. For good reason: the Hand Count Rule exceeds SEB's statutory authority, and neither SEB nor Appellants have a legitimate interest in enforcing an unlawful rule. *See infra* Part III; *see also Western Sky Fin., LLC v. State of Ga.*, 300 Ga. 340, 355 (2016) (defendants' failure to demonstrate "that they have any 'right'" to take the enjoined action supports relief). But this Court does not need to reach the merits to conclude that enjoining the Hand Count Rule would cause SEB no cognizable harm. On its face, the Hand Count Rule does not further the only stated purpose SEB provided for passing it: "to ensure the secure, transparent, and accurate counting of ballots." Ex. C at 2.

In particular, the Hand Count Rule threatens the efficiency and security of the count by disrupting the chain of custody. The Rule requires thousands of poll workers at potentially thousands of locations across Georgia to open sealed ballot boxes, and then remove, reorganize, and pass around ballots. *See* Ex. C at 2; *see also* Ex. E at 220:25–221:13 (Alexander). As Fayette County Board of Elections member Sharlene Alexander—who proposed the Hand Count Rule—described it, a hand count would require "pull[ing] the ballots out of the scanner"

and placing the ballots “in a big pile” from which three poll workers would “just start pulling those ballots out of the pile” to “quickly” count the ballots “into stacks of fifty.” Ex. E at 220:22–221:4. Then the poll worker “would push them to the next person” who would re-count the stack and so on until all three poll workers had counted each stack and confirmed they had “hand-counted” the same number of ballots. *Id.* at 221:6–12. This scramble could happen outside the supervision of the superintendent, in violation of State law. *See* Ex. C at 2–3. Such unguided handling poses a substantial risk that the ballots will be lost or (perhaps inadvertently) tampered with. *Cf. Collier v. Bd. Of Comm’rs of Pike Cnty.*, 240 Ga. App. 605, 605–06 (1999).

The Hand Count Rule further contemplates that poll officers may both move ballots to—and count ballots at—a “place other than the polling location” on a date after the election. Ex. C at 3. Although the Hand Count Rule provides that the ballots and other election materials shall be sealed, it does not specify where the sealed materials shall be stored until the hand count begins. Moreover, the Hand Count Rule does not specify any procedure for inspecting and validating the seal prior to the hand count. To the contrary, it introduces new

opportunities for (even inadvertent) ballot tampering by permitting poll managers to engage in an undefined “correct[ion]” of discrepancies. *See id.* at 2–3. This lack of clarity on how to “correct” discrepancies poses a significant risk of inconsistencies across precincts, mishandling of ballots, failure to count ballots, and confusion among poll managers, all in contravention of SEB’s authorizing legislation.

The Secretary of State agrees that the Hand Count Rule undermines SEB’s own stated goals. As the Secretary of State has explained, “having poll workers handle ballots at polling locations after they have been voted introduces a new and significant risk to chain of custody procedures.” SOS Release. This is why the Secretary of State’s office has cautioned counties not to hand count ballots: “In order to ensure maximum security for the voted ballots, poll workers should not prolong the process of removing ballots from ballot boxes and sealing them in transport containers.” Ex. F at 9. This process must instead “be done efficiently, transparently, and immediately after the polls have closed and votes have been cast.” *Id.*

Nor was it ever clear why the Hand Count Rule was needed in the first place. As the Secretary of State has explained, the General

Assembly has already established rigorous ballot counting and tabulating procedures that fulfill this precise purpose. *See, e.g.*, O.C.G.A. § 21-2-483 (providing procedures for secure and transparent processing of ballots when using optical scanners, and mandating the use of tabulating machines); *see also id.* § 21-2-493(e)–(h) (mandating precinct-level cross-checks by superintendent); *id.* § 21-2-495 (setting forth a process for the superintendent to order a recount or recanvass); *id.* § 21-2-498 (setting forth a process for the superintendent to conduct a risk-limiting audit). SOS Release (“Georgia law already has secure chain of custody protocols for handling ballots”). SEB has not explained why the already existing laws—which do not call for hand counting of ballots by poll workers—are inadequate.

Finally, the Hand Count Rule could seriously delay election results and sow distrust, directly contrary to SEB’s duty to ensure “[f]air, legal, and orderly . . . elections.” O.C.G.A. § 21-2-31(2).⁶

Enjoining the Rule thus poses no meaningful harm to SEB or anyone

⁶ *See also* Cameron, *Raffensperger: Election board ‘destroying voter confidence’ in Georgia*, Christian Sci. Monitor (Sept. 26, 2024), <https://www.csmonitor.com/USA/Politics/2024/0926/brad-raffensperger-georgia-election-board>.

else. Instead, enjoining the Hand Count Rule prevents it from disrupting the status quo as the general election is already underway.

Appellants recognize these equities, emphasizing the importance of “public confidence in the fairness of the upcoming election (indeed, given early voting, the *ongoing* election).” RNC Mot. at 6. And they likewise concede the “greater disruption” that will be caused by court orders any “later in the early voting process” than we already are. *Id.* at 5. But they ignore the reality that forcing counties to implement a raft of significant changes to election rules *while voting is already happening* is an untenable risk, as the Secretary of State has repeatedly acknowledged. The status quo is an election without the Hand Count Rule, and it is Appellants, not the Superior Court’s order, that seek to disrupt longstanding election procedures.

III. Appellants Are Unlikely To Succeed On The Merits As To The Hand Count Rule

The Hand Count Rule “contradicts” and is “inconsistent with the statutory framework” set forth in the Election Code. Order at 7. As the Secretary of State and Attorney General have explained, the Hand Count Rule has no basis in the Georgia Election Code, and a rule issued without statutory authority is invalid. *See* Ex. A; Ex. B. SEB may only

pass rules that are “consistent with law,” “conducive to the fair, legal, and orderly conduct of primaries and elections,” and that “obtain uniformity in the practices and proceedings” of election officials. O.C.G.A. § 21-2-31(2). In contrast, the Hand Count Rule injects needless disorder into the election process. Finally, SEB disregarded mandatory rulemaking procedures that render the Hand Count Rule invalid.

These statutory defects mean that Appellants will fail on the merits of their appeal. The Court need not address, at all, the constitutional issues addressed below. This Court does not and “must not address a constitutional question where it is unnecessary to do so.” *Sons of Confederate Veterans v. Henry Cnty. Bd. of Comm’rs*, 315 Ga. 39, 65 (2022); *see also id.* (“[I]t is well settled that this Court will not decide a constitutional question if the decision in the appeal can be made upon other grounds”). “And here it is not necessary.” *Id.*

A. The Hand Count Rule Improperly Adds Requirements To The Election Code

SEB’s authority to promulgate rules is limited “to carry[ing] into effect a law already passed” or otherwise “administer[ing] and effectuat[ing] an existing enactment of the General Assembly.” *HCA*

Health Servs. of Ga., Inc. v. Roach, 265 Ga. 501, 502 (1995). As a result, “an administrative rule which exceeds the scope of or is inconsistent with the authority of the statute upon which it is predicated is invalid.” *Ga. Dep’t of Cmty. Health v. Dillard*, 313 Ga. App. 782, 785 (2012).

Nothing in the Election Code permits the hand counting contemplated by the Rule. The Code specifies only two forms of hand counting prior to county superintendents’ certification of results. The first occurs during the tabulation of paper ballots marked by hand—a process that has nothing to do with the automated devices affected by the Hand Count Rule, O.C.G.A. §§ 21-2-435(c), 21-2-437(a). The second occurs at the tabulation center in limited circumstances where a tabulating machine cannot read a ballot due to damage or unclear markings. *Id.* § 21-2-483(f), (g).

While SEB purported to rely on three other Election Code provisions as “authority” for the Hand Count Rule, *see* Ex. C at 3, none of the provisions actually provides such authority. Remarkably, Appellants now concede the inapplicability of two of the provisions. *See* O.C.G.A. §§ 21-2-436, 21-2-483(a); RNC Mot. at 30-31; *see also Schmid*

v. State, 226 Ga. 70, 70, (1970) (where a ground is not argued on appeal, it is “considered as abandoned”).

