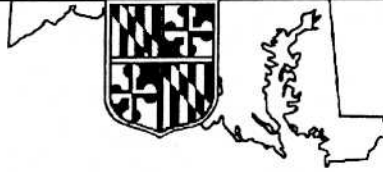


## STATE BOARD OF ELECTIONS

P.O. BOX 6486, ANNAPOLIS, MD 21401-0486 PHONE (410) 269-2840

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## Memorandum

**To:** State Board Members  
**From:** Nikki Trella  
**Date:** October 5, 2009  
**Re:** Proposed Regulations

Attached are proposed changes to various subtitles in Title 33 of the Code of Maryland Regulations. These chapters were reviewed as part of the agency's regulation review process and are the fourth (of five) set of chapters to be reviewed. For each chapter with a proposed substantive change, I have summarized the proposed changes and, where appropriate, the reason for the proposed change.

### Subtitle 06 Petitions

*Chapter 02 Information Page* – The proposed changes: (1) remove the requirement that a petition's information page contain certain individuals' residence addresses and instead require only the individuals' cities and states of residence; and (2) remove the requirement that a summary approved by the Attorney General be included on the information page for a referendum petition because the summary is optional, not required, under the law.

*Chapter 03 Signature Pages* – The proposed changes clarify the information that can be printed on the reverse side of the signature page and incorporate the Court of Appeals' decision in *Doe v. Montgomery County Board of Elections* on what constitutes a valid signature on a petition.

*Chapter 04 Filing Procedures* – The proposed changes bring the regulation into compliance with current practice (all filings must be made in person).

### Subtitle 07 Election Day Activities

*Chapter 02 Election Equipment and Materials* – The proposed changes require the State Administrator to work with the local boards to develop a written plan for the deliver to and return of supplies from the polling places. Current regulations require the local boards to have a plan for the delivery of supplies to the polling place, but there is currently no requirement for a written plan for the return of supplies from the polling places. Representatives of the Maryland Association of Election Officials suggested that the State Administrator and the local boards jointly develop this plan, rather than have the local boards develop plans individually. Additionally, the proposed changes authorize individuals other than election judges to assist with the set-up of the polling places. Some local boards use civic organizations or county employees to help with setting up

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polling places, and this proposed change would clarify that individuals are able to provide this assistance.

*Chapter 03 Officials' Duties Generally* – The proposed changes permit the State Administrator to request a local board's election day communication log, clarify that board counsel shall be present or available for **all** canvasses, require the local boards to use the State's polling place evaluation form, and require the local boards to designate an area for the public to observe the return of election supplies from the polling places. We have previously advised the local boards that they need to provide an area for the public to observe this activity, and this proposed change codifies this advice.

*Chapter 04 – Order and Decorum* – The proposed changes clarify to whom media organizations should provide a list of polling places they intend to visit (current regulations request that media organizations provide a list but do not specify to whom the list should be provided) and expand the list of electronic communication devices that are prohibited in the polling places. To accommodate technological advances, the proposed changes generally ban all electronic communication devices and list a few examples of prohibited devices.

*Chapter 05 – Special Assistance* – The current regulation only permits the use of an "X" as a signature or an election judge executing an endorsement for a voter on a voter authority card and only authorizes the check-in election judge to execute this endorsement. The proposed changes expand the list of documents to *any* form used at a polling place and authorize *any* election judge assisting the voter to execute this endorsement. Additionally, the proposed changes update language to reflect the use of both paper ballots and touchscreen voting units at the polling place, expand the list of individuals who are prohibited from providing assistance to include individuals who have been appointed as a challenger or watcher for the specific election<sup>1</sup>, and update terms and procedures that are defined in the election judges' manual.

*Chapter 07 – Challenging Voters* – The proposed changes: (1) specify that a challenger must have a "reasonable basis" for asserting that the individual seeking to vote is not the registered voter that the individual claims to be; and (2) bring the regulation into compliance with § 10-312 of the Election Law Article.

*Chapter 08 – Electioneering; Exit Polling* – The proposed changes amend the name of a regulation to reflect the content of the regulation and clarify to whom exit polling organizations should provide a list of polling places they intend to cover (current regulations request that exit polling organizations provide a list but do not specify to whom the list should be provided).

#### Subtitle 08 Canvassing

*Chapter 01 – Definitions; General Provisions* – The following changes are being proposed:

1. Remove references to election night central count canvasses because the State no longer uses voting systems that require an election night central count canvass;
2. Clarify that the local boards announce the time for opening and closing each working session and the time and duration of any breaks;
3. Replace a specific regulation reference to selecting precincts for verification with a more generic reference to accommodate expected regulations for the new voting system;

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<sup>1</sup> Challengers and watchers are prohibited under § 10-311(d)(iii) from assisting an voter in voting. As a result, it is appropriate to include in the list of individuals who cannot provide assistance challengers and watchers.

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4. Remove reference to documents no longer used and update terms to reflect the use of electronic pollbooks; and
5. To bring the regulation into compliance with long-term practice that the State Administrator gives notice that the voting system may be released.

*Chapter 02 – Uniform Definition of a Vote* – Current regulations do not address whether a write-in vote of only a candidate's first name or only the candidate's initials is a valid write-in vote. The proposed change addresses this situation and specifies that a first name or initials is a valid write-in vote if there is only one filed write-in candidate for that office with the same first name or initials. If there is more than one filed write-in candidate for that office with the same first name or initials, the write-in vote is not valid.

*Chapter 03 – Canvass Control and Safeguards* – The proposed changes remove outdated terms and expands the specific list of documents that can be inspected but not touched.

*Chapter 04 – Central Count Procedures* – The proposed changes remove a reference to a voting system no longer used in Maryland, clarify when this chapter applies and when ballots should be assembled with other ballots from the same precinct, and update the standard for counting a write-in vote to comply with Chapter 02 – Uniform Definition of a Vote, a requirement of the federal Help America Vote Act.

I intend to present these proposed changes at this month's board meeting. If you have any questions about these proposed changes before the board meeting, please do not hesitate to contact me. I will, of course, be available at the board meeting to answer any questions.

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## Memorandum

**To:** State Board Members  
**From:** Nikki Trella  
**Date:** October 19, 2009  
**Re:** Proposed Regulations – Early Voting

As you may recall, the Board previously created a new subtitle (Subtitle 17) in Title 33 for early voting, and over the next couple of months, we will be proposing new regulations for adoption in this subtitle. Attached are proposed regulations for Subtitle 17 that I intend to present at the next board meeting. For each chapter, I have summarized the proposed regulation and, where appropriate, an explanation.

Chapter 03 Public Notice of Early Voting – This chapter incorporates the public education components in § 10-301.1(f) and is similar structurally to the public education plan required by COMAR 33.09.06.04 for a new voting system. Generally, the State Administrator develops a plan that includes language to include on websites, in specimen ballots, brochures or information materials, and public service announcements, and the local boards of elections are required to implement the plan. Each election director is required to submit, on request, a written report to the State Administrator on the implementation of the plan and, starting three months before each voting period, provide at each local board meeting a report on the plan's status.

Chapter 04 Early Voting Center Equipment and Set-Up – This chapter defines the requirements to prepare for early voting and the types and quantities of equipment needed at each early voting center. Specifically, each early voting center must have a broadband network connection that is used only for early voting and meets the requirements set by the State Administrator, and each network connection must be tested according to the protocol issued by the State Administrator. The number of touchscreen voting units, optical scan voting units, electronic pollbooks, ballot printers, and other equipment (*i.e.*, booths, transfer cases) are specified in Regulation .03. Regulations .04 and .05 track existing regulations in COMAR 33.07.02, with changes only to reflect early voting.

Chapter 05 Election Judges – This chapter defines the role of local board employees or board members during early voting and specifies the number of election judges in each early voting center and training requirements. Regulation .01 limits the ability of a local board employee who is serving as an election judge to perform any other duties during the time s/he is serving as an election judge and requires the presence of a local board employee or board members for the opening and closing of each day of early voting. Regulation .02 defines the number of election judges for each early voting center, and Regulation .03 generally tracks the material and training requirements of COMAR 33.02.03. The local boards will be required under this regulation to conduct separate training classes for election judges serving during early voting.

If you have any questions about these proposed changes before the board meeting, please do not hesitate to contact me. I will, of course, be available at the board meeting to answer any questions.

Subtitle 17 – Early Voting

**ALL NEW**

**Chapter 03 Public Notice of Early Voting.**

**.01 Public Education Plan.**

A. (1) State Administrator to Develop. The State Administrator shall develop a public education plan to educate voters about early voting.

(2) Minimum Components. The plan shall include:

(a) A preelection mailing that:

(i) Is sent to all active, registered voters; and

(ii) Includes the date and time for early voting and the locations of the early voting centers;

(b) Public service announcements;

(c) Promotional materials; and

(d) Text for websites providing:

(i) The dates and times of early voting;

(ii) The locations of the early voting centers; and

(iii) If possible, maps and photographs of the early voting centers.

(3) Initial Implementation. The State Administrator shall specify in the public education plan those components that are required for each early voting period and those that are required only during the initial implementation of early voting.

B. Local Board to Implement. The local board shall implement and fund the public education plan developed by the State Administrator.

C. Reports. The election director shall:

(1) When requested by the State Administrator, report in writing to the State Administrator on the conduct of the public education plan; and

(2) Starting three months before each early voting period, report at each meeting of the local board the status of the implementation of the plan required under §B of this regulation.

Subtitle 17 – Early Voting

**Chapter 04 Early Voting Center Equipment and Set-Up.**

**.01 Definitions.**

A. In this chapter, the following terms have the meaning indicated.

B. Terms Defined.

(1) (a) “Estimated daily turnout” means the number of registered voters estimated to vote daily at each early voting center.

(b) “Estimated daily turnout” is determined using the worksheet attached to the form required by COMAR 33.17.02.02.

(2) “Ballot printer” means a device capable of printing paper ballots that can be scanned and tabulated by an optical scan voting unit.

(3) “Transfer case” means a container that can be sealed or otherwise secured in such a way to protect against unauthorized access.

**.02 Preparing the Early Voting Center.**

A. For the purposes of networking the electronic pollbooks, each early voting center shall have a broadband network connection that:

(1) Is used only for early voting; and

(2) Meets the requirements established by the State Administrator.

B. The network connection at each early voting center shall be tested in accordance with instructions issued by the State Administrator.

**.03 Equipment Allocation.**

A. AccuVote-TS Voting Units.

(1) Except as provided in §A(2) of this regulation, a local board shall provide for each early voting center three AccuVote-TS voting units, two of which shall be equipped for voters with disabilities.

(2) A local board may allocate up to five AccuVote-TS voting units for an early voting center if the estimated daily turnout exceeds 2,000 voters.

B. Optical Scan Voting Units. For each early voting center, a local board shall provide:

(a) One optical scan voting unit; or

Subtitle 17 – Early Voting

(b) If the estimated daily turnout exceeds 4,000 voters, two optical scan voting units.

C. Electronic Pollbooks. For each early voting center, the local board shall provide at least one electronic pollbook for every 550 voters of the estimated daily turnout.

D. Ballot Printers. If the county has at least five different ballots styles in an election, the local board shall provide each early voting center with one ballot printer for every 1,100 voters of the estimated daily turnout.

E. Other Equipment. For each early voting center, the local board shall provide:

(1) At least one voting booth for every 175 voters of the estimated daily turnout;

(2) At least one voting booth that can accommodate voters who use mobility aids, including wheelchairs, or prefer to sit while voting; and

(3) Transfer cases.

**.04 Delivery to and Return from Early Voting Center.**

A. Board to Develop. The local board shall develop and, with the approval of the State Administrator, adopt a written plan for the prompt and secure delivery of voting units and other election equipment and materials to and from each early voting center.

B. Inclusions. The plan shall specify the methods of and time frames for these deliveries and returns.

**.05 Early Voting Center Readiness and Set-Up.**

A. The local board shall prepare and set up each early voting centers as required by:

(1) The election judges' instructions; and

(2) All directives of the State Board or State Administrator.

B. The local board may use election judges or other assigned personnel to assist with the preparation and set-up of each early voting center.

Subtitle 17 – Early Voting

**Chapter 05 Election Judges.**

**.01 Local Board Employees.**

- A. If a local board appoints an employee to serve as an election judge, the employee may not perform any duties other than those of an election judge.
- B. At least one employee or board member of a local board shall be present at an early voting center for the following activities:
  - (1) Setting up the early voting center each day of early voting; and
  - (2) Closing down the early voting center each day of early voting.

**.02 Number of Election Judges.**

For each early voting center, a local board shall appoint the following:

- A. Two election judges of different party affiliations to serve as chief judges;
- B. At least one election judge to facilitate provisional voting;
- C. One election judge for each electronic pollbook;
- D. One election judge for each optical scan voting unit;
- E. One election judge for the touchscreen voting units;
- F. For ballot distribution:
  - (1) In a county with at least five ballot styles in an election, one election judge for each ballot printer; or
  - (2) In a county with five or less ballot styles in an election, at least one election judge to distribute ballots; and
- G. One technical judge, unless the local board assigns an individual who is not an election judge to provide any necessary technical support.

**.03 Training of Election Judges.**

- A. Required Materials. The State Administrator shall develop and issue for the local boards:
  - (1) A judges' manual or supplement for early voting;
  - (2) Instruction sheets summarizing certain early voting procedures; and

Subtitle 17 – Early Voting

(3) A curriculum for training election judges appointed for early voting.

B. Development of Manual. The State Administrator shall comply with the process established in COMAR 33.02.03 for developing the judges' manual or supplement for early voting.

C. Use of Training Materials. Each local board shall use the manual or supplement, instruction sheets, and curriculum approved by the State Administrator for early voting.

D. Judges' Training Sessions. Each election director shall:

(1) Prepare and conduct training classes for election judges in accordance with COMAR 33.02.03.04; and

(2) Conduct separate training classes for election judges serving during early voting.

**END ALL NEW**

COMAR 33.06 – Petitions

33.06.02 (6/22/09)

**.02 Subject and Purpose.**

A. (text unchanged)

B. **Presidential Primary Candidate.** For a petition under Election Law Article, §8-502, Annotated Code of Maryland, to place a presidential candidate on a primary election ballot, the description shall include the candidate's:

(1) (text unchanged)

(2) [Address] City and state where the candidate resides; and

(3) (text unchanged)

C. **General Election Candidate.** For a petition under Election Law Article, §5-703, Annotated Code of Maryland, to place a candidate on a general election ballot, the description shall include the:

(1) (text unchanged)

(2) Candidate's [address] city and state where the candidate resides;

(3) – (4) (text unchanged)

D. **Formation of Political Party.** For a petition under Election Law Article, §4-102, Annotated Code of Maryland, to form a new political party, the description shall include:

(1) – (2) (text unchanged)

(3) The name of [and address of] the proposed political party's State chair and the city and state where proposed party's State chair resides; and

(4) (text unchanged)

E. **Referral of Act of General Assembly.** For a petition under Article XVI of the State Constitution to refer an Act or part of an Act of the General Assembly, whether a public general law or a public local law, the description shall include:

(1) - (2) (text unchanged)

(3) If applicable, [A] a copy of the summary approved by the Attorney General of the Act or part of the Act being petitioned.

F – I (text unchanged)

**.03 Sponsor Identification.**

A. – B. (text unchanged)

C. Persons to Whom Applicable. The information specified in §B of this regulation shall be given for:

(1) (text unchanged)

(2) If the sponsor is an organization:

(a) An individual [responsible to the organization] who has been designated by the organization to receive notices in connection with the petition, or

(b) (text unchanged)

33.06.03 (6/22/09)

**.02 Placement of Information and Signatures.**

A. One Side Only. Except as provided in §B of this regulation, only one side of a signature page may be used for:

(1) Signatures; [or] and

(2) (text unchanged)

B. Summary or Text of Question. If the petition is to place a question on the ballot, the [required summary or full text of the proposal may be printed on the] reverse side of the signature page may contain:

(1) A complete and accurate summary of the substantive provisions of the proposal;

or

(2) The full text of the proposal.

**.06 Signer Identification.**

A. (text unchanged)

B. Required Information. When signing the signature page, each signer shall:

