



# MARYLAND 20-20 WATCH

[www.maryland20-20warch.org](http://www.maryland20-20warch.org)

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## **Mission of the Baltimore City Board of Elections**

The Board of Elections is authorized by the Public General Laws of Maryland. The Board is empowered to make rules consistent with State laws to ensure the proper and efficient registration of voters and conduct of elections.

## **Mission of the State Board of Elections**

To provide all eligible citizens of the State convenient access to voter registration; to provide all registered voters accessible locations in which they may exercise their right to vote, to ensure uniformity of election practices; to promote fair and equitable elections; and to maintain registration records, campaign fund reports, and other election-related data accurately and in a form that is accessible to the public.

### **Maryland Election law Article § 2-101**

(c) (1) Each member of the State Board shall:

(v) be subject to removal by the Governor for incompetence, misconduct, or other good cause, upon written charges filed by the Governor with the State Board and after having been afforded notice and ample opportunity to be heard.

### **Maryland Election law Article § 2-102**

(a) The State Board shall manage and supervise elections in the State and ensure compliance with the requirements of this article and any applicable federal law by all persons involved in the elections process.

(b) In exercising its authority under this article and in order to ensure compliance with this article and with any requirements of federal law, the State Board shall:

- (1) supervise the conduct of elections in the State;
- (2) direct, support, monitor, and evaluate the activities of each local board;
- (3) have a staff sufficient to perform its functions;
- (4) adopt regulations to implement its powers and duties;
- (6) appoint a State Administrator in accordance with § 2-103 of this subtitle;
- (8) canvass and certify the results of elections as prescribed by law;

**Maryland Election law Article § 2-201**

(a) (1) There is a county board of elections in each county of the State.

(2) Each local board and its staff is subject to the direction and authority of the State Board and is accountable to the State Board for its actions in all matters regarding the implementation of the requirements of this article and any applicable federal law.

**(f) The Governor may remove a member for incompetence, misconduct, or other good cause, upon written charges stating the Governor's grounds for dismissal and after affording the member notice and an ample opportunity to be heard.** (emphasis added)

**Maryland Election law Article § 11-403.**

**Security and inspection of voting system.**

(a) *In general.*—(1) Except as provided in subsection (b) of this section, and in accordance with regulations adopted by the State Board, the equipment and documentation of a voting system, including all paper and electronic documentation, shall remain secured following the verification required by § 11-306 of this title until:

(i) the expiration of the period allowed for initiating a recount;

(ii) in the event of a recount, the recount is completed; and

(iii) the resolution of any election contest.

(2) After the expiration of the period specified in paragraph (1) of this subsection, the equipment and documentation of the voting system shall be maintained in accordance with regulations of the State Board.

(b) *Opening of voting system — Conditions.* — A voting system may be opened and the documents and equipment associated with it examined in the presence of the officer having custody of the voting system upon:

(1) the order of any court of competent jurisdiction; or

(2) the direction of any legislative committee charged with investigating a contested election affected by the use of the voting system.

**COMAR 33.07.03.01**

All local boards, their members, attorneys, election directors, staff members, and election judges 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.

**COMAR 33.08.01.02**

**Board Responsibilities**

(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.

**COMAR 33.08.03.02**

**Public Inspection of Ballots and Other Documents.**

Observers and challengers are allowed to visually inspect ballots, provisional ballot applications, and absentee ballot envelopes, and the like, at a reasonable distance, but may not touch them.

**COMAR 33.08.04.08**

**Over-Votes.**

An over-vote in a contest does not invalidate the rest of the ballot, but only the votes cast in that contest. All other votes correctly cast on the ballot shall be counted.

**COMAR 33.09.02.05**

**Registering and Recording Votes.**

A. In General. The voting system shall correctly register and record votes that have been properly voted.

B. Over-Voting or Improper Voting. The voting system may not count the votes in a contest that has been over-voted or otherwise improperly voted.

**COMAR 33.08.05.01**

**Definition.**

A. In this chapter, the following term has the meaning indicated.

B. Term Defined. "Precinct" includes an early voting center.

**COMAR 33.08.05.02**

**Purpose.**

A. The purpose of the verification is to demonstrate and confirm the accuracy of the voting system's tabulation logic.

B. The purpose of the precinct audit is to confirm that the number of ballots cast equals the number of voters who checked-in to vote at a polling place.

C. The purpose of the absentee and provisional ballot audit is to ensure that each accepted ballot met the application and acceptance criteria and conversely that rejected ballots did not meet the criteria.

**COMAR 33.08.05.03**

**Verification and Audit Required.**

A. A local board of canvassers may not certify the results of an election until the verification and audit procedures required in this chapter have been completed for that election.