First, SEB cited O.C.G.A. § 21-2-436, but that statute applies only to precincts using paper ballots marked by hand, and thus grants no authority to impose (as the Rule does) hand counting for voting “conducted via ballots marked by electronic ballot markers and tabulated by ballot scanners.” SEB Rule 183-1-12-.01; *see also* Ex. B at 6; RNC Mot. at 30 (Section 436 “only governs precincts using paper ballots ... of the old-school variety”).

Second, SEB cited O.C.G.A. § 21-2-483(a), which, as the RNC concedes, “is inapposite, because it governs ‘[p]rocedures at the tabulation center.’” RNC Mot. at 31. It says nothing about hand counting every ballot, does not authorize poll managers to conduct general hand counts at precincts, and envisions the processing of ballots will take place under the supervision of the superintendent at a tabulating center. O.C.G.A. §21-2-483(c); *see also* Ex. B at 5.

Third, SEB cited O.C.G.A. §21-2-420(a), which states that “the poll officials in each precinct shall complete the required accounting and related documentation for the precinct and shall advise the election

superintendent of the total number of ballots cast at such precinct and the total number of provisional ballots cast.” O.C.G.A. § 21-2-420(a). Nothing in the Election Code defines the “required accounting” so broadly as to encompass hand counting, and SEB and Appellants make no attempt to link the Hand Count Rule to any “require[ment]” in the Election Code. Further, and as the Attorney General’s office informed SEB, “neither the statutes that prescribe the duties of poll officers after the close of the polls for precincts using voting machines, *see* O.C.G.A. § 21-2-454, nor the precincts using optical scanners, *see id.* § 21-2-485, suggest that the General Assembly contemplated that a hand-count of the ballots would be part of the ‘required accounting.’” Ex. B at 6. Because O.C.G.A. § 21-2-420(a)’s reference to “required accounting” speaks only to the specific post-vote procedures “required” by other statutory provisions, it cannot be read to introduce an entirely new procedure that is not in the Election Code.

B. The Hand Count Rule Conflicts With The General Assembly’s Comprehensive Computation, Canvassing, And Tabulation Scheme

The Hand Count Rule directly conflicts with the Election Code in at least six ways.

First, the Hand Count Rule transfers a portion of the superintendent's statutory responsibilities over the computation and canvassing of the ballots, O.C.G.A. § 21-2-493(a), to poll managers. SEB—like any other agency—is not authorized to shift statutory responsibility from one official to another. *See Dep't of Human Res. v. Anderson*, 218 Ga. App. 528, 529 (1995) (regulation invalid where it purported to give court veto-power over certain Georgia Department of Human Resources decisions left to the Department's discretion by statute).

Second, and relatedly, the Hand Count Rule interferes with county superintendents' authority to “compare the registration figure with the certificates returned by the poll officers showing the number of persons who voted in each precinct or the number of ballots cast” and if there is a discrepancy, to “investigate[]” the issue. O.C.G.A. § 21-2-493(b). This is because the Hand Count Rule requires *poll managers*—rather than the superintendent—to “immediately determine the reason for the inconsistency” in hand count totals and “correct the inconsistency, if possible; and fully document the inconsistency or problem along with any corrective measures taken.” Ex. C at 2. In

other words, the Rule purports to give poll managers the first (and perhaps only) opportunity to address numerical inconsistencies in the ballot tallies. The General Assembly vested that duty solely with county superintendents, not poll managers. O.C.G.A. § 21-2-493(b).

Third, the Hand Count Rule conflicts with the statutory requirement that the superintendent report to the Secretary of State—and post in a public place—the “number of ballots cast at the polls on the day of the ... election” by “not later than 11:59 P.M. following the close of the polls *on the day of a[n] ... election.*” O.C.G.A. § 21-2-421(a) (emphasis added). In contrast, the Hand Count Rule requires only that poll officers finish their count “during the week designated for county certification.” Ex. C at 3. In other words, the Hand Count Rule appears to give poll officers the ability (even if unintentionally) to prevent the superintendent from timely notifying the Secretary and the public regarding the number of ballots received.

Fourth, the Hand Count Rule conflicts with the General Assembly’s clear mandate to tabulate results “as soon as possible,” O.C.G.A. § 21-2-420(a), setting up a conflict with the statutory requirement that the superintendent finish computation and

canvassing in time to certify results by 5:00 P.M. on the Monday following the election. *Id.* § 21-2-493. If the hand counts are not completed until late in the certification process (a real possibility in large counties), it becomes far more difficult for county superintendents to complete the statutorily required tabulation by the certification deadline.

Fifth, the Hand Count Rule requires that poll workers around the state create an election-related form—referred to as a “control document”—for recording the results of a hand count. *See* Ex. C at 2. But under O.C.G.A. § 21-2-50(a)(5), only the Secretary of State has the authority to create “all blank forms” to be used in any election. *See also* Ex. A at 1 (letter from Secretary’s Office to SEB citing Section 21-2-50 for the proposition that “the form of the ballot is exclusively within the control of the Secretary of State under Georgia law.”).

Sixth, the Hand Count Rule requires all poll managers and poll officers to handle ballots regardless of their relationship with the county superintendent. *See* Ex. C at 2. This procedure cannot be squared with the requirement in O.C.G.A. § 21-2-483(a) that only those deputized by the superintendent may handle ballots.

C. The Hand Count Rule Exceeds SEB's Statutory Rulemaking Authority

In addition to impermissibly adding a new requirement to existing law and conflicting with the laws that exist, the Hand Count Rule exceeds SEB's statutory authority. The General Assembly authorized SEB to enact rules only to promote "fair ... and orderly conduct" and "uniformity" during the primaries and elections. O.C.G.A. § 21-2-31(1), (2). The Hand Count Rule will have the opposite effect, injecting eleventh-hour inconsistency and disorder. *See supra* Parts I-II; *infra* Part IV.

D. SEB Violated The Mandatory Procedures Of Georgia's Administrative Procedure Act In Enacting The Hand Count Rule

The Hand Count Rule was also promulgated in violation of the APA. That defect independently suffices to invalidate the Rule.

First, the Hand Count Rule violates the APA's notice requirement. The Georgia Code demands "***exact compliance***" with the notice rule, O.C.G.A. § 50-13-4(d) (emphasis added), which requires an agency to both "[g]ive at least 30 days' notice of its intended action" and include a synopsis of the proposed rule, *id.* § 50-13-4(a)(1). "[I]n the case of a proposed amendatory rule, the synopsis also shall indicate the

differences between the existing rule and the proposed rule.” *Id.* § 50-13-4(a)(1).

SEB’s notice was deficient on both fronts. It informed the public only that the September 20, 2024 meeting would provide “an opportunity to comment upon and provide input into the proposed rule amendments,” including the Hand Count Rule. Ex. C at 1. Nothing in the notice informed the public that SEB would actually reach a final decision on and vote whether to adopt the Hand Count Rule at the meeting. The notice also included a section titled “Differences Between The Existing Rule And The Proposed Amendments,” that purported to show how the new rule amends the existing regulation. *Id.* at 2–3. The notice, however, failed to include key changes. For example, the existing rule requires that—after the ballots are removed from the scanner—the poll manager and his assistants shall “place the paper ballots into a durable, portable, secure and sealable container to be provided for transport to the office of the election superintendent.” SEB Rule 183-1-12-.12(a)(5). The Hand Count Rule removes this important language, but the Notice of Proposed Rulemaking did not identify this edit as one of the changes being proposed. *Compare* SEB Rule 183-1-

12-.12(a)(5) *with* Ex. C at 2–3. Because SEB did not strictly comply with the notice requirement, the Hand Count Rule is invalid. *See Outdoor Advert. Ass’n of Ga., Inc. v. Dep’t of Transp.*, 186 Ga. App. 550, 554 (1988).

Second, the APA requires that the agency shall, upon request, “issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.” O.C.G.A. § 50-13-4(a)(2). Failure to comply with the statement of reasons requirements is fatal to any regulation. *See Outdoor Advert.*, 186 Ga. App. at 554 (noting, in considering a violation of O.C.G.A. § 50-13-4(a)(2), that “[i]nasmuch as we have concluded that [the agency] violated mandated precepts of the APA in its attempt to adopt amendments to [its] rules and regulations, we must ... hold that the amendments are invalid”). Here, despite receiving a request to do so from the Democratic Party of Georgia, SEB still has not issued the statutorily required statement of reasons as to why comments against the Hand Count Rule were disregarded.

