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State Administrator

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Memorandum

To: Members of the State Board of Elections
From: Melissia Dorsey
Date: October 19, 2023
Re: Proposed Regulations for October 26 Meeting

At the October 26 meeting, we will present proposed changes to existing regulations. The accompanying document includes the proposed changes and explanations for each one.

We are proposing changes to the following regulations:

1. 33.07.08.01 – Challenging Voters
2. 33.07.08.01 – Electioneering Polling Place
3. 33.11.03.02 – Absentee Ballots – Issuance and Return – Updating Election Register
4. 33.11.03.08 – Absentee Ballots – Issuance and Return - When are Ballots Timely
5. 33.16.03.01 – Provisional Voting – Issuance of Provisional Ballots
6. 33.17.06.10– Early Voting – Electioneering

If you have any questions before the meeting, please do not hesitate to ask. Otherwise, we are happy to answer your questions at the meeting.

Title 33 STATE BOARD OF ELECTIONS

Subtitle 07 ELECTION DAY ACTIVITIES

Chapter 08 Challenging Voters

Authority: Election Law Article, §§2-102(b)(4) 2-202(b), and 10-312, Annotated Code of Maryland

.01 Designating Entities.

A.-C. (text unchanged)

D. Certificate.

(1)-(2) (text unchanged)

(3) [An original signature on the certificate is not required.] *The signature of the designating entity shall be:*

(i) an original signature, or

(ii) a copy of an original signature.

(4) (text unchanged)

Explanation: The proposed language clarifies the already existing practice of allowing for original signatures and copies of original signatures on challengers and watchers forms. Current practice does not allow for a cursive font to be used as a signature, which this regulation also does not allow.

Chapter 09 Electioneering; Exit Polling

Authority: Election Law Article, §§2-102(b)(4), 2-202(b), and § 16-206, Annotated Code of Maryland

.01 Electioneering - Polling Place.

A. At each polling place, one election judge from each principal political party shall be designated by the local board and, acting jointly, shall post signs delineating a line around the entrance and exit of the building that are closest to that part of the building in which voting occurs.

B. Electioneering Boundary.

(1) Except as provided