NUMBERED MEMO 2019-02

TO: County Boards of Elections
FROM: Kim Westbrook Strach, Executive Director
RE: Absentee Witness Certification
DATE: April 3, 2019

On April 20, 2018, my office issued Numbered Memo 2018-04, informing county boards of elections of revisions to the Absentee Application and Certificate Form. Among other things, the numbered memo informed counties that the Form now asks each witness to provide the date on which he or she signed the witnesses’ certification field. While not a statutorily required element, the date field provides additional information for elections officials, and to investigators when potential irregularities arise. Earlier this month, my office requested that the General Assembly review whether the law should be modified to require the witness date field and to provide standard procedures when elections officials note a disparity in dates.

The State Board of Elections’ investigation and hearing into irregularities affecting the 9th Congressional District revealed an absentee ballot scheme operated during the 2018 general election that relied in part on fraudulent absentee witness activity. Workers for the scheme collected ballots directly from voters including absentee envelopes with no witness signing or only one witness signing. In many instances, one or both witnesses would sign the envelope outside the voter’s presence and without having witnessed the voter marking his or her ballot. Discrepancies between the date the voter signed and the date the witness signed were an early clue to the existence of fraudulent activity.

Certain county boards have requested guidance if they identify a discrepancy between the dates the voter and witness signed. We reiterate here that, under current law, county boards cannot require the date or discount a ballot merely due to a date discrepancy. Depending on the circumstances, a date discrepancy may prompt the county board of elections to attempt to contact the voter to inquire as to the reason for the discrepancy. Examples of circumstances that might
give rise to such inquiries are unusual numbers of Forms with discrepant dates or a witness who appears on a significant number of Forms.

My office continues to instruct county boards to upload copies of Forms displaying date discrepancies to https://goo.gl/forms/muFT2Y79XTebKO1d2. Investigators may use this information to open investigations, identify trends, and/or make criminal referrals. It is not a substitute for the county board of election’s duty to approve Absentee Applications.