

**Meeting of the WV State Election Commission**  
**Emergency Meeting**  
**4:30 PM on Wednesday, October 19, 2022**  
**Microsoft Teams Meeting**

---

State Election Commission Members in Attendance:

- Matthew Chapman (Chair) - Present
- Caleb David - Present
- Anthony Delligatti – Present
- Benjamin Sullivan – Present
- Mac Warner, WV Secretary of State - Present

Others in Attendance:

- Nathan Martin, WVSOS Elections Specialist
- Brittany Westfall, WVSOS Elections Director
- Chuck Flannery, WVSOS Chief of Staff
- Donald Kersey, WVSOS Chief Counsel

AGENDA:

**1) Call to Order – 4:30 PM**

**2) Secretary of State consultation with State Election Commission regarding issuance of an order subsequent to a Final Order of the Kanawha County Circuit Court in State ex rel. Anderson v. Warner, et al., Civil Action No. 22-P-380.**

- Discussion of court determining Harry Lee Forbes as ineligible. SOS office says the determination of eligibility is on the candidate and the SOS office nor the county clerk determines it.
- The court has deemed the name shall be stricken by labels or stickers on absentee ballots. SOS office must communicate with SEC before speaking with counties and voters. SOS office will instruct counties on how to move forward and how to reissue proper absentee ballots to those who already voted.
- SEC advises that the SOS and County Clerks follow the court order.

**3) Other Business – no other business**

**4) Adjournment – 4:41 PM**

- Mr. Delligatti motions to adjourn
- Mr. David seconds
- All in favor and motion passed

**\*Facts and circumstances of the emergency required by W. Va. Code § 6-9A-3(h):**

Pursuant to W. Va. Code § 6-9A-2(2)(C), an emergency meeting is required to avoid imminent substantial harm to a public agency or members of the public served by the Secretary of State as the state's chief election official following the expected Final Order of the Kanawha County Circuit Court to effectuate the anticipated Court's ruling in State ex rel. Anderson v. Warner, et al., which hearing to show cause is scheduled for October 19, 2022, at 1:30pm.

Before the Court is an eligibility challenge of a Senate candidate. If the Court declares the candidate ineligible, remedies may include a direction to the Secretary to issue an order to the affected counties including but not limiting to refraining from counting any votes cast for the ineligible candidate, reprogramming voting machines, correcting absentee ballots, issuing corrected absentee ballots, posting signs on polling place doors notifying the voters of the disqualification, or a combination thereof. The Secretary's order-issuance authority in W. Va. Code § 3-1A-6(a) requires prior consultation with the State Election Commission. With election day scheduled for November