

# Bylaws of the Charles County Board of Elections

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## **Article 1 – Adoption of Bylaws Generally**

### **Section 1.1 – Definitions**

- A. “Absence” means a duly appointed member is not present at or able to take part in a meeting.
- B. “Member” means a regular member of the board.
- C. “Board term” means the four-year term of the board beginning the first Monday in June in the year immediately following a gubernatorial election.
- D. “Vacancy” means a duly appointed member was removed, died, or resigned from the board.

### **Section 1.2 – Purpose**

These bylaws, adopted by the members of the Charles County Board of Elections, provide the rules of governance for the board during the conduct of all duties assigned under State and federal laws, regulations, and guidelines and policies of the State Board of Elections (SBE). Further, these bylaws set a standard of personal conduct for members of the board requiring them to conduct themselves in accordance with high ethical standards in order to ensure the public that members are independent of partisan pressures and conflicting interests.

### **Section 1.3 – Enactment**

- A. These bylaws shall be approved by a majority vote of the full board.
- B. These bylaws are effective and binding on all board members as evidenced by each member signing this document.
- C. When a new member is appointed to fill a vacancy during a board term, the new member must sign the bylaws.
- D. In order to amend the bylaws, a member must make a motion and present the amendment during a regularly scheduled meeting of the board. The motion to amend the bylaws must be approved by a majority vote of the full board at the next regularly scheduled meeting of the board.
- E. At the first meeting of each new board term, the bylaws shall be reviewed, amended, and re-enacted consistent with subsection A above.
- F. A copy of the approved bylaws and any amendments shall be sent to SBE.

## **Article 2 – Organization of the Board**

### **Section 2.1 – New Members**

New members must be sworn in by the Clerk of the Charles County Circuit Court within 30 days of receiving the commission of appointment from the Governor.

### **Section 2.2 – Officers**

- A. As required by § 2-202 of the Election Law Article, within the first 20 days of a new board term, the board shall elect by a majority vote of the regular members a regular member to serve as president. The duties of the president include: See Appendix 1.
  - 1. Running the board meetings and setting agendas;
  - 2. Serving as the board’s sole spokesperson for media inquiries; and
  - 3. Acting as the board’s primary point of contact for the election director.
- B. Within the first 20 days of a new board term, the board shall elect by a majority vote of the regular members a regular member to serve as a vice president. The vice president shall fulfill the duties of the president if the president is unable to carry out the assigned duties. The vice president shall not be of the same party as the president.
- C. Within the first 20 days of a new board term, the board shall elect by a majority vote of the regular members a regular member to serve as secretary. The secretary shall be responsible for ensuring that board minutes are accurately compiled and transmitted to the State Board of Elections.

### **Section 2.3 – Board of Canvassers**

- A. As required by § 11-301(a) of the Election Law Article, the members shall serve as the board of canvassers following each election. See Appendix 2.
- B. These bylaws remain in effect while the members are serving as the board of canvassers.
- C. A president and a secretary shall be elected by a majority vote of the regular members.

- D. The members of the board of canvassers shall take an oath, administered and recorded by the Clerk of the Charles County Circuit Court, to canvass and declare the votes cast truthfully and to perform other duties required by law.
  - 1. If there is no early voting the oath must be taken by 5 PM on Election Day (see COMAR 33.08.01.02). See Appendix 3.
  - 2. If there is early voting the oath must be taken before the start of early voting (see COMAR 33.17.06.01). See Appendix 4.
- E. In order to take action as a board of canvassers:
  - 1. A quorum, as provided for under section 3.2A, shall be present; and
  - 2. A member of the minority party shall be present.
- F. The rules of order established under section 3.2 below shall be followed at all canvassing sessions. The rules for minutes established under section 3.3E shall be followed for all canvass sessions.
- G. The canvass shall be conducted pursuant to State law, regulations, and instructions issued by SBE.

## Article 3 – Meetings

### Section 3.1 – Time and Location

- A. Regular meetings. The Charles County Board of Elections shall meet every month on the 3<sup>rd</sup> Thursday at 9:00 AM.
- B. Location. Unless circumstances dictate otherwise, board meetings will be held in the election office.
- C. Public Notice. Except as provided in E of this section, public notice of regular meetings must be provided for at least one week prior to the meeting.
- D. Cancellation of a regular meeting. The president may cancel a regular meeting of the board upon a determination that there is no new business that needs to be acted upon by the board. Notice of cancellation must be given at least twenty-four hours prior to the meeting.
- E. Special Meetings. The president of the board may call a special meeting. However, no votes may be taken at a special meeting unless three days prior notice has been given to all members, staff and the public.

### Section 3.2 – Rules of Order

- A. Quorum
  - 1. Quorum for all meetings of the board when not constituted as the board of canvassers.
    - a. A quorum must be present in order to hold a meeting.
    - b. A quorum of the board of elections shall consist of:
      - i. A majority of the membership of the board; and
      - ii. At least one member of each political party (not a legal mandate).
    - c. In the event of a vacancy on the board, a quorum shall consist of a majority of members currently serving on the board.
    - d. There shall be no effect on the quorum when a member of the board abstains or declines to vote or if a member is disqualified from participating under section 4.3 of these by-laws.
  - 2. Quorum for meetings of the board of canvassers.
    - a. A quorum must be present in order to hold a meeting.
    - b. A quorum of the board of canvassers shall consist of:
      - i. A majority of the membership; and
      - ii. At least one member of each political party.
    - c. In the event of a vacancy on the board, a quorum shall consist of a majority of members currently serving on the board.
    - d. There shall be no effect on the quorum when a member of the board abstains or declines to vote or if a member is disqualified from participating under section 4.3 of these by-laws.
- B. Participation
  - 1. Any member, may make and second motions.
  - 2. Any member may vote on a motion.
- C. Public participation at a meeting must be pre-scheduled and pre-approved by the president. The president may exercise discretion in determining whether to allow participation that has not been pre-scheduled and pre-approved.
- D. The board, with the advice of counsel, shall follow the requirements of the Open Meetings Act as specified under Title 10, Subtitle 5 of the State Government Article<sup>1</sup>.

<sup>1</sup> For information and guidance on the Open Meetings Act, see the Attorney General's *Open Meetings Act Manual* (6<sup>th</sup> ed., October 2006) - <http://www.oag.state.md.us/Opengov/Openmeetings/support.htm>.

### Section 3.3 – Meeting Agenda

- A. Each board meeting shall include, at a minimum, the following agenda items:
  1. Declaration of Quorum Present
  2. Approval of Prior Meeting Minutes
  3. Additions to the Agenda
  4. Election Director's Report
  5. Board Attorney's Report
  6. Old Business
  7. New Business
  8. Confirmation of Next Meeting
  9. Closed Session (if needed)
  10. Adjournment
- B. Additional items may be added to the agenda in advance of the meeting at the discretion of the president.
- C. The election director shall provide the agenda to the members and publicly post the agenda at least one week prior the meeting.
- D. Prior to each meeting, the election director shall submit to the board a written report of the activities of the office since the last meeting. The report shall include information on personnel changes, meetings attended, significant correspondence received, voter registration activities, voting system activities, candidate filings, precinct and polling place issues, and other projects or initiatives undertaken by the office. An oral summary of the written report shall be provided at each board meeting.
- E. Minutes for both open and closed meetings shall be prepared by the election director pursuant to SBE's *Guidelines for Conducting Meetings and Writing Minutes*<sup>2</sup>. If the election director does not attend the closed meeting, the board attorney or one of the members shall be responsible for preparing the closed meeting minutes.
  1. The complete open meetings minutes and a summary of the closed meeting shall be presented for approval at the subsequent board meeting.
  2. Complete closed meeting minutes shall be held until the next closed meeting for presentation to the board. After approval, the closed meeting minutes shall remain in a sealed envelope in a secure location that only the election director can access.
  3. The election director shall transmit approved meeting minutes to SBE within 5 days of approval.

## Article 4 – Rules of Conduct

### Section 4.1 - Attendance

- A. As provided under § 8-501 of the State Government Article, a member of the board who fails to attend at least 50% of the meetings of the board during any consecutive 12-month period shall be considered to have resigned. See Appendix 5.
- B. Not later than January 15<sup>th</sup> of the year following the end of the 12-month period, the president shall forward to the Governor and the State Administrator:
  1. The name of the member considered to have resigned; and
  2. A statement describing the member's history of attendance during the period.
- C. In the case where the president fails to attend meetings, the referral to the Governor and State Administrator shall be made jointly by the other members.

### Section 4.2 - Political Activity

- A. Statutory requirements. The members shall abide by the restrictions to political activities provided under § 2-301 of the Election Law Article. See Appendix 6.
- B. Additional requirements.
  1. Members shall place their public duties ahead of partisan, political considerations.
  2. A member may not take an active part in the campaign management of a candidate or any matter that is subject to an election under the Election Law Article.
  3. A member may attend campaign fundraisers held by candidates, political parties, or ballot issue committees provided the member discloses this fact to the board<sup>3</sup> and does not publicly indicate that he or she is a member of the board.

<sup>2</sup> The guidelines are available on the SBE online library in the local board folder.

<sup>3</sup> This notice will provide the other board members with information to determine whether a conflict exists that will require recusal.

4. A member may make campaign contributions to candidates or issues on the ballot in an election for which the member will be serving on the local board of canvassers provided the member discloses the contributions to the board.
5. A member may publicly display (including yard signs, bumper stickers, etc.) support or opposition to candidates or issues on the ballot in any election for which the member will be serving on the local board of canvassers provided the member discloses the displays to the board.
6. Members may wear campaign paraphernalia that shows support or opposition for or against candidates or issues on the ballot in any election for which the member will be serving on the local board of canvassers provided:
  - a. The member discloses this fact to the board; and
  - b. Does not wear the campaign paraphernalia while performing board functions or while wearing a board name badge.
7. Party Activity
  - a. Members may attend party central committee meetings and may consult with party members.
  - b. Members may not serve on an executive committee of the party or assume a role within the party that has decision making authority.
8. Petitions
  - a. A member may sign a petition.
  - b. A member may not circulate petitions.

#### **Section 4.3 – Ethics**

- A. Members shall follow the provisions of the Maryland Ethics laws<sup>4</sup>, including:
  - a. Timely filing the Financial Disclosure Statement<sup>5</sup> required under § 15-601 et seq. of the State Government Article See Appendix 7; and
  - b. Adhering to the prohibition against the solicitation or acceptance of gifts or honoraria<sup>6</sup> as required under § 15-505 of the State Government Article. See Appendix 8.
- B. Disqualification due to Conflict of Interest
  1. A member of the board shall recuse himself or herself and may not participate as to a matter if the member:
    - i. Has a relative with an interest in the matter and the member knows of the interest;
    - ii. Is part of a business entity which has an interest in the matter;
    - iii. Is negotiating employment or has arranged prospective employment with a business entity which has an interest in the matter;
    - iv. Has a direct financial interest in the matter;
    - v. Has provided support through a contribution, volunteering, or a candidate or petition that is the subject of the matter; or
    - vi. Otherwise believes that participation would create a conflict of interest.
  2. A member of the board may seek the advice of the board's counsel as to the presence of a conflict of interest or other good cause for disqualification.
  3. If a member does not voluntarily recuse himself or herself, the other board members may disqualify that member if a unanimous determination is made that the member has a conflict of interest that should disqualify that member from acting on a particular matter.
  4. If a member recues himself or is disqualified from participating in a matter before the board, the recusal or disqualification and the reason(s) for it shall be recorded in the meeting minutes.

#### **Section 4.4 – Resignation and Vacancies**

- A. A member who chooses to resign shall:
  1. Write a letter to the Governor informing the Governor of the member's decision to resign;
  2. Inform the county central committee of the party with which he or she is affiliated of the resignation; and
  3. Inform the State Administrator of the resignation.
- B. If a member dies, resigns, is removed, or becomes ineligible, the Governor shall appoint an eligible person from the same political party to be the new member.

<sup>4</sup> See the *Maryland Public Ethics Law Summary* provided by the State Ethics Commission to assist election officials and employees in meeting their obligations to voters, candidates, and political parties. Available on the SBE online library.

<sup>5</sup> Financial Disclosure Statements can now be easily filed online - <https://efds.ethics.state.md.us/>.

<sup>6</sup> See *Ethics and Standards for Election Officials and Employees* for detailed standards of conduct. Available on the SBE online library.

#### **Section 4.5 – Level of Effort**

Members shall expend the time and effort necessary to ensure that they fully understand their duties as board members, their role as members of the local board of canvassers, and generally understand important concepts in the administration of Maryland elections, such as: the process to register to vote; the purpose of provisional voting; general information about the voting system; the absentee ballot process; and important election deadlines.

#### **Section 4.6 – Fiduciary Duty to the Board**

Members have a fiduciary duty of care and loyalty to the board. Members shall put the interests of the board ahead of partisan interests, personal interests, or loyalties to other organizations in an effort to ensure the successful execution of the duties of the board. Members may not share confidential or sensitive information with outside entities.

### **Article 5 – Roles and Responsibilities**

#### **Section 5.1 – The Board**

- A. The board shall carry out all duties assigned to it under the Election Law Article, regulations, and policies and procedures established by SBE. (See *Duties of the Board and Election Director*). See Appendix 5
- B. The board shall attend exclusively to top-level policies and plans and shall ensure compliance with mandatory requirements. The board shall not be involved in day-to-day activities of the election office.
- C. Specifically, the board shall:
  1. Govern through broad policies and objectives, formulated and agreed upon by the election director and staff, including assigning priorities and ensuring the agency's capacity to carry out programs by continually reviewing its work.
  2. Account to the public for the services of the agency and expenditures of its funds, including:
    - i. Providing for fiscal accountability, approve the budget, and formulate policies related to contracts from public or private resources
    - ii. Accepting responsibility for all conditions and policies attached to new, innovative, or experimental programs.

#### **Section 5.2 – The Election Director and Staff**

- A. The election director shall carry out all duties assigned to him or her under the Election Law Article, regulations, policies and procedures established by SBE, and duties assigned or delegated by the board. (See *Duties of the Board and Election Director*). See Appendix 9.
- B. In general, the election director is responsible for:
  1. The day-to-day operation of the office;
  2. Giving direction and leadership toward the achievement of the mission of the Charles County Board of Elections;
  3. Advising and informing board members of the status of projects and initiatives;
  4. Interfacing between board and staff;
  5. Overseeing the design, promotion, delivery and quality of programs and services;
  6. Recommending the yearly budget for board approval and prudently managing the agency's resources within those budget guidelines;
  7. Effectively managing the human resources of the organization according to authorized personnel policies and procedures that fully conform to current laws and regulations; and
  8. Assuring the board of elections and its mission, programs, and services are consistently presented in a strong and positive manner to relevant stakeholders.

**Section 5.3 – Division of Duties – Examples**

A.	Board -----	Direct the process of planning
B.	Board -----	Approve long range goals
C.	Board -----	Approve annual objectives
D.	Board -----	Oversee evaluation of products, services and programs
E.	Board -----	Finalize and approve budget
F.	Board -----	Approve expenditures outside authorized budget
G.	Board -----	Interpret organization to community
H.	Director---	Administer oath for new employees (within 45 days of employment) – see Appendix 3
I.	Director---	Decision to request additional positions
J.	Director---	Formulate annual objectives
K.	Director---	Assess stakeholder needs
L.	Director---	Prepare performance reports on achievement of goals and objectives
M.	IT-----	Maintain program records; prepare program reports
N.	Director---	Prepare preliminary budget
O.	Director---	See that expenditures are within budget during the year
P.	Director---	Direct work of the staff
Q.	Director---	Hire and discharge staff members
R.	Director---	Settle discord among staff
S.	Deputy---	Take minutes at board meetings
T.	Director---	Prepare exhibits, material, and proposals for board
U.	Director---	Follow-up to ensure implementation of board decisions
V.	Joint -----	Provide input to long range goals
W.	Joint -----	Monitor achievement of goals and objectives
X.	Joint -----	Provide organization linkage with other organizations
Y.	Director---	Plan agenda for board meetings

**Section 5.4 – Delegation of Duties to the Election Director**

The Board delegates the duties designated in *Duties of the Board and Election Director* to the election director.

**Section 5.5 – Counsel to the Board**

- A. As required under § 2-205 of the Election Law Article, the board shall retain as counsel an individual who is a registered voter of the county and is admitted to practice law in Maryland. See Appendix 10.
- B. Pursuant to the retainer contract, board counsel shall:
  - 1. Attend board meetings and all canvass sessions;
  - 2. Attend the biennial conference hosted by SBE and the annual MAEO conference;
  - 3. Participate in pre-election conference calls hosted by SBE;
  - 4. Review major policy guidelines and instructions from SBE; and
  - 5. Generally be available to provide advice when needed.

**Section 5.6 – Personnel Management**

- A. As required under § 2-202(b)(2) of the Election Law Article, the board shall hire and supervise the election director. See Appendix 1
  - 1. The board shall perform an annual performance evaluation.
  - 2. The board shall follow the requirements of the State Personnel and Pensions Article and any applicable regulations or the county merit system requirements in all matters concerning leave, discipline, or termination.
- B. The election director shall hire and supervise the staff.
  - 1. The election director shall perform or ensure the performance of annual performance evaluations of staff.
  - 2. The election director shall follow the requirements of the State Personnel and Pensions Article and any applicable regulations or the county merit system requirements in all matters concerning leave, discipline, or termination.
- C. Staff may appeal an adverse personnel decision made by the election director to the Board. Issues that may be appealed include:
  - 1. Disciplinary actions;
  - 2. Termination; or

3. Denial of leave.

## **Article 6 – Miscellaneous**

### **Section 6.1 – Membership to MAEO**

Each member of the board, the election director, the deputy election director, and other staff shall be members of the Maryland Association of Election Officials (MAEO).

### **Section 6.2 – Training and Continuing Education**

The board shall encourage and support the efforts of the election director and staff to obtain training and continuing education courses to assist the director and staff in the performance of their jobs.

### **Section 6.3 – Public Information Act<sup>7</sup>**

When a Public Information Act request is received, the board shall ensure that:

- A. The state Administrator is notified of the request; and
- B. The request is completed in a timely manner.

### **Section 6.4 – Reimbursement for Travel and Expenses**

- A. The budget for the board shall include funds to reimburse members for expenses incurred while carrying out their duties as members.
- B. Reimbursement for an expense that was not budgeted for must be approved by the president prior to payment.

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<sup>7</sup> For information and guidance on the Public Information Act, see the Attorney General's *Public Information Act Manual* (10<sup>th</sup> edition, January 2007) - <http://www.oag.state.md.us/Opengov/pia.htm>.

Signatures

Katherine O'Malley-Simpson 4-19-18  
Katherine O'Malley-Simpson, President Date

Tracy A. Dickerson 4-19-18  
Tracy A. Dickerson, Director II Date

Fern G. Brown 4-19-18  
Fern G. Brown, Vice President Date

Louis P. Jenkins, Jr. 4-19-2018  
Louis P. Jenkins, Jr., Attorney Date

Norman J. Saunders 4-19-18  
Norman J. Saunders, Secretary Date

Dorothy C. Duffield 4-19-18  
Dorothy C. Duffield, Member Date

Craig J. Renner 4/19/18  
Craig J. Renner, Member Date

## Appendix 1

### § 2-202. Powers and duties

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- **(a) Applicability.** -- Except for the City of Baltimore, the provisions of this section do not apply to a municipal corporation in the State in which the municipal or charter elections are regulated by the public local laws of the State or the charter of the municipal corporation.
- **(b) Powers and duties.** -- Each local board, in accordance with the provisions of this article and regulations adopted by the State Board, shall:
  - **(1)** oversee the conduct of all elections held in its county and ensure that the elections process is conducted in an open, convenient, and impartial manner;
  - **(2)** pursuant to the State Personnel and Pensions Article, or its county merit system, whichever is applicable, appoint an election director to manage the operations and supervise the staff of the local board;
  - **(3)** maintain an office and be open for business as provided in this article, and provide the supplies and equipment necessary for the proper and efficient conduct of voter registration and election, including:
    - **(i)** supplies and equipment required by the State Board; and
    - **(ii)** office and polling place equipment expenses;
  - **(4)** adopt any regulation it considers necessary to perform its duties under this article, which regulation shall become effective when it is filed with and approved by the State Board;
  - **(5)** serve as the local board of canvassers and certify the results of each election conducted by the local board;
  - **(6)** establish and alter the boundaries and number of precincts in accordance with § 2-303 of this title, and provide a suitable polling place for each precinct, and assign voters to precincts;
  - **(7)** provide to the general public timely information and notice, by publication or mail, concerning voter registration and elections;
  - **(8)** make determinations and hear and decide challenges and appeals as provided by law;
  - **(9)**

- **(i)** aid in the prosecution of an offense under this article; and
- **(ii)** when the board finds there is probable cause to believe an offense has been committed, refer the matter to the appropriate prosecutorial authority;
- **(10)** maintain and dispose of its records in accordance with the plan adopted by the State Board under § 2-106 of this title; and
- **(11)** administer voter registration and absentee voting for nursing homes and assisted living facilities in accordance with procedures established by the State Administrator, subject to the approval of the State Board.

## Appendix 2

### § 11-301. Organization of local boards of canvassers

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- **(a) In general.** -- A board of canvassers shall:
  - **(1)** convene at the designated counting center for that county on or before the day of the election, but not later than 5 p.m. on that day, and be sworn in; and
  - **(2)** meet only in public session.
- **(a-1) Observation of board of canvassers and staff of local board.** --
  - **(1)** Subject to paragraph (3) of this subsection, a board of canvassers and the staff of a local board may be observed as they complete each part of the canvass by authorized observers designated under paragraph (2) of this subsection and any other individuals who wish to be present.
  - **(2)** The following individuals or entities have the right to designate a registered voter as an observer at each counting center:
    - **(i)** a candidate;
    - **(ii)** a political party; and
    - **(iii)** any other group of voters supporting or opposing a candidate, principle, or proposition on the ballot.
  - **(3)** The State Board may adopt regulations prohibiting public observation of a part of the canvass only if prohibiting public observation is necessary to ensure:
    - **(i)** the integrity or accuracy of the canvass; or
    - **(ii)** that the canvass process is not impeded.
  - **(4)** The State Board shall ensure that the requirements of this subsection are implemented uniformly and consistently by each local board.
- **(b) Election of officers.** -- Each board of canvassers shall elect by majority vote a chairman and secretary from among its members.
- **(c) Oath required.** -- Each member of the board of canvassers shall take an oath, administered and recorded by the clerk of the circuit court, to

canvass and declare the votes cast truthfully and to perform other duties required by law.

- **(d) Quorum required. --**
  - **(1)** At the first meeting of the board of canvassers for the purpose of canvassing, a majority of the whole board of canvassers shall be a quorum.
  - **(2)** If a quorum is not present, the members present shall adjourn until the next day.
- **(e) Majority vote required for decision making. --** Except as otherwise provided in this article, all decisions shall be reached by a majority vote of the members present.
- **(f) Substitute members allowed. --** If a member is not present at the scheduled time for vote canvassing, a substitute member of the board of canvassers may be sworn in.
- **(g) Representation from principal minority party required. --** At least one member of the board of canvassers present shall be a registered voter of the principal minority party.
- **(h) The canvass. --** Once the board has satisfied the requirements of subsections (a) through (g) of this section, it may proceed with the canvass in accordance with the regulations of the State Board.

## History

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An. Code 1957, art. 33, § 11-301; 2002, ch. 291, §§ 2, 4; 2015, ch. 318; 2016, chs. 357, 358.

## Appendix 3

### Title 33 STATE BOARD OF ELECTIONS

#### Subtitle 08 CANVASSING Chapter 01 Definitions; General Provisions

Authority: Election Law Article, §§2-102(b)(4), 2-202(b), 11-201, and 11-301, Annotated Code of Maryland

##### .01 Definitions.

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

B. Terms Defined.

- (1) "Counting center" means the central location designated by the local board for the canvass of ballots.
- (2) "Election Management System" has the meaning stated in COMAR 33.10.02.01B(10).
- (3) "Totals tape" means the report of result totals that is generated by an optical scan or touchscreen voting unit.

##### .02 Board Responsibilities.

A. In General.

(1) The canvass shall be conducted by the local board, in its role as a board of canvassers, as provided in Election Law Article, Annotated Code of Maryland, and this chapter.

(2) The local board is responsible for enforcing all provisions of Election Law Article, Annotated Code of Maryland, and all rules, regulations, and directives of the State Board that relate to vote canvassing.

(3) Oath or Affirmation.

(a) In an election where there is no early voting, each member of the local board shall, not later than 5 p.m. on election day, take and subscribe the following oath or affirmation: I, ....., do swear, (or affirm as the case may be,) that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and Laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of Board of Canvassers, according to the Constitution and Laws of this State.

(b) The oath or affirmation shall be administered and recorded by the clerk of the circuit court.

B. Constant Presence, Supervision Required.

(1) The canvass of votes at the counting center shall be conducted in the presence and under the direct supervision of the local board.

(2) The board shall be present in the counting center throughout each working session of the canvass.

##### .02-1 Board Counsel.

A. Oath or Affirmation Required.

(1) Each local board counsel shall take and subscribe the following oath or affirmation: I, ....., do swear, (or affirm as the case may be,) that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and Laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, serve as counsel to the ..... Board of Canvassers, according to the Constitution and Laws of this State.

(2) The clerk of the circuit court or chairman of the local board shall administer and record the oath or affirmation in §A(1) of this regulation to the local board counsel.

(3) The oath or affirmation shall be administered on or before the day of the election but not later than 5 p.m. on that day.

B. Presence During Decision Sessions.

(1) During each canvass, the local board's counsel shall be present at any time the local board is deciding questions or otherwise making decisions on the legality or acceptability of a vote on any ballot, an absentee ballot, provisional ballot application, or provisional ballot.

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(2) The local board may specifically schedule decision periods, if the schedule is announced at the start of each day of the canvass.

C. The local board's counsel shall be present throughout all canvass sessions if it appears that absentee or provisional ballots could decide the outcome of a contest or a question.

# Appendix 4

## Title 33 STATE BOARD OF ELECTIONS

### Subtitle 17 EARLY VOTING

#### Chapter 06 Early Voting

##### Activities

Authority: Election Law Article, §§2-102(b)(4), 2-202(b), 9-406, and 10-3011, Annotated Code of Maryland

#### C. Officials' Duties Generally.

(1) In General. All local boards, their members, attorneys, election directors, staff members, election judges, and other assigned personnel shall faithfully and diligently perform all of the functions and duties that are assigned to them, collectively or categorically, by federal or State law or regulation, or by any manual, procedure, guideline, directive, or other instruction issued under federal or State law or regulation.

##### (2) Local Board Members.

- Oath or Affirmation .
- Each local board member shall, before the start of early voting, take and subscribe the following oath or affirmation: I . . . . ., do swear, (or affirm as the case may be,) that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and Laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of Board of Canvassers, according to the Constitution and Laws of this State.
- The oath or affirmation shall be administered and recorded by the clerk of the circuit court.
- Throughout early voting, local board members shall be at the board office or immediately available by telephone.

##### (3) Board Counsel.

- Oath or Affirmation.
- Each local board counsel shall, before the start of early voting, take and subscribe the following oath or affirmation: I . . . . ., do swear, (or affirm as the case may be,) that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and Laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, serve as counsel to the . . . . Board of Canvassers, according to the Constitution and Laws of this State.
- The clerk of the circuit court or chairman of the local board shall administer the oath or affirmation to the local board counsel.
- Throughout early voting, the local board counsel shall be at the board office or immediately available by telephone.

(4) Office Hours. During early voting, the local board office shall be open to the public during its regularly scheduled business hours and all early voting hours.

#### D. Communications During Early Voting.

(1) Between Office and Early Voting Centers. The local board shall ensure that, throughout early voting, each early voting center is equipped with the ability to communicate directly with the local board office .

##### (2) Communications Log.

- (1) Each local board shall maintain an early voting communications log.
- .03 The communications log shall contain the information listed in COMAR 33.07.03.02C.
- .04 If requested by the State Administrator, the election director shall submit it, within the time the State Administrator requests, a copy of the communications log.

#### C. Early Voting Center Evaluation Program.

(1) Establishment Required. Each election director shall develop and, with the approval of the State Administrator, establish and implement an early voting center evaluation program using the early voting center evaluation form issued by the State Administrator.

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B. Elements.

(1) The program shall provide for at least two unannounced visits to each early voting center to assess the election judges' compliance with applicable procedures and their general performance.

(2) Board members, staff members, independent contractors, or volunteers may be used to make these visits and assessments, as long as they have been properly trained in the early voting procedures outlined in the election judges' manual and supplement.

E. Reports to Administrator.

(1) If requested by the State Administrator, the election director shall submit a report of the results of that election's evaluation.

(2) The report shall be submitted within the time and in the form that the State Administrator requests.

**.05 Order and Decorum.**

A. Media.

(1) Presence Allowed. Representatives of print or electronic media are permitted in an early voting center as long as their activities do not:

- (a) Cause disruption;
- (b) Infringe on voter privacy;
- (c) Inhibit election judges from performing their duties; or
- (d) Otherwise interfere with the orderly conduct of the election.

D. Notice Requested.

(1) Media organizations are requested to provide the State Administrator or the election director with a list of those early voting centers that they intend to cover, so that the election judges can be informed.

(2) Failure to provide this information, however, does not in any way diminish or otherwise affect the rights granted by this regulation.

B. Cell Phones, Pagers, Cameras, etc.

(1) In General. Except as specified in §B(2) of this regulation, electronic communication devices may not be used in an early voting center. Prohibited devices include:

- (a) Cameras;
- (b) Cellular telephones;
- (c) Pagers; or
- (d) Computer equipment.

(2) Exceptions. This regulation does not apply to the use of:

- (a) Cameras by media representatives; or
- (b) Cellular telephones, pagers, or computer equipment by election officials or law enforcement officers, when acting in their official capabilities.

**.05 Ballots - In General.**

A. Absentee Ballots. During early voting, a local board shall:

- (1) Issue and receive absentee ballots at the local board office pursuant to COMAR 33.1 I; and
- (2) Ensure that absentee ballots are not issued or received at an early voting center.

B. Provisional Ballots.

(1) Except as provided in §C(2) of this regulation, the local board shall ensure that a voter receives the ballot style for the voter's current residence.

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F. If the voter moved after the close of voter registration, the voter may receive the ballot style for the address listed in the statewide voter registration list.

G. The local board shall ensure that a voter does not remove a provisional ballot issued at an early voting center.

**.06 Special Assistance.**

**A. Inability to Sign.**

(1) Subject to the requirements of §A(2) of this regulation:

(a) If a voter is unable to sign a form used at an early voting center, an "X" or similar mark shall be accepted as that individual's signature; and

(b) If a voter is unable to make a mark, the requirement for a signature is met by the execution of the endorsement described in §A(2) of this regulation.

(2) In either of the situations described in §A(1) of this regulation, the election judge checking in or otherwise assisting the voter shall sign and date, on the back of the form, an endorsement indicating that the voter was:

(a) Unable to sign the voter's name; and

(b) If the voter was unable to sign the voter authority card, found qualified to vote by that election judge.

**B. Assistance Needed to Cast Ballot.**

(1) This section applies when, because of a physical disability or an inability to read or write English, a voter requests assistance in marking or casting the ballot or in filling out a provisional ballot application.

(2) Selection of Individual to Assist.

(a) As provided in Election Law Article, Annotated Code of Maryland, the voter may select anyone to assist the voter,

except:

E. The voter's employer;

F. The voter's union representative;

G. An officer or agent of the voter's employer or union;

H. For a voter casting a provisional ballot, a candidate who is on the voter's ballot; or

I. A challenger or watcher who has been designated as such for this election.

(b) If the voter declines to select an individual to assist the voter, two election judges representing different political parties shall assist the voter.

C. The election judges or person assisting the voter shall complete the Voter Assistance Form and the information required by COMAR 33.07.05.

D. Assistance provided under this regulation shall be limited to:

(I) Reading the instructions or the content of the ballot or the application form to the voter; and

(II) As directed by the voter, marking or casting the ballot, operating the voting unit, or completing a provisional ballot.

(3) Name Not on Election Register.

(a) If a voter's name does not appear in the election register, the election judges shall follow the procedures specified in the election judges' manual.

(2) When providing instruction to election judges, the election director shall comply with the procedures required by COMAR 33.07.05.03B.

D. Powers of Attorney. The right to vote may not be delegated to any other person, whether by power of attorney or otherwise.

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**.07 Identification Requirements.**

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H. Scope. This regulation applies only to an individual who:

- (1) Registered to vote in Maryland after January 1, 2003;
- (2) Submitted the voter registration application by mail or is required to provide personal identification information to complete a verification inquiry under COMAR 33.05.04.04;
- (3) Is voting in Maryland for the first time after January 1, 2004; and
- (4) Is voting in person at an early voting center.

I. Definitions. In this regulation, the following terms have the meanings indicated:

- (1) "MVA" means the Motor Vehicle Administration.
- (2) "VRA" means voter registration application.

**.07 Identification Required.** Except as provided in §D of this regulation, an individual covered by this regulation shall present personal identification information on the request of an election judge.

**.08 Requirement Satisfied.** Personal identification information is not required at the time of voting if:

A. The State Board has matched with an existing State identification record the individual's name, date of birth, and the MVA identification number or at least the last four digits of the Social Security number provided by the individual on or with the VRA; or

- (2) The individual has previously submitted to the local board a copy of personal identification information.

E. Issuance of Provisional Ballot. If an individual covered by this regulation does not present the required personal identification information, an election judge shall offer the individual a provisional ballot application and, upon completing the application, the individual shall be issued a provisional ballot under COMAR 33.16.

**J. Challengers and Watchers.**

(1) Designating Entities. The procedures specified in COMAR 33.07.07.01 apply to designating entities appointing challengers or watchers for early voting.

(2) Permissive Activities of Accredited Challengers or Watchers. An accredited challenger or watcher may perform the activities defined in Election Law Article, § 10-311(b), Annotated Code of Maryland, and COMAR 33.07.07.02.

(3) Prohibited Acts of Challengers or Watchers. The prohibited acts and removal process specified in COMAR 33.07.07.03 apply during early voting.

- (4) Election Judges. The requirements for election judges specified in COMAR 33.07.07.04 apply during early voting.

**K. Challenging Voters.**

(1) The process specified in COMAR 33.07.08 for challenging voters applies during early voting.

(2) Grounds for Challenge. A challenger may challenge an individual's right to vote only if the challenger has a reasonable basis for asserting that the individual seeking to vote is not the registered voter that the individual claims to be.

(3) Challenge Record.

- In General. If a challenge is made to a voter's identity and the challenged individual does not present any of the forms of identification specified in Election Law Article, § 10-312(a)(2), Annotated Code of Maryland, the Chief Judge or Chief Judges shall record the proceedings on an identity challenge record, in the form that the State Administrator prescribes.

- Contents. The form shall contain appropriate places for:

- The challenger and the challenged voter to sign an oath or affirmation, under penalties of perjury, that the individual's responses and statements will be the truth;

- The signature of the Chief Judge who administered each oath; and

- The reason given for the challenge.

**.10 Electioneering.**

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J. Electioneering - Election Offices. Electioneering is prohibited within the offices of a local board or the State Board on each day of early voting.

K. Clothing, Buttons, etc., in Polling Place.

(1) In General. Except as specified in §8(2) of this regulation, an individual, including any candidate, watcher, or challenger, may not enter the No Electioneering Zone outside a polling place while visibly wearing or carrying any clothing, button, sticker, sign, or other paraphernalia that indicates support or opposition to a candidate, question, or contest.

(2) Exception. This regulation does not apply to clothing, buttons, or stickers worn by a voter who, without lingering, enters the polling place, votes, and then leaves.

C. No Electioneering Zone.

(1) Except as provided in §C(2) of this regulation, a No Electioneering Zone for an early voting center is established in accordance with Election Law Article, § 16-206(b), Annotated Code of Maryland.

(2) If an early voting center is located in a multiuse facility, the No Electioneering Zone is 100 feet from the space in which early voting is being conducted .

**.09 Exit Polling.**

A. In General. Exit polling, whether by questionnaire or interview, is permitted within the No Electioneering Zone outside an early voting center, subject to the conditions specified in §8 of this regulation.

B. Conditions. A pollster:

- (1) May not enter the voting room;
- (2) May not ask questions of a voter until the voter has left the voting room;
- (3) Shall inform each voter being polled that the voter's participation is voluntary; and
- (4) May not electioneer.

C. Notice Requested.

(1) Polling organizations are requested to provide the State Administrator or the election director with a list of those polling places that they intend to cover, so that the election judges can be informed.

(2) Failure to provide this information, however, does not in any way diminish or otherwise affect the rights granted by this regulation.

**Administrative History**

Effective date: April 19, 2010 (37:8 Md. R. 624)

Regulation .05 amended effective September 6, 2010 (37:18 Md. R 1216)

Regulation .068 amended effective September 6, 2010 (37:18 Md. R. 1215)

Chapter revised effective March 19, 2012 (39:5 Md. R. 384)

## Appendix 5

### Article – State Government

#### §8-501.

(a) A member of a State board or commission appointed by the Governor who fails to attend at least 50% of the meetings of the board or commission during any consecutive 12-month period shall be considered to have resigned.

(b) Not later than January 15 of the year following the end of the 12-month period the chairman of the board or commission shall forward to the Governor:

(1) the name of the individual considered to have resigned; and

(2) a statement describing the individual's history of attendance during the period.

(c) Except as provided in subsection (d) of this section, after receiving the chairman's statement the Governor shall appoint a successor for the remainder of the term of the individual.

(d) If the individual has been unable to attend meetings for reasons satisfactory to the Governor, the Governor may waive the resignation if the reasons are made public.