IV. Maintaining The Status Quo Serves The Public Interest

The Superior Court’s injunction against the Hand Count Rule

serves the public interest by maintaining the status quo during an election that has already started—that is, the longstanding rule that millions of ballots are *not* to be hand counted and compared against machine totals by tired poll workers on election night.

Appellants are wrong to claim that the *Purcell* principle and the timing of the Superior Court’s order favors supersedeas. RNC Mot. at 6–8. Under *Purcell v. Gonzalez*, 549 U.S. 1 (2006) (per curiam), and its progeny, “lower **federal** courts should ordinarily not alter the election rules on the eve of an election,” *Republican Nat’l Comm. v. Democratic Nat’l Comm.*, 589 U.S. 423, 424 (2020) (per curiam) (emphasis added) (citing cases). By its terms, *Purcell* imposes no constraints on state courts—consistent with its grounding, at least partly, in considerations of federalism, *see, e.g., Democratic Nat’l Comm. v. Wis. State Legislature*, 141 S.Ct. 28, 28 (2020) (Roberts, C.J., concurring) (a case about “the authority of state courts to apply their own constitutions to election regulations” raises “different issues than” a case where “a [federal] District Court intervened in the thick of election season to enjoin enforcement of a State’s laws,” which “involves federal intrusion on state lawmaking processes”).

In any event, even if *Purcell* did apply here, it would support Appellees. *Purcell* seeks to avoid the “voter confusion and consequent incentive to remain away from the polls,” *Purcell*, 549 U.S. at 4–5, that can result when “longstanding election rules” are changed close to an election, *Democratic Nat’l Comm.*, 141 S.Ct. at 30 (Gorsuch, J., concurring). Here, it is the challenged, never-effective SEB rule that would change “longstanding election rules,” *id.*—which is why the Secretary of State and others have urged SEB to cease its last-minute rulemakings. The Superior Court’s injunction thus avoids, rather than creates, the confusion and other deleterious effects that *Purcell* exists to prevent.

CONCLUSION

The Court should deny the motion for supersedeas as to the Hand Count Rule.

Respectfully submitted this 21st day of October, 2024.

This submission does not exceed the word-count limit imposed by Rule 20.

/s/ Kurt G. Kastorf

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CERTIFICATE OF SERVICE

I certify that on October 21, 2024, I caused a copy of this **BRIEF OF AMICI CURIAE DEMOCRATIC NATIONAL COMMITTEE, TERESA CRAWFORD, LORETTA MIRANDOLA, AND ANITA TUCKER** to be served by United States Postal Service to all parties and counsel record. In view of the expedited nature of this appeal, I have also sent same by electronic mail to below-listed counsel:

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This 21st day of October, 2024.

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Index of Exhibits

Exhibit	Description
A	September 16, 2024 Letter from Secretary of State to John Fervier, Chairman, Georgia State Election Board
B	September 19, 2024 Letter from Elizabeth Young, Senior Assistant Attorney General to John Fervier, Chairman, State Election Board
C	August 21, 2024 State Election Board Notice of Proposed Rulemaking
D	October 1, 2024 Email From Secretary of State regarding Guidance on Recent SEB Rule Amendments to 183-1-12-.12(a)(5)
E	Excerpt of Transcript of July 9, 2024 State Election Board Meeting
F	June 6, 2024 Petition for Amendment to Election Rules

EXHIBIT A

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Office of the Secretary of State

Brad Raffensperger

SECRETARY OF STATE

Charlene McGowan

GENERAL COUNSEL

September 16, 2024

Mr. John Fervier
Chairman, Georgia State Election Board
jfervier.seb@gmail.com

Mr. Chairman,

This letter is in response to your request for comment from the Secretary's office on the 11 proposed new rules and 2 petitions on the agenda for the next State Election Board meeting on September 20, 2024. We have received an overwhelming number of comments from county election officials expressing concern about the Board changing Georgia's election rules and procedures with the General Election only 50 days away.

The Board should be mindful of upcoming deadlines. The deadline for counties to mail UOCAVA ballots is **September 21** and counties will begin mailing absentee ballots on **October 7**. Advanced voting starts on **October 15** and counties are conducting preparations for in-person voting such as logic & accuracy testing. The earliest possible date new rules could take effect if passed is **October 14**, which is **22 days** before the General Election when **Georgia voters will already be voting**.

It is far too late in the election process for counties to implement new rules and procedures, and many poll workers have already completed their required training. If the Board believes that rules changes are important for an election, the process should begin much sooner to allow for smooth implementation and training and include the input of election officials.

To underscore the absurdity of the timing of the Board's actions, the amendment to Rule 183-1-12-.01 would change the form of absentee/provisional/emergency ballots, which have **already been printed**, and counties will have already begun mailing absentee ballots to voters before any rule change would take effect. It is simply impossible to implement this change for 2024. And even if it were, the Board lacks the legal authority to pass this rule because the form of the ballot is exclusively within the control of the Secretary of State under Georgia law. O.C.G.A. § 21-2-50(a)(1), (15).

The two petitions under consideration would similarly interfere with the Secretary's legal authority. The proposed amendments to Rule 183-1-12-.19 interfere with the Secretary of State's exclusive authority over the state's voter registration database and conflict with the provisions of O.C.G.A. § 21-2-110, § 21-2-111, and § 21-2-225.

The most concerning rules under consideration would require hand-counting of ballots for every day of advance voting (Rule 183-1-14-.02(8)) and on Election Day (Rule 183-1-12-.12(a)(5)). As election officials have repeatedly told the Board, these new procedures would require tremendous personnel resources and time, and could lead to significant delays in reporting. These new procedures would disrupt existing chain of custody protocols under the law and needlessly introduce the risk of error, lost ballots, or fraud. Election workers are prohibited from tabulating ballots before the close of the polls on Election Day, which would be compromised by the viewing and counting of ballots during advance voting. There are strict legal prohibitions against the tabulation and reporting of results during early processing of absentee by mail ballots. O.C.G.A. § 21-2-386. There are no similar security and ballot secrecy controls in the proposed amendment to Rule 183-1-14-.02(8).

Other rules such as expanded poll watcher access and posting of certain reports on county websites are not objectionable, but we share the concerns of counties that there is insufficient time to implement and train elections workers on new policies now that they have already been trained. The General Assembly recently expanded poll watcher access with our support this past session with the passage of H.B. 1207. And the Elections Division already provides the absentee voter file and other data on the Secretary's website.

The U.S. Supreme Court's *Purcell* principle cautions that last-minute changes to election procedures harm both voters and elections officials in the orderly administration of an election. As Justice Kavanaugh wrote, it is a "bedrock tenet of election law" that "[w]hen an election is close at hand, the rules of the road must be clear and settled" to avoid "unfair consequences for candidates, political parties, and voters." *Merrill v. Milligan*, 142 S. Ct. 879 (2022).

The Secretary's office would welcome the opportunity to return to the normal course of business of working with the Board and GAVREO on common-sense rules that benefit voters and are consistent with law, after the election. But for now, the Board should heed the words of Justice Kavanaugh and pause any further rulemaking to ensure that the rules are "clear and settled" and avoid "unfair consequences" in the 2024 General Election.

Sincerely,

Charlene S. McGowan

General Counsel

EXHIBIT B

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ATTORNEY-CLIENT PRIVILEGED INFORMATION

September 19, 2024

MEMORANDUM:

TO: John Fervier
Chairman
State Election Board

FROM: Elizabeth Young
Senior Assistant Attorney General

RE: Request for Comments on Proposed Rules in Advance of September 20,
2024 State Election Board Meeting

This memorandum is in response to the Board's request for comments from our office regarding the proposed rules to be considered by the Board at its September 20, 2024 meeting.

