

NOTICE OF INTENT

State Board of Election Supervisors Department of State

Appeal of Merit Evaluation for the Registrar of Voters

(LAC 31:II.108)

Pursuant to the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and under the authority of R.S. 18:24(A)(6), R.S. 18:55, and R.S. 36:742, the State Board of Election Supervisors is proposing to adopt this Rule to provide for the appeal process for merit evaluations of the registrars of voters. During the 2016 Regular Legislative Session, Act 358 was enacted authorizing the State Board of Election Supervisors to conduct appeals of merit evaluations of registrars of voters.

Title 31

ELECTIONS

Part II. Voter Registration

Chapter 2. Registrars of Voters

§201. Appeal of Merit Evaluation for the Registrar of Voters

A. Submission of a Request for Appeal

1. A registrar of voters who does not receive an “excellent” rating on his or her annual merit evaluation may appeal that rating to the State Board of Election Supervisors.
2. The request for appeal shall be in writing and shall be postmarked or received by the human resources director in the Department of State, or the human resources director’s designee, no later than January 31.
3. The request for appeal shall explain the reasons for the request and may provide supporting documentation.
4. If the request for appeal is received timely and contains the required explanation, the human resources director shall submit a notification of the request to the chairperson of the State Board of Elections Supervisors and to the director of registration within 15 days of receipt of the request for appeal. The notification of request for appeal shall include copies of the written request of the registrar of voters, the original annual merit evaluation, and any supporting documentation provided by the registrar of voters with his or her written request for appeal.
5. The Department of State grievance process shall not be used to review or reconsider evaluations or a procedural violation of the evaluation process.

B. The State Board of Election Supervisors

1. All written requests for appeal of annual merit evaluations that meet the requirements of Subsection A of this Section shall be considered by the State Board of Election Supervisors.

2. The State Board of Election Supervisors shall consist of eight members. The chairperson shall vote only to break a tie. The commissioner of elections shall not vote on the appeal of merit evaluation for the registrar of voters.

3. The chairperson shall convene a meeting of the State Board of Election Supervisors within 15 days of receipt of notification of the request for appeal to discuss the request and render a decision regarding the rating. The registrar of voters who submitted the request for appeal shall be given an opportunity to be heard at the meeting. The board may vote to uphold the “satisfactory” rating or to change the rating to “excellent”.

4. The chairperson of the board shall give written notice of the board’s decision to the affected registrar of voters, the director of registration, and the human resources director within 10 days.

C. The annual merit evaluation form, the written request for appeal of the registrar of voters, the written notice of the board’s decision, and all supporting documentation shall be maintained in the official confidential personnel file of the registrar of voters on file in the Department of State’s Human Resources office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:24, R.S. 18:55, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, State Board of Election Supervisors, LR 43:

Family Impact Statement

The proposed Rule cited in LAC 31:II.201 regarding the appeal of merit evaluation for registrars of voters should not have any known or foreseeable impact on any family as defined by R.S. 49:927 or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children; and
6. the ability of the family or a local government to perform the function as contained in the proposed amendments to the Rule.

Poverty Impact Statement

The proposed Rule cited in LAC 31:II.201 regarding the appeal of merit evaluation for registrars of voters should not have any known or foreseeable impact on poverty as defined by R.S. 49:973. Specifically, there should be no known or foreseeable effect on:

1. the household income, assets and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;
4. taxes and tax credits; and

5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

The proposed Rule is not expected to have a significant adverse impact on small business as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small business.

Provider Impact Statement

The proposed Rule does not have any known or unforeseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Lani Durio, Attorney, Legal Division, Department of State, P.O. Box 94125, Baton Rouge, LA 70804-9125. She will be responsible for responding to inquiries regarding the proposed Rule regarding the appeal process of merit evaluation for the registrar of voters. The deadline for the Department of State to receive written comments on behalf of the State Board of Elections Supervisors is 4:30 p.m. on Thursday, October 26, 2017 after the public hearing.

Public Hearing

A public hearing on the proposed Rule is scheduled for Wednesday, October 25, 2017 at 1:00 p.m. in the Auditorium at the State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time, all interested persons will be afforded the opportunity to submit data, views, or arguments, either orally or in writing.

Tom Schedler
Chairperson