B. The State Administrator shall establish procedures and reporting formats to guide the verification and audit process.

**COMAR 33.08.05.04**

**Selection of Precincts.**

A. After 8 p.m. on election day, each local board shall randomly select for post-election verification and auditing, the greater of:

(1) Three precincts with at least 300 registered voters; or

(2) 5 percent of all precincts used in the election.

B. Each local board shall:

(1) Select the precincts at an open session of the local board; and

(2) Provide notice of the open session as required under State Government Article, §10-506, Annotated Code of Maryland.

C. Within 3 days of selecting the precincts, the election director shall forward to the State Administrator a list of the selected precincts.

D. The State Administrator may require the local board to conduct the audit and verification procedures on additional precincts.

#### **COMAR 33.08.05.05**

##### **Post-Election Verification.**

A. Touchscreen Voting Unit. For each precinct selected under Regulation .04 using a touchscreen voting unit, the election director shall:

- (1) Obtain the totals tapes from each touchscreen voting unit deployed to the precinct;
- (2) Aggregate for each precinct the results reported on the totals tapes; and
- (3) Compare those aggregated precinct results against the results for that precinct as reported by the Election Management System.

B. Optical Scan Voting Unit. For each precinct selected under Regulation .04, the election director shall:

- (1) Obtain the totals tapes from each optical scan voting unit deployed to that precinct;
- (2) In a manner and format specified by the State Administrator, aggregate the results reported on the totals tapes; and
- (3) Compare those aggregated precinct results against the results for that precinct as reported by the Election Management System.

C. Notification.

- (1) If the verification results and the Election Management System results agree, the election director shall report to the local board of canvassers and the State Administrator accordingly.
- (2) If the verification results and the Election Management System results do not agree:
  - (a) The election director shall notify the State Administrator immediately; and
  - (b) The local board of canvassers may not certify the election until the cause of the discrepancy is discovered, resolved, and the State Administrator has approved the resolution.

#### **COMAR 33.08.05.06**

##### **Post-Election Audit — Precincts.**

A. Automated.

(1) For every precinct in an election, the State Administrator shall produce a report with the following information:

- (a) The number of voters who were checked-in to vote as reported by the electronic pollbooks;
- (b) The number of ballots cast as reported in the Election Management System; and
- (c) The difference, if any, between the number of voters checked-in to vote and ballots cast.

(2) The election director shall conduct the audit procedures under §B of this regulation if the State Administrator's report indicates that the difference between the number of voters checked-in to vote and the number of ballots cast is five or more.

B. Manual.

- (1) The election director shall conduct the audit procedures under this section for each precinct:
    - (a) Selected under Regulation .04 of this chapter; and
    - (b) Identified under §A of this regulation.
  - (2) For each precinct being audited, the election director shall:
    - (a) Hand count the signed voter authority cards associated with each voting unit in the precinct; and
    - (b) Compare the number of signed voter authority cards against the number of ballots cast as reported in the Election Management System.
  - (3) If the number of signed voter authority cards does not match the number of ballots cast, the election director shall:
    - (a) Review other election materials from the precinct to determine the cause of the difference; and
    - (b) Report to the State Administrator the explanation for the difference.
- C. Notification. The election director shall report to the local board and the State Administrator the results of the audit.
- D. Certifying the Election. If the audit demonstrates an unexplained discrepancy between the number of signed voter authority cards and the number of ballots cast and that discrepancy is:
- (1) Less than the vote margin of any contest on the ballot in that precinct, the local board of canvassers shall accept the audit results and certify the election; or
  - (2) Greater than the vote margin of any contest on the ballot in that precinct, the local board of canvassers may not certify the election until any corrective actions required by the State Administrator are completed.

**COMAR 33.08.05.07**

**Post-Election Audit — Absentee and Provisional Voting.**

- A. The State Administrator shall establish the number of absentee and provisional ballots to be audited.
- B. The election director shall randomly select and review:
- (1) Accepted absentee ballots to determine whether each ballot was properly accepted by confirming that:
    - (a) A timely absentee ballot request was received from the voter; and
    - (b) The absentee ballot was timely received as provided under COMAR 33.11.03.08;
  - (2) Rejected absentee ballots to determine whether each ballot was properly rejected by confirming that:
    - (a) The absentee ballot was not timely received as provided under COMAR 33.11.03.08; or
    - (b) The absentee ballot was rejected for another valid reason;
  - (3) Accepted provisional ballots to determine whether each ballot was properly accepted by confirming that:
    - (a) On or before election day, the voter was registered to vote and voted the ballot for the precinct in which the voter resides; and
    - (b) All other applicable acceptance criteria were met;
  - (4) Partially accepted provisional ballots to determine whether each ballot was properly partially accepted by confirming that:
    - (a) On or before election day, the voter was registered to vote but did not vote the ballot for the precinct in which the voter resides; and
    - (b) All other applicable acceptance criteria were met; and
  - (5) Rejected provisional ballots to determine whether each ballot was properly rejected by confirming that:

(a) On or before election day, the voter was not registered to vote; or

(b) The voter's ballot was rejected for another valid reason.