As an initial matter, this office does not typically engage in a broad review of an agency's proposed rules to ensure that the agency's proposed rules are consistent with law. As an administrative board with rulemaking authority, it is the Board's obligation to formulate its proposed rules to be consistent with law and conducive to the fair, legal and orderly conduct of primaries and elections. O.C.G.A. § 21-2-31(2). The Board should evaluate the legality of any proposed rule prior to publication and voting. Should the Board desire specific legal advice concerning any proposed rule or action, the Board should seek such advice in writing addressed to this office. This office cannot search through email correspondence to which it is simply copied to determine whether or not the Board has made a passing comment to seek legal advice on any particular topic. In addition, seeking unspecified comment on any proposed rule is unhelpful. In its request for legal advice, the Board should specify the matter upon which it seeks legal advice and ask a specific question to be answered through the Chair. This is the best manner in which to seek advice and allows this office to answer those questions on which the Board needs advice and avoids any misinterpretation of the Board's request and allows for an efficient and deliberate response.

In the instant matter, in an effort to assist the Board, we make this limited exception to our usual practice to offer the following expedited comments upon the rules proposed for

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consideration at the September 20 meeting based on the Board's request. We make this exception here because a review of the proposed rules reveals several issues including that several of the proposed rules, if passed, very likely exceed the Board's statutory authority and in some instances appear to conflict with the statutes governing the conduct of elections. Where such is the case, and as outlined below, the Board risks passing rules that may easily be challenged and determined to be invalid.

Please note the following:

As a general matter, the passage of any rules concerning the conduct of elections are disfavored when implemented as close to an election as the rules on the September 20 agenda. The United States Supreme Court in *Purcell v. Gonzalez* recognized that "[c]ourt orders affecting elections, especially conflicting orders, can themselves result in voter confusion and consequent incentive to remain away from the polls. As an election draws closer, that risk will increase." 549 U.S. 1, 4-5 (2006). Federal courts have thus generally refrained from enjoining state election laws in the months prior to an election. *See Merrill v. Milligan*, 142 S. Ct. 879 (2022) (Kavanaugh, J., concurring); *see also League of Women Voters of Florida, Inc. v. Fla. Sec'y of State*, 32 F.4th 1363 (11th Cir. 2022) (*Purcell* applies when voting was set to begin in less than four months). The Board itself has utilized the *Purcell* principle in defense of certain Senate Bill 202 provisions. *See In re Ga. Senate Bill 202*, 622 F.Supp.3d 1312, 1343-44 (N.D. Ga. 2022) ("[State Defendants, which include the members of the State Election Board] argue that the Court should withhold relief under the *Purcell* doctrine and the Eleventh Circuit's application of that doctrine in *League* because in-person early voting for the general election will begin in mid-October, and a late change to the law will pose a significant risk of voter confusion and harm to the electoral process."). Thus, the Board should also consider how the passage of any rules well-within the period where courts have agreed that *Purcell* applies may affect the application of the principle in the future.

I. The Board's general rule-making power is limited to rules that do not exceed or conflict with the Georgia Election Code.

"[T]he General Assembly is empowered to enact laws of general application and then delegate to administrative officers or agencies the authority to make rules and regulations necessary to effectuate such laws." *Jackson v. Composite State Bd. of Med. Examiners of Ga.*, 256 Ga. 264, 265 (1986). The test of validity of an administrative rule is twofold: (1) is it authorized by statute, and (2) is it reasonable? *Georgia Real Estate Comm. v. Accelerated Courses in Real Estate, Inc.*, 234 Ga. 30, 32-33 (1975).

The Board's power to adopt rules is solely derived from statutes passed by the General Assembly. The General Assembly has granted the Board authority to promulgate rules and regulations as will be conducive to the fair, legal, and orderly conduct of primaries and elections, *see* O.C.G.A. § 21-2-31(2); and further to promulgate rules and regulations to obtain uniformity in the practices and proceedings of superintendents, registrars,

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deputy registrars, poll officers, and other officials, as well as the legality and purity in all primaries and elections. O.C.G.A. § 21-2-31(1).

However, a broad grant of statutory authority to promulgate rules is not an unlimited grant of authority. See *Ga. Real Estate Comm'n v. Accelerated Courses in Real Estate, Inc.*, 234 Ga. 30, 32-33 (1975) (administrative rules must be both authorized by statute and reasonable) (discussing *Eason v. Morrison*, 181 Ga. 322 (1935)). Only the General Assembly has the constitutional authority to legislate. See *HCA Health Services of Ga., Inc. v. Roach*, 265 Ga. 501, 502 (1995). Although the General Assembly may grant “administrative authority to promulgate rules for the enforcement of the General Assembly’s enactments” to agencies like the Board, the agency’s authority can only extend to “adopt rules and regulations to carry into effect a law already passed” or otherwise “administer and effectuate an existing enactment of the General Assembly.” *Id.* Thus, a regulation that adds extra requirements or procedure where the statute speaks plainly on a matter is inconsistent with the statute and may likely be subject to a legal challenge. See *Dep’t of Hum. Res. v. Anderson*, 218 Ga. App. 528, 529 (1995) (agency regulation that added a requirement before a modification order of child support took effect was inconsistent with the clear authority of the statute).

Operating where there is *no* statute is also similarly impermissible: while agencies have implied powers “as a reasonably necessary to execute the express powers conferred,” *Bentley v. State Bd. of Med. Examiners of Ga.*, 152 Ga. 836, 836 (1922), the Supreme Court of Georgia has recently warned that “for a government entity whose authority on the relevant point is purely a creature of statute, the absence of statutory authority is the absence of legal authority to act.” *Camp v. Williams*, 314 Ga. 699, 709 (2022) (Bethel, J., concurring). See also *Gebrekidan v. City of Clarkston*, 298 Ga. 651, 654 (2016) (“[T]he General Assembly speaks through its silence as well as its words; the broad scope and reticulated nature of the statutory scheme indicate that the legislature meant not only to preclude local regulation of the various particular matters to which the general law directly speaks, but also to leave unregulated ... the matters left unregulated in the interstices of the general law.”).

Thus, the Board’s authority to promulgate rules and regulations is limited to the administration or effectuation of the statutes in the Georgia Election Code. The Board should therefore take all precaution to ensure that any rule adopted and promulgated by the Board neither conflicts with nor expands any statute; otherwise, the Board runs substantial risk of intruding upon the General Assembly’s constitutional right to legislate. When such intrusion occurs, the Board rule is highly likely to be ruled invalid should it be challenged.

Finally, to the extent that a proposed rule merely mirrors the language of a statute without more, it does not accomplish anything. To the extent that a rule mirrors a statute but adds or alters the statute’s requirements, the rule will likely be subject to an easy legal challenge.

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II. Proposed Rules

There are several proposed rules before the Board that appear to either impermissibly conflict with or otherwise expand the scope of Georgia statutes.

1. Proposed Rules **183-1-12-.01** and **183-1-12-.19**

These rules seek to change the form of the ballots and require that the Secretary of State and the counties post “freely accessible link[s]” to a list of electors prior to advance voting and maintain such data files for free download for a minimum of ten consecutive years, respectively. Thus, the proposed rules seek to direct actions that are, by statute, within the purview of the Secretary of State. *See* O.C.G.A. § 21-2-50(a)(1), (15); O.C.G.A. § 21-2-225(c). As such, the proposed rules do not fall within the Board’s regulatory power under O.C.G.A. § 21-2-31 thus very likely exceeds the Board’s scope of authority to promulgate.

2. Proposed Rule **183-1-13-.05**

This rule seeks to expand the enumerated locations where poll watchers may be designated beyond those places identified in the statute. O.C.G.A. § 21-2-408(c), which the original rule, Ga. Comp. R. & Regs. 183-1-13-.05, tracks almost exactly, specifically provides that poll watchers may be designated by the superintendent to serve in “the check-in area, the computer room, the duplication area, and such other areas as the superintendent may deem necessary to the assurance of fair and honest procedures in the tabulating center.” Under the canon of statutory construction “expression *unius est exclusio alterius*” (“the mention of one thing implies the exclusion of another”), a list of items in a statute is presumed to exclude items not specifically listed, and the omission of additional locations from the statute is regarded by the courts as deliberate. *See, e.g. Barnes v. State Farm Fire & Cas. Co.*, 2024 Ga.App. LEXIS (Aug. 26, 2024).

The proposed rule goes beyond the statutorily-designated list of places a superintendent may decide to place poll watchers and instead supplants the superintendent’s discretion with the Board’s own. This too does not carry into effect a law already passed by the General Assembly but rather expands upon the statute; the rule, if adopted, would then very likely be subject to legal challenge as invalid.

3. Proposed Rule **183-1-14-.11**

This rule goes beyond merely administering or effectuating an existing statute by adding additional requirements that would make it inconsistent with the statute. The proposed rule purports to require that absentee ballots be mailed “by United States Postal Service or other delivery service which offers tracking[.]” However, the General Assembly did not specify the use of tracking for the mailing of absentee ballots. *See* O.C.G.A. § 21-2-

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384(a)(2) (“[T]he board of registrars or absentee ballot clerk shall *mail or issue* official absentee ballots to all eligible applicants....”) (emphasis added).

The proposed rule further requires that county boards of registrars maintain as public record the tracking records for each ballot mailed to the electors. However, the Board has no authority to promulgate rules regarding the classification or retention of documents. *See* O.C.G.A. § 21-2-31 (promulgate rules for the fair, legal, and orderly conduct of elections). Thus, promulgation of the rule would very likely go beyond the scope of the Board’s authority and be subject to challenge as invalid

4. Proposed Rule **183-1-12-.21**

This rule seeks to expand on the reporting requirements set forth in O.C.G.A. § 21-2-385(e). The statute already provides a fairly detailed process by which county boards of registrars or absentee ballot clerks must report information regarding the ballots issued, received, or rejected during the advance voting period. *See* O.C.G.A. § 21-2-385(e). The proposed rule seeks to go beyond the statute to require, among other expansions, additional information regarding the substance of the ballots (i.e., the number of political party or nonpartisan ballots cast). However, the General Assembly did not include that information as information that must be reported pursuant to O.C.G.A. § 21-2-385(e). Accordingly, the rule, if promulgated, would similarly likely go beyond the scope of the statute and the Board’s authority.

5. Proposed Rules **183-1-12-.12(a)(5)** and **183-1-14-.02(8), (13)**

These rules refer to the process of hand-counting ballots on Election Day and during the advance voting period, respectively, to produce a vote total to compare to the ballot count produced by the ballot scanners. Crucially, these Proposed Rules purport to amend provisions to allow for hand-counting ballots at the precinct-level, which would appear to occur prior to submission to the election superintendent and consolidation and tabulation of the votes. *Compare* Ga. Comp. R. & Regs. 183-1-12-.12(a) (“After the Polls Close”) with Ga. Comp. R. & Regs. 183-1-12-.12(b) (“Consolidation of Results”); Ga. Comp. R. & Regs. 183-1-14-.02(8) (“At the close of voting on any day *during the advance voting period...*”); Ga. Comp. R. & Regs. 183-1-14-.02(13) (“The ballot scanner and ballot containers shall then be secured *until time for the tabulation of votes.*”).

However, the statutes upon which these rules rely do not reflect any provision enacted by the General Assembly for the hand-counting of ballots prior to tabulation.

For example, O.C.G.A. § 21-2-483 details procedures *at* the tabulation center: in primaries and elections in which optical scanners are used, after the seal on each container of ballots is inspected and verified as not having been broken, the container with the ballots is opened, the ballots are removed, “and the ballots shall be prepared for processing by the *tabulating machines.*” O.C.G.A. § 21-2-483(c) (emphasis added).

State Election Board
September 19, 2024
Page 6

Then, “[u]pon completion of the tabulation of the votes, the superintendent shall cause to be completed and signed a ballot recap form[.]” O.C.G.A. § 21-2-483(d). O.C.G.A. § 21-2-436 is similarly inapplicable; that statute contemplates the duties of the poll officers after the close of polls in precincts in which *paper ballots* are used, not ballot scanners or voting machines.

O.C.G.A. § 21-2-420(a) does provide that “the poll officials in each precinct shall complete the required accounting and related documentation for the precinct and shall advise the election superintendent of the total number of ballots cast at such precinct and the total number of provisional ballots cast.” However, neither the statutes that prescribe the duties of poll officers after the close of the polls for precincts using voting machines, *see* O.C.G.A. § 21-2-454, nor the precincts using optical scanners, *see* O.C.G.A. § 21-2-485, suggest that the General Assembly contemplated that a hand-count of the ballots would be part of the “required accounting.”

There are thus no provisions in the statutes cited in support of these proposed rules that permit counting the number of ballots by hand at the precinct level prior to delivery to the election superintendent for tabulation. Accordingly, these proposed rules are not tethered to any statute—and are, therefore, likely the precise type of impermissible legislation that agencies cannot do. *See HCA Health Services of Ga., Inc., supra.*

We hope that this expedited informal analysis is helpful to the Board. Should there be further questions directed to this office as described herein, we will endeavor to assist the Board further.

cc: Mrs. Sara Tindall Ghazal (via email correspondence)
Dr. Janice W. Johnston (via email correspondence)
Mr. Rick Jeffares (via email correspondence)
Mrs. Janelle King (via email correspondence)
Mr. Michael Coan (via email correspondence)

EXHIBIT C

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STATE ELECTION BOARD
NOTICE OF PROPOSED RULEMAKING

Revisions to Subject 183-1-12-.12 *Tabulating Results*

TO ALL INTERESTED PERSON AND PARTIES:

Notice is hereby given that pursuant to the authority set forth below, the Georgia State Election Board, (hereinafter "SEB") proposes the attached amendments to Subject 183-1-12-.12 (Tabulating Results).

This notice, together with an exact copy of the proposed new rules and a synopsis of the proposed rules, is being distributed to all persons who have requested, in writing, that they be placed on a distribution list. A copy of this notice, an exact copy of the proposed rule amendments, and a synopsis of the proposed rule amendments may be reviewed during normal business hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, except official state holidays, at the Office of the Secretary of State, Elections Division, 2 Martin Luther King Jr. Drive, S.E., 8th Floor West Tower, Atlanta, Georgia 30334. These documents will also be available for review on the State Election Board's web page at: <https://sos.ga.gov/page/proposed-state-election-board-rules-and-rule-amendments> . Copies may also be requested by contacting the State Election Board at: ahardin@sos.ga.gov .

To provide the public an opportunity to comment upon and provide input into the proposed rule amendments, a public hearing will be held on Friday, September 20, 2024 at 9:00 A.M. The meeting will take place at the Georgia State Capitol, Room 341.

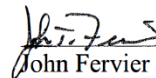
Information regarding how to join and provide public comment at the meeting will be available on the State Election Board's webpage at: <https://sos.ga.gov/page/state-election-board-meetings-events> .

Public comments given at the meeting will be limited to two minutes per person. Additional comments may be given using the following means and must be received by noon on September 19 to be considered by the State Election Board:

- Electronically by emailing SEBPublicComments@sos.ga.gov
- By mailing comments to:
State Election Board
C/O Alexandra Hardin
2 Martin Luther King Jr. Drive, S.E.
8th Floor West Tower Suite 802
Atlanta, Georgia 30334

This notice is given in compliance with O.C.G.A. §50-13-4.

This 21st day of August 2024.


John Fervier

Chair, State Election Board

Posted: August 21, 2024

**SYNOPSIS OF THE PROPOSED RULE
OF THE STATE ELECTION BOARD
RULE 183-1-12-.12 *Tabulating Results***

Purpose: The purpose of the rule is to ensure the secure, transparent, and accurate counting of ballots by requiring a systematic process where ballots are independently hand-counted by three sworn poll officers. The rule mandates detailed documentation, sealing, and certification of ballot counts, with provisions for resolving inconsistencies and communicating any counting that occurs outside the polling location to relevant parties.

Main Features: The main features of the amendments to this rule are that requires the poll manager and two sworn poll officers to unseal ballot boxes, remove and record the ballots, and have three poll officers independently count them. Once all three counts match, they sign a control document. If discrepancies arise between the hand count and recorded totals, the poll manager must resolve and document the inconsistency. The counted ballots are sealed in labeled containers, signed to ensure integrity.

**DIFFERENCES BETWEEN THE EXISTING RULE AND THE PROPOSED
AMENDMENTS OF THE STATE ELECTION BOARD,
RULE 183-1-12-.12 *Tabulating Results***

NOTE: Underlined text is proposed to be added.

