

DEMOCRATIC PARTY OF THE VIRGIN ISLANDS



May 23, 2024

Carolyn F. Fawkes, CERA
Election Supervisor
Election System of the Virgin Islands
Sunny Isle Shopping Center Unit 26, 1st Floor
Christiansted, St. Croix, V.I 00852

Re: Primary Election on August 03, 2024

Dear Ms. Fawkes,

The Democratic Party is dedicated to free and fair elections for all Virgin Islanders. Per the Preamble of the Charter of the USVI Democratic Party “What we seek for our Territory, we hope for all people: individual freedom in the framework of a just society, political freedom in the framework of meaningful participation by all citizens.” It is with this in mind; we feel the need to address recent court cases and statements made in recent Senate testimony. Also, knowing that our election laws cannot be amended with less than six months before an election. It is necessary to set our expectations for the Primary Election in 2024.

Federal Court Case. As you know, the US District Court issued an Opinion and Order in [Republican Nat’l Comm. et al. v. Virgin Islands Bd. of Elections et al. (Case No. 3:22-cv-0049)] in which certain provisions of the Virgin Islands Code were held unconstitutional and unenforceable. Generally, as relevant here, the opinion holds that the Board of Elections (BOE) cannot certify the election results of private political parties’ party officials and its public offices because “it is unconstitutionally vague”... [cited] and “Consequently, the Court finds that this second sentence of Section 232 is unconstitutional to the extent it allows the BOE the right to reject a political party’s process used in selecting its officers and candidates for public-office.”

It is important to note what the case does not state that the Board of Elections cannot conduct the primary elections of party officials or public officials. The case states that the Board of Elections cannot certify or reject the process or results. The opinion specifically carved out the second sentence of Article 18 Section 232 for its unconstitutionality due to its vagueness but left the first sentence, “Party primary elections shall be held in the Virgin Islands on the first Saturday of

August for the purpose of choosing candidates for nomination to public offices to be voted for at the ensuing general election.”

It is important to note that funding is available for the BOE as stated to the 35th Legislature of the Virgin Islands by the Supervisor of Elections on Monday, May 13, 2024, to conduct the primary election on August 3rd, 2024. The Party is not requesting that the BOE certify any results of said election. In fact, it is the request of the Democratic Party of the Virgin Islands that the Election System of the Virgin Islands do not certify any primary election results.

It must be stated that there are:

- States paying for and conducting party primary elections is a prevalent practice. See the state of Delaware [See below]
 - Title 15 Chapter 31 Subsection 3111
 - Expenses paid by State.
 - The expenses for holding primary elections under this chapter, including stationery, and pay of officers and clerks shall be paid by the State.
- Based on testimony given by Supervisor Caroline Fawkes on May13 before the 35th Legislature of the US Virgin Islands, funding is available for this task.

As such, the Party expects that the primary election in August will occur as follows:

- The Democratic Party will inform the BOE of the names of the party positions and names of candidates to be on the ballot on primary day, available for early voting and absentee ballots.
- The Board of Elections thru the Supervisor of Elections office will conduct the Party Primary as prescribed by law.
- The BOE will perform the ministerial task of tabulating the votes and communicate the results to the Democratic Party
- The Democratic Party will certify the results of each election for party positions and public officials.

The BOE will have no role in the process of electing Democratic Party officers or determining the number of Territorial Committee members, election of its State Chair, or election of the Territorial Committee, aside from the ministerial task of tabulating the votes and communicating the results to the Democratic Party, all of which will be conducted by the Democratic Party as addressed in its by-laws.

The Democratic Party is also requesting that the BOE transmit a listing of all candidates who have picked up nomination papers and successfully filed nomination papers and are running for public office under the Democratic Party to the State Chair of the Democratic Party of the USVI.

I trust that the members of the Board of Elections will agree with this process and will work together to comply with existing law and ensure full and fair elections. If the BOE disagrees with the statements herein, please let us know immediately so we can seek clarification and be prepared

to pursue the possible steps to make sure that the law is followed, and that Virgin Islanders continue to have access to free and fair elections.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Stedmann Hodge

Stedmann Hodge, Jr.

State Chair

DPVI