

July 15, 2024

Georgia State Election Board
2 MLK Dr.
Suite 802 Floyd West Tower
Atlanta Ga. 30334

PETITION FOR AMENDMENT TO ELECTION RULES

(Record Retention)

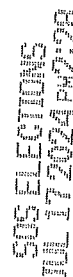
Mr. John Fervier,
Mrs. Sara Tindall Ghazal,
Dr. Janice Johnston,
Mr. Rick Jeffares,
Mrs. Janelle King

This petition for an amendment to an election rule is submitted to make the current storage return rule comply with federal and state law. The board's storage return rule for memory cards does not ensure an adequate retention period that is imposed by federal and state election record retention law. The memory cards and their content should be retained for 22 months according to federal law and 24 months, according to state law. Instead, it allows memory card content to be overwritten after a recount period expires. It is incumbent upon the board to ensure its rules comply with all laws in a timely manner.

I am filing this notarized petition for the proposed rule amendment in a good faith attempt to prevent further legal action against counties or the state as a result of this ongoing conflict with federal and state law that threatens the integrity of the 2024 elections. The intent of this rule is to improve transparency of Georgia elections on behalf of all Georgia voters. I urge your prompt attention to this matter submitted in accordance with the provisions of Rule 183-1-1-.01(3):

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

Garland Favorito,
P.O. Box 8058 Roswell, Ga. 30076
garlandf@voterga.org



2. The full text of the rule requested to be amended and desired to promulgate

Rule 183-1-12-.13. Storage of Returns.

(a) After tabulating and consolidating the results, the election superintendent shall prepare an electronic file which shall contain a copy of the information contained on each memory card which shall include all ballot image, their meta data, cast vote records and audit logs as well as vote totals and a copy of the consolidated returns from the election management system.

(b) The electronic file shall be stored on a secure medium which shall be placed in a sealed envelope or container signed and dated by the elections superintendent and shall become a part of the election materials which shall be deposited with the clerk of superior court or the municipal clerk, as appropriate, in accordance with O.C.G.A. § 21-2-500. In addition, the signed results tape from each ballot scanner and the corresponding paper ballots shall also be deposited with the clerk of superior court.

(c) The memory cards shall be sealed in an appropriate container and securely maintained by the election superintendent until the period for requesting a recount of the primary, election, or runoff results has expired. The election superintendent and at least one other sworn individual in the tabulating center shall seal the container and sign the seal such that the container cannot be opened without destroying or damaging the seal. Upon the expiration of the period for requesting a recount, the election superintendent ~~may use the memory cards for programming ballot scanners units for the next primary, election, or runoff.~~ shall retain the memory cards for a period of 24 months according to Georgia law.

3. The reason such rule should be amended, repealed or promulgated

Rule 183-1-12-.13. Storage of Returns, is not in compliance with both federal and state retention law for election records. It allows memory cards to be overwritten after any recount period expires rather than to retain the original election records that are on those memory cards for the duration specified by federal and state law for all election records.

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

In 2021, a VoterGA team of volunteers performed a statewide survey and analysis of ballot images that were made public records with the passage of SB202 in March 2021. Our analysis was hindered when we found the destruction of roughly 1.7 million original ballot images across 70 counties, 16 of which did not comply with Open Records Request law.

While conducting the ballot image survey, several counties mentioned that a state rule authorizes them to overwrite memory cards containing the ballot images. We confirmed that a rule promulgated by the State Election Board is in conflict with the statutes governing the preservation of election records such as ballot images.

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

The memory cards used for all in-person voting contain ballot images and other election data representing some of the most important records created for each election. They contain the original source images of ballots when they are first scanned by the tabulators. It is vital to preserve these original records to maintain a proper election audit trail.

Counties that are not preserving these memory cards now may need to purchase more memory cards for an election. If the state can spend in excess of \$100 million for a new voting system and Georgia counties can spend over \$10 million year in total for maintenance, testing, certification and logistics, counties should be able to afford additional memory cards that cost roughly \$10 per card so they can comply with all laws and offer Georgia voters more transparency in their elections.

6. Citations of legal authorities that require the action requested by Petitioner
O.C.G.A. 21-2-73 requires all election records to be retained for 24 months
USC 52 20701 requires all election records to be retained for 22 months

I, Garland Favorito personally appeared before the undersigned officer duly authorized to administer oaths, and on oath deposes that the facts stated in the Petition therein are true and accurate to the best of his knowledge.

Respectfully submitted this the 17 day July, 2024.

Garland Favorito

Garland Favorito

SUBSCRIBED AND SWORN BEFORE ME

this the 17 day of July, 2024
to certify and witness my hand
and official seal.

Notary Public in and for
Fulton County, Georgia.

Katayoun Rashed
[AFFIX NOTARIAL SEAL]