Rule 183-1-12-.12(a)(5)

5. The poll manager and two witnesses who have been sworn as poll officers as provided in O.C.G.A. § 21-2-94 and 21-2-95 shall unseal and open each scanner ballot box, remove the paper ballots from each ballot box, record the date and time that the ballot box was emptied and present to three sworn precinct poll officers to independently count the total number of ballots removed from the scanner, sorting into stacks of 50 ballots, continuing until all of the ballots have been counted separately by each of the three poll officers. When all three poll officers arrive at the same total ballot count independently, they shall each sign a control document containing the polling place, ballot scanner serial number, election name, printed name with signature and date and time of the ballot hand count. If the numbers recorded on the precinct poll pads, ballot marking devices [BMDs] and scanner recap forms do not reconcile with the hand count ballot totals, the poll manager shall immediately determine the reason for the inconsistency; correct the inconsistency, if possible; and fully document the inconsistency or problem along with any corrective measures taken. A separate container shall be used for the hand counted paper ballots from each ballot box and the container shall be labelled with the polling place, ballot scanner serial number, the number assigned to the ballot scanner for that election, the scanner counts of the ballots from the tabulation tape, and the hand count ballot total as certified by the three poll officials. The container shall be sealed and signed by the poll manager and two of the three hand count poll officers such that it cannot be opened without breaking the seal. The poll manager and two witnesses shall sign a label affixed to the container indicating that it contains all the hand counted ballots from the indicated scanner box and no additional ballots.

- a. The decision about when to start the process described in this rule is up to the Poll Manager or Assistant Poll Manager. This decision can be made at the end of Election Day, or if a scanner possesses more than 750 ballots on Election Day, the Poll Manager can choose to start the next day and finish during the week designated for county certification. This decision should take into account factors such as staffing requirements, fatigue, and concerns about efficiency and accuracy.
- b. If the ballot counting is to take place after Election Day, the relevant ballots, tabulation tapes, enumerated voter lists, and polling information shall be sealed in a tamper-proof container and the number of the seal noted. The counting shall occur in the County election office on the next business day following Election Day and must conclude prior to any scheduled or announced post-election audits. The process must be completed within the designated county certification period.
- c. Counting will take place as mentioned in this rule. The process of opening, counting, and resealing ballots must be conducted in the presence of the relevant poll manager or assistant poll manager. These procedures must be conducted publicly to ensure transparency.
- d. If the counting of ballots takes place at any time or place other than the polling location, the supervisor of elections must immediately communicate the date, time, and place of such action with all candidates on the ballot and the county chair of both major political parties no later than 10:00 pm on Election Day. The poll manager shall post such information on the outside windows of the polling location together with all other information required to be so posted.

Authority: O.C.G.A. §§ 21-2-483(a), 21-2-436, 21-2-420(a)

COPY OF THE PROPOSED NEW RULE

Rule 183-1-12-.12(a)(5)

5. The poll manager and two witnesses who have been sworn as poll officers as provided in O.C.G.A. § 21-2-94 and 21-2-95 shall unseal and open each scanner ballot box, remove the paper ballots from each ballot box, record the date and time that the ballot box was emptied and present to three sworn precinct poll officers to independently count the total number of ballots removed from the scanner, sorting into stacks of 50 ballots, continuing until all of the ballots have been counted separately by each of the three poll officers. When all three poll officers arrive at the same total ballot count independently, they shall each sign a control document containing the polling place, ballot scanner serial number, election name, printed name with signature and date and time of the ballot hand count. If the numbers recorded on the precinct poll pads, ballot marking devices [BMDs] and scanner recap forms do not reconcile with the hand count ballot totals, the poll manager shall immediately determine the reason for the inconsistency; correct the inconsistency, if possible; and fully document the inconsistency or problem along with any corrective measures taken. A separate container shall be used for the hand counted paper ballots from each ballot box and the container shall be labelled with the

polling place, ballot scanner serial number, the number assigned to the ballot scanner for that election, the scanner counts of the ballots from the tabulation tape, and the hand count ballot total as certified by the three poll officials. The container shall be sealed and signed by the poll manager and two of the three hand count poll officers such that it cannot be opened without breaking the seal. The poll manager and two witnesses shall sign a label affixed to the container indicating that it contains all the hand counted ballots from the indicated scanner box and no additional ballots.

- a. The decision about when to start the process described in this rule is up to the Poll Manager or Assistant Poll Manager. This decision can be made at the end of Election Day, or if a scanner possesses more than 750 ballots on Election Day, the Poll Manager can choose to start the next day and finish during the week designated for county certification. This decision should take into account factors such as staffing requirements, fatigue, and concerns about efficiency and accuracy.
- b. If the ballot counting is to take place after Election Day, the relevant ballots, tabulation tapes, enumerated voter lists, and polling information shall be sealed in a tamper-proof container and the number of the seal noted. The counting shall occur in the County election office on the next business day following Election Day and must conclude prior to any scheduled or announced post-election audits. The process must be completed within the designated county certification period.
- c. Counting will take place as mentioned in this rule. The process of opening, counting, and resealing ballots must be conducted in the presence of the relevant poll manager or assistant poll manager. These procedures must be conducted publicly to ensure transparency.
- d. If the counting of ballots takes place at any time or place other than the polling location, the supervisor of elections must immediately communicate the date, time, and place of such action with all candidates on the ballot and the county chair of both major political parties no later than 10:00 pm on Election Day. The poll manager shall post such information on the outside windows of the polling location together with all other information required to be so posted.

Authority: O.C.G.A. §§ 21-2-483(a), 21-2-436, 21-2-420(a)

EXHIBIT D

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From: SharePoint-DoNotReply@sos.ga.gov
To: DoNotReply@sos.ga.gov
Subject: The Buzz Post - Guidance on Recent SEB Rule Amendments to 183-1-12-.12(a)(5)

This Message Is From an External Sender

This message came from outside Fulton County Government. Use caution with links/attachments.

A [new discussion](#) has been posted in The Buzz by Evans, Blake on 10/1/2024 10:15 AM

Our office is continuing to review recent rule amendments voted on by the State Election Board (SEB) at their meetings on September 20th and 23rd, which are not yet effective. One of those amendments would change SEB Rule 183-1-12-.12(a)(5) to require hand counting of paper ballots after polls close on election night.

As you may be aware, there are pending court challenges to the legality of these rules, and hearings have been scheduled in these cases for this week. The Attorney General's office wrote in a memo to the SEB that the proposed rule amendment was “not tethered to any statute—and [is], therefore, likely the precise type of impermissible legislation that agencies cannot do.”

Because the SEB rules are tied up in litigation, and because poll worker training in many counties has already started and there is limited time remaining for additional training, the SOS Elections Division does not intend to provide additional training on SEB rules until after any court decisions are made.

If you would like to opt out of receiving email notifications for this discussion, click [here](#).

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EXHIBIT E

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THE OFFICE OF SECRETARY OF STATE
STATE OF GEORGIA

IN THE MATTER OF:

STATE ELECTION BOARD MEETING

Georgia State Capitol, Room 341

Atlanta, Georgia

Tuesday, July 9, 2024

Atlanta, Georgia

8:30 a.m.

APPEARANCE OF THE PANEL

John Fervier, Acting Chair

Sara Tindall Ghazal

Janice Johnston

Janelle King

Rick Jeffares

Mary K McMahan, CCR, 2757
STEVEN RAY GREEN COURT REPORTING LLC
Atlanta, Georgia 30324
(404) 733-6070

1 in Fayette County and I think most of the other
2 counties, we used to hand-count the totals of the
3 ballots at the precinct. You know people would
4 pull them out of the scanners and we would have
5 three of us go over and we would each
6 individually count all those ballots that came
7 out of the scanner, and then we would wrap them
8 up, you know, and put them in. We would check
9 them with the electronic totals, but it was just
10 a check that we had hand counts of the precincts.
11 We all thought that was just part of the deal and
12 we did it. We didn't really pay much attention
13 to how much time it took. It didn't seem like it
14 was taking a lot of time.

15 And then in October of 2022, first I was
16 told that there was a SB-202 law change that all
17 of a sudden we get this memo from Blake Evans
18 at -- the elections director that poll workers
19 have been told that they are to hand-count
20 ballots at each polling location on election
21 night, that is not something your poll workers
22 should do.

23 So the word came down we were to no longer
24 count -- hand-count the ballots at the precincts
25 based on this memo. No rationale. Just we

1 weren't supposed to do it.

2 So my rule proposal is basically going back
3 to what we used to do, which was you use -- in
4 accounting, if you understand it, you're always
5 looking for -- when you go in you're looking for,
6 yes, do the numbers make sense? We add them up.
7 Do they all crosscheck?

8 But we also are looking for holes or areas
9 of opportunity for errors or for collusion. And
10 you will learn -- the first thing you learn is
11 that if you have two, that is collusion. So you
12 always go with a minimum of three. I can't
13 remember what the odds were back -- it's been a
14 long time, but you have at least three because
15 the odds of collusion go way down if you have
16 three.

17 So that's the reason I picked three, all
18 right? And it's really not that difficult, but
19 my whole purpose is I rewrote -- all I did was
20 add to the section of 21-20 -- wait, I'm sorry.
21 183-1-12-.12(a)(5). All I'm doing is I'm adding
22 that when they pull the ballots out of the
23 scanner, it goes to a separate section with three
24 poll workers.

25 They would take those ballots -- they're

1 going to be in a big pile -- and they each just
2 start pulling those ballots out of the pile. And
3 what we did is we just quickly -- as quickly as
4 we could, we counted them into stacks of fifty.
5 I can't tell you why fifty, but we did fifty.

6 And we would cross -- you know, lay them
7 later crosswise in stacks of 50, and then we
8 would push them to the next person. And it just
9 kept going. Each of us counted out the stack.

10 So at the end result was all three of us had
11 hand-counted and verified and we had to come up
12 with the same number of ballots, hand-counted.
13 Didn't take that long.

14 So my rule is basically saying that we go
15 back to that. If you want to know, the first
16 thing I always get is oh, that's going to take
17 too much time. Well, this was really rough and
18 it probably isn't really very scientific, but we
19 -- because we couldn't remember it taking more
20 than 30 minutes, but we didn't remember how many
21 ballots we were counting -- just this weekend, I
22 had four people plus myself, we went and we got
23 brand-new reams of paper, copy paper -- granted
24 that's different than ballots -- and I said,
25 okay, you each take your ream of 500 pieces of

1 paper and I want you to count them in stacks of
2 fifty, and I want you to time it. We all came up
3 and we were right in the margin of six minutes to
4 do 500 pieces of paper. And -- and, you know,
5 they're not all bean counters like me.

6 So the whole idea is even if you had several
7 thousand -- I mean, if I extended that, that the
8 ballots would be heavier so it would take you
9 longer, let's take it up to ten minutes. You --
10 you could do 3,000 -- right? -- if -- if you
11 could do them in ten minutes at 500 a pop. Ten.

12 So I don't believe that it's going to take
13 that much time. I did this on election day.
14 Quite frankly it should be done every time you
15 open up the scanner. It's just a good
16 crosscheck.

17 And one of the reasons, as I summarize this,
18 from an audit perspective, I believe -- well, I
19 gave three cases that if you had doing
20 hand-counts, I gave, like, three -- three recent
21 incidents in our -- in our county. One was the
22 November 3, 2020, election. This board cited our
23 director and two members of the board who
24 happened to certify those results -- they
25 certified -- the board recommended that they be

EXHIBIT F

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SHARLENE ALEXANDER

460 Anthony Drive, Tyrone GA 30290
CoachPatriot@pm.me
(678) 458-4528

June 6, 2024

Georgia State Election Board
2 MLK Drive
Suite 802 Floyd West Tower
Atlanta, Georgia 30334

**PETITION FOR AMENDMENT TO ELECTION RULES
(Hand Count of Ballots at the Precinct)**

Mr. John Fervier, Chairman,

Mrs. Sara Tindall Ghazal,

Mrs. Janelle King,

Dr Janice W. Johnston,

Mr Rick Jeffares

This petition for amendment to an election rule enhances election integrity by providing a checkpoint outside of the electronic system, more accurate results, reducing the opportunity for collusion to sabotage election results and reducing Dominion and electronic voting system error complaints leading to 'stolen election' theories. As a Member of the Fayette County Board of Elections, and as a CPA and former Expert Trial Witness on Embezzlements, I believe this addition to the election process will greatly enhance the integrity of the outcome in each election.

SHARLENE ALEXANDER

460 Anthony Drive, Tyrone GA 30290
CoachPatriot@pm.me
(678) 458-4528

As such, I hereby submit this petition for your consideration according to SEB Rule 183-1-1-.01(3):

1. The name and post office address of the Petitioner:

Sharlene Alexander



2. The full text of the rule requested to be amended:

Rule 183-1-12-.12(a)5

“The poll manager and two witnesses who have been sworn as poll officers as provided in O.C.G.A. §§ 21-2-94 and 21-2-95 shall unseal and open each scanner ballot box, remove the paper ballots from each ballot box, and place the paper ballots into a durable, portable, secure and sealable container to be provided for transport to the office of the election superintendent. A separate container shall be used for the paper ballots from each ballot box and the container shall be labelled with the polling place, ballot scanner serial number, the number assigned to the ballot scanner for that election, the count of the ballots from the tabulation tape, and the date and time that the ballot box was emptied. The container shall be sealed and signed by the poll manager and the same two witnesses such that it cannot be opened without breaking the seal. The poll manager and the two witnesses shall sign a label affixed to the container indicating that it contains all of the correct ballots from the indicated ballot box and no additional ballots.”

TO BE AMENDED IN BOLD AND UNDERLINED TEXT:

“The poll manager and two witnesses who have been sworn as poll officers as provided in O.C.G.A. §§ 21-2-94 and 21-2-95 shall unseal and open each

SHARLENE ALEXANDER

460 Anthony Drive, Tyrone GA 30290
CoachPatriot@pm.me
(678) 458-4528

scanner ballot box, remove the paper ballots from each ballot box, **record the date and time that the ballot box was emptied and present to three sworn precinct poll officers to independently count the total number of ballots removed from the scanner, sorting into stacks of 50 ballots, continuing until all of the ballots have been counted separately by each of the three poll officers. When all three poll officers arrive at the same total ballot count independently, they shall each sign a control document containing the polling place, ballot scanner serial number, election name, printed name with signature and date and time of the ballot hand count. If the numbers recorded on the precinct poll pads, ballot marking devices [BMDs] and scanner recap forms do not reconcile with the hand count ballot totals, the poll manager shall immediately determine the reason for the inconsistency; correct the inconsistency, if possible; and fully document the inconsistency or problem along with any corrective measures taken.** A separate container shall be used for the **hand counted** paper ballots from each ballot box and the container shall be labelled with the polling place, ballot scanner serial number, the number assigned to the ballot scanner for that election, the **scanner** count of the ballots from the tabulation tape, **and the hand count ballot total as certified by the three poll officials.** The container shall be sealed and signed by the poll manager **and two of the three hand count poll officers** such that it cannot be opened without breaking the seal. The poll manager and two witnesses shall sign a label affixed to the container indicating that it contains all of the **hand counted ballots** from the indicated scanner box and no additional ballots.

3. The reason such rule should be amended:

Prior to October 6, 2022, it was a long-standing tradition in Fayette County and other polling places that the paper ballots were removed from scanners at the precinct, the ballots were then hand counted by three sworn poll officials for total number of ballots removed from the scanner, then this hand counted total was reconciled against the scanner count to ensure that all cast ballots were accounted for. By performing this precinct hand count of totals only, any discrepancies can be immediately investigated with all parties, ballots, electronic voting systems remaining in the same space and the difference usually explained. The urgency of a need to reconcile counts immediately at the polling place are substantiated in SEB Rule 183-1-12-.12(a)2, which states "If the numbers recorded on the recap form do not reconcile with each other, the poll manager shall immediately determine the reason for the inconsistency; correct the inconsistency, if possible; and fully document the inconsistency or problem along with any corrective measures taken." With this amendment, SEB Rule 183-1-12-.12(a)2 would read "if the numbers recorded on the recap forms do not reconcile with each other **and the total of hand counted paper ballots**, the poll manager shall immediately determine the reason for the inconsistency; correct the inconsistency, if possible; and fully document the inconsistency or problem along with any corrective measures taken. The hand counted ballots are then sealed and transported by two people via chain-of-custody to the tabulation center.

This practice of hand counting the ballots at each precinct was halted in most counties when Blake Evans, Director of Elections at the Office of the Secretary of State issued an email memorandum on October 6, 2022 (attached). As a result of halting this process, the total ballots hand count is never reconciled against the scanner total and if a ballot count or recount were to occur sometime after the ballots leave the precinct, it may be difficult or impossible to determine the cause

of any discrepancy. In addition, SEB Rule 183-1-12-.12(a)2 is subject to interpretation as to whether the poll manager is required to hand count the number of paper ballots removed from the scanner or simply report the number of printed ballots on the scanner screen or the totals tape.

The proposed amendment to rule Rule 183-1-12-.12(a)5 to require a hand count at each precinct to ensure that the number of ballots placed under seal for transport to the tabulation center matches the chain-of-custody results form, and if there is a discrepancy with the scanner total, then that discrepancy will be immediately investigated by elections officials.

4. Any and all pertinent facts as to the Petitioner's interest in the matter.

The following vote tabulation errors and reported results could have been found and corrected if the above checks-and-balances hand count of total paper ballots were performed in every county :

1] November 3, 2020 Presidential Election in Fayette County cited by the State Elections Board for criminal investigation [SEB 21-197 transcript]: One memory card containing 2,760 ballots was left in an early voting precinct scanner and overlooked by the Elections Office. The original memory card had recorded close to 10,000 votes so a Dominion rep was called to replace the full card with a new one to complete the election cycle. The Dominion rep took the full memory card to the Elections Office [also in violation of chain-of-custody requiring two sworn poll officials to accompany the card]. The Elections Director had not experienced an election cycle where one scanner had multiple memory cards due to voter turnout so he didn't remember the second memory card since he had one for each of the 4 early voting precincts in his County. Had the total ballots removed from the scanner box been hand counted at the precinct this misplaced memory card error could have been avoided.

2] In Fayette County at an AIP [Early Voting] precinct on the last day of early voting, ballots were removed from the AIP scanner and the poll manager had the these ballots hand counted to ensure that all ballots were removed. This hand count was 1 less than the scanner total. Searching inside the scanner ballot box, one ballot was found sticking to the top of the ballot box [presumably due to static electricity.]

3] In the Fayette County General Primary on May 21, 2024, one precinct had a discrepancy in ballots that was discovered during audit. Two technicians sent to the warehouse found that the ballots in the write-in bin had not been retrieved from the scanner on Election Night.

In all of the above cases, had there been an independent hand-count of paper ballots removed from the scanner AT THE PRECINCT, these errors would have been found and corrected. As a past supervisor of audits, I have long believed that cross-check control procedures are just as applicable to ballots as dollars. The best check-and-balance process is one that is separate from the all of the electronic count recaps found on the various electronic voting machines at the polling places. This suggested independent hand count of ballots process better ensures that all ballots are accounted for, guards against reported result errors and collusion and can better silence the claims that poll pads, ballot scanners or BMD totals can be accessed remotely, manipulated, duplicate ballot batches scanned or contain software glitches and manipulation.

5. **Any and all facts known to the Petitioner that might influence the decision of the Board to initiate or not initiate rulemaking, including identification of any parties who it is known will or may be affected by the amended rule.**

All election officials in the State of Georgia who conduct elections, as well as Blake Evans, Director of Elections, who advises election officials and oversees training on the conduct of elections, will be affected by this rule amendment.

In particular, Superintendents responsible for training Poll Workers according to O.C.G.A. §21-2-70, and Poll Workers themselves will be required to execute the new procedure.

6. **Citations of legal authorities which authorize, support, or require the action requested by the Petitioner.**

O.C.G.A. §21-2-483(a) requires that ballots be counted at the precinct or tabulating center where optical scanners are used..

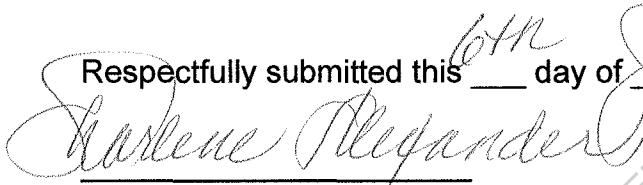
O.C.G.A. §21-2-436 requires, at the close of polls, that the number of votes be reconciled as shown on stubs and numbered list of voters, accounting for spoiled and returned ballots, rejected certificates and unused ballots, before these items are sealed; however, it fails to require that the actual number of paper ballots be reconciled prior to seal and transport. This hand count of total ballots is the only check-and-balance procedure separated from the current Dominion electronic voting system and direly needed to counter the many inconsistencies found across the state including missed memory cards, misplaced or lost paper ballots, duplicated ballot scans, errors in poll pad voter check-ins and BMD manipulation as shown by Professor Halderman in the recent Judge Tottenberg trial in Atlanta, GA.

O.C.G.A. §21-2-420(a) requires, at the close of polls, that the total number of ballots cast be reported to the election superintendant, but doesn't specify how that number is determined, *i.e.* whether it comes from the Poll Pads, the Scanners, or from counting the ballots themselves. While the Poll Pad and Scanner counts are required to be reconciled, there isn't a reconciliation of the ballots themselves at the polling place currently.

O.C.G.A. §21-2-420(a) further requires that the superintendant count the ballots at the tabulation center, where any discrepancies may be much more difficult to investigate.

I, Sharlene Alexander, personally appeared before the undersigned duly authorized to administer oaths, and on oath deposes that the facts stated in the Petition therein are true and accurate.

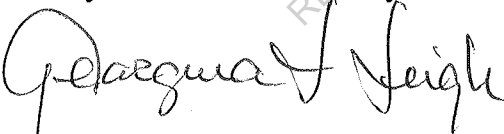
Respectfully submitted this 6th day of June, 2024.


Sharlene Alexander

SUBSCRIBED AND SWORN BEFORE ME

this 6th day of June, 2024

Notary Public in and for Fayette County, Georgia



[Seal]



egale@darientel.net

From: DoNotReply@sos.ga.gov
Sent: Thursday, October 6, 2022 5:21 PM
To: DoNotReply@sos.ga.gov
Subject: The Buzz Post - Ballot Security

A [new discussion](#) has
been posted in The Buzz by Evans, Blake on 10/6/2022 5:10 PM

I know that many counties have received an email requesting that poll workers hand count ballots at polling places on election night. **Deciding to have poll workers hand count ballots at each polling location on election night is not something your poll workers should do.**

Please see O.C.G.A. § 21-2-420(a) which states :

"(a) After the time for the closing of the polls and the last elector voting, the poll officials in each precinct shall complete the required accounting and related documentation for the precinct and shall advise the election superintendent of the total number of ballots cast at such precinct and the total number of provisional ballots cast. The chief manager and at least one assistant manager shall post a copy of the tabulated results for the precinct on the door of the precinct and then immediately deliver all required documentation and election materials to the election superintendent. The election superintendent shall then ensure that such ballots are processed, counted, and tabulated as soon as possible and shall not cease such count and tabulation until all such ballots are counted and tabulated."

Also, SEB Rule 183-1-12-.12 states: "The poll manager and two witnesses who have been sworn as poll officers as provided in O.C.G.A. 21-2-94 and 21-2-95 shall unseal and open each ballot box, remove the paper ballots from each ballot box, and place the paper ballots into a durable, portable, secure and sealable container to be provided for transport to the office of the election superintendent."

In order to ensure maximum security for the voted ballots, poll workers should not prolong the process of removing ballots from ballot boxes and sealing them in transport containers. This process should be done efficiently, transparently, and immediately after the polls have closed and votes have been cast. Members of the public can observe the process.

If you have any further questions regarding the law on this matter, please consult with your county attorney with this guidance in mind.

Blake Evans, Elections Director

If you would like to opt out of receiving email notifications for this discussion, click [here](#).