C. Notification. The election director shall provide a copy of the materials reviewed under §B of this regulation to:

(1) The local board of canvassers at the time of certification; and

(2) The State Administrator after certification.

D. Certifying the election.

(1) If the audit demonstrates that an absentee or provisional ballot was improperly rejected, the local board of canvassers shall accept and count the absentee or provisional ballot prior to the certification of the election.

(2) If the audit demonstrates that absentee and provisional ballots were improperly accepted and that discrepancy is:

(a) Less than the vote margin of any contest on the ballot in that county, the local board of canvassers shall accept the audit results and certify the election; or

(b) Greater than the vote margin of any contest on the ballot, the local board of canvassers may not certify until any corrective actions required by the State Administrator are completed.

#### **COMAR 33.10.01.24**

##### **Closing the Polls — In General.**

A. In General. Immediately after the polls are closed, a bipartisan pair of election judges shall perform the closing tasks in accordance with the judges' manual.

B. Judges' Manual. The judges' manual shall provide detailed closing procedures, including:

(1) How to tally voted ballots in the emergency ballot compartment;

(2) How to document the public counter and protective counter totals on the precinct tabulator;

(3) How to end the election;

(4) How to print, sign, and post total reports;

(5) How to remove the memory devices from the voting equipment;

(6) How to remove and seal the ballot transfer bin;

(7) How to seal and store the voting equipment; and

(8) How to return materials to the local board or counting center.

#### **COMAR 33.10.01.25**

##### **Return of Materials from Voting Locations.**

A. In General. The judges' manual shall provide detailed procedures for the secure, orderly, and accountable return of all election equipment and other election materials from voting locations.

B. Return of Priority Items.

(1) These procedures shall provide for the priority handling of:

(a) Memory devices;

(b) Voted ballots;

(c) Keys to access various voting system compartments;

(d) Reports printed from the precinct tabulators; and

(e) Supply bags.

(2) During early voting, the local board shall deliver those priority items that must be transported daily to the local board and shall be responsible for all items while in transit.

(3) For election day, the local board shall follow procedures established by the State Administrator for delivery of priority items.

(4) On delivery of these items to the local board or counting center, the local board shall:

(a) Give the election judges a receipt for the items; and

(b) Provide for the security of the items throughout the counting process.

C. Secure Storage. On their return to the local board or counting center, unused ballots, spoiled ballots, and all materials required for the official canvass shall be placed in secured storage.

#### **COMAR 33.10.02.10**

##### **Registering and Recording Votes.**

A. In General. The System shall record votes accurately.

B. Specific Requirements.

(1) Votes shall be recorded in audit trail memory, both in the voting unit and on the memory card, in two different formats:

(a) As summary totals for each candidate and question; and

(b) As individual ballot images of each voter's selections, randomized so as to protect voter secrecy.

(2) After each voter has voted, the voting unit shall perform a count of the individual ballot images and compare this count to the summary totals in both locations. If the totals do not reconcile, the voting unit shall display an error message on the screen, notifying the election judges to stop using the voting unit for voting and to call for a technician.

#### **COMAR 33.10.02.11**

##### **Reopening Precluded.**

The voting unit shall be maintained so that the voting mechanism cannot be reopened to voting after:

A. The manager card is inserted into the card reader;

B. The election judge's pin number is entered on the screen; and

C. The end election button is pressed.

#### **COMAR 33.16.01.01**

##### **Definitions.**

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

B. Terms Defined.

(4) Regular Ballot.

(a) "Regular ballot" means a ballot that is voted and counted at a polling place.

(b) "Regular ballot" does not include a provisional ballot.

#### **COMAR 33.16.03.01**

##### **In General.**

A. A voter shall be issued a provisional ballot packet if:

- (1) The voter's name is not on the precinct register;
  - (2) The voter is required under COMAR 33.07.06 to provide personal identification information but is unable to present the required identification;
  - (3) The voter's registration status is pending because the voter's driver's license or full or partial social security number could not be verified or was not provided before the precinct register was created and, if the voter appeared to vote during early voting, the voter did not provide the necessary information to complete the verification inquiry required by COMAR 33.05.04.04B;
  - (4) The voter is not eligible to vote a regular ballot because:
    - (a) The precinct register indicates that the voter was issued an absentee ballot or already voted;
    - (b) In a primary election, the voter's party affiliation listed in the precinct register differs from the voter's stated affiliation;
    - (c) The voter indicates, by not signing the change of address affirmation, that the voter changed residence before the close of registration; or
    - (d) During early voting, the individual:
      - (i) Was not a pre-qualified voter; or
      - (ii) Could not provide proof of residency in the county where the individual was attempting to vote;
  - (5) The voter's right to vote is challenged under Election Law Article, §10-312, Annotated Code of Maryland, and the voter was unable to provide one of the forms of identification listed in Election Law Article, §10-312, Annotated Code of Maryland; or
  - (6) The voter votes in an election as a result of a federal or State court order or any other order extending the time established for closing the polls.
- B. An election director may authorize the issuance of provisional ballot packets to ensure that voting continues if there is a technical or administrative issue causing delays in voting.
- C. A voter may receive a provisional ballot packet at an election office or at a polling place.
- D. A voter shall complete the provisional ballot application and vote the ballot while at the election office or polling place where the packet is received.

### **COMAR 33.16.03.03**

#### **Election Day — Responsibilities of Election Judges.**

- A. The chief judges are responsible for and shall oversee provisional voting, including:
- (1) Making sure that all voters who are not eligible to vote a regular ballot are offered a provisional ballot;
  - (2) Supervising the provisional voting area; and
  - (3) Ensuring the security of the provisional ballot bag and returning the ballot bag to the local board on election night.
- B. The election judge assigned to provisional voting shall follow all provisional voting procedures established in the election judges' manual, including:
- (1) Monitoring the provisional voting area and the security of the provisional ballot bag;
  - (2) Completing the election judge section of the provisional ballot application;
  - (3) Instructing voters on how to complete the provisional ballot application and where to deposit the completed provisional ballot packet; and



(4) Reviewing each voter's provisional ballot application to ensure that it is complete and signed.

**COMAR 33.16.04.01**

**Securing Ballots.**

Until the canvass begins, every provisional ballot returned by a voter shall:

- A. Remain sealed in the provisional ballot application envelope; and
- B. Be placed in a secure location to which the public does not have access.

**COMAR 33.16.04.02**

**Pre-Canvass Review.**

A. Before the Canvass.

(1) Complete Application.

(a) The election director shall review the provisional ballot application to determine if the application is complete.

(b) An application is complete if:

(i) Part II of the application is signed by the voter; and

(ii) There is sufficient information in Part I of the application for the election director to determine whether the voter is registered to vote.

(c) A special provisional ballot application for extended voting hours is complete if:

(i) The voter's name is printed on the envelope; and

(ii) The voter signed the oath printed on the envelope.

(d) A special provisional ballot application for same day registration or address change during early voting is complete if:

(i) The registration and oath document is affixed to the provisional ballot application; and

(ii) The voter signed the registration and oath document.

(2) The election director shall determine whether:

(a) The voter is a registered voter;

(b) For a primary election, the voter is affiliated with the political party the voter indicated in Part II of the provisional ballot application;

(c) The voter returned a voted absentee ballot or already voted in the election;

(d) The voter satisfied the verification or identification requirement as provided in §B of this regulation;

(e) The ballot cast by the voter is the correct ballot style for the voter based on the address listed on the provisional ballot application;

(f) The challenge to the voter's identity was valid as provided in §D of this regulation;

(g) If the individual attempted to register and vote during early voting but was not a pre-qualified voter, the individual is eligible to register to vote and provided proof of residency as provided in §E of this regulation;

(h) If the individual attempted to register and vote during early voting but did not provide proof of residency, the individual provided proof of residency as provided in §E of this regulation; and

(i) If the voter attempted to change the voter's address during early voting but did not provide proof of residency, the voter provided proof of Presidency as provided in §E of this regulation.

(3) The election director shall complete the election director section of the provisional ballot application.

(4) The election director shall enter into the voter registration system all of the required information.

**B. Satisfying the Verification Requirement.**

(1) A voter whose registration status is pending satisfies the verification requirement if the voter:

(a) Provides personal identification information if the voter is pending because a previously submitted driver's license or full or partial social security number could not be verified; or

(b) Provides an identification number and the number is verified under COMAR 33.05.04.04 or indicates that the voter does not have an identification number if the voter is pending because the voter had not previously provided a driver's license or full or partial social security number.

(2) Personal identification information or identification number shall be provided:

(a) To an election judge who will record on the provisional ballot application the type of personal identification information the voter provided;

(b) In Part I of the provisional ballot application where the personal identification number is requested; or

(c) To the local board before the start of the provisional ballot canvass.

**C. Satisfying the Identification Requirement.** A voter satisfies the identification requirement if the voter provides personal identification information to:

(1) An election judge who shall record on the provisional ballot application the type of personal identification information the voter provided; or

(2) The local board before the start of the provisional ballot canvass.

**D. Verification of Challenge to Voter's Identity.** To determine whether a challenge to a voter's identity is valid, the election director shall:

(1) Review the voter's signature on the affidavit and compare it to the signature on file with the local board or scanned into the voter registration system; and

(2) If, after reviewing the documents, the challenge is inconclusive, contact the voter and request personal identification information.

**E. Satisfying the Proof of Residency Requirement.** An individual satisfies the proof of residency requirement if the individual provides proof of residency to:

(1) An election judge who shall record the type of proof of residency information the individual provided; or

(2) The local board before the start of the provisional ballot canvass.

**COMAR 33.16.04.04**

**Record of Disposition.**

A. The local board shall record on the back of the provisional ballot application whether the provisional ballot application was accepted, either in full or in part, or rejected and, if rejected, the reason why the application was rejected.

B. This record shall furnish the basis for the information provided through the free access system required by COMAR 33.16.07.04.

**COMAR 33.16.04.05**

**Opening and Ballot Tabulation.**

A. If the local board rejects a provisional ballot application, the provisional ballot application envelope shall remain sealed.

**COMAR 33.16.05.02**

**Start of Canvass.**

A. When Required.

**(1) Except as provided in §A(2) of this regulation, the local board shall start to canvass the provisional ballots at 10 a.m. on the second Wednesday after an election.** (emphasis added)

B. Opening Ballots. The provisional ballot application envelopes and any absentee ballots being canvassed as provisional ballots may not be opened until the start of the canvass.

**COMAR 33.16.05.03**

**Disposition of Provisional Ballot Application.**

A. Election Director Recommendation. The election director shall:

- (1) Present the provisional ballot applications to the local board; and
- (2) Based on the pre-canvass review of the applications, make recommendations to the local board as to whether the provisional ballot applications should be accepted or rejected.

B. Votes Required. The local board shall reject a provisional ballot application only by unanimous vote and as provided in this chapter.

C. Acceptance of Provisional Ballot Application. The local board shall accept a provisional ballot application only if:

- (1) The voter is registered to vote, including a voter whose registration status was pending in the precinct register but who satisfied the verification requirement before the start of the provisional canvass;
- (2) The voter signed Part II of the provisional ballot application;
- (3) A voter who was required under COMAR 33.07.06 to provide personal identification information satisfied the identification requirement before the start of the provisional canvass;
- (4) In a primary election, the party affiliation the voter indicated in Part II of the provisional ballot application is the party affiliation of the voter's record;
- (5) The voter voted a provisional ballot because the precinct register indicated that the voter had been issued an absentee ballot or already voted and the voter did not return a voted absentee ballot or voted again in the election;
- (6) The voter voted a provisional ballot during extended voting hours and the local board has received confirmation from the State Administrator that the order extending voting hours has not been invalidated;
- (7) The voter voted a provisional ballot because the voter's identity was challenged and the local board, after reviewing the affidavits and any other relevant information, has denied the challenge; and
- (8) An individual who was not a pre-qualified voter during early voting was determined to be eligible to vote and satisfied the proof of residency requirement under COMAR 33.16.04.02E; and

(9) A voter who provided an address change during early voting but did not provide proof of residency under COMAR 33.16.04.02E submitted the required proof before the start of the provisional canvass.

D. Full or Partial Count of Provisional Ballot. If the local board accepts the provisional ballot application, the local board shall count:

(1) The entire provisional ballot if the ballot is the correct ballot style for the voter based on the address on the provisional ballot application; or

(2) Only votes for the specific contests for which the voter is entitled to vote based on the address on the provisional ballot application, if the ballot is not the correct ballot style for the voter based on the address on the provisional ballot application.

E. Rejection of Provisional Ballot Application. If the local board does not accept the provisional ballot application as provided in §§B and C of this regulation, the local board shall reject the provisional ballot application.

### **COMAR 33.16.07.02**

#### **Public Information.**

A. Public access to provisional ballot applications prior to the completion of the canvass is prohibited.

B. After the canvass, access to provisional ballot applications for inspection purposes is permitted.

C. Upon request, the State Administrator may provide a list of registered voters who were checked in to vote as provisional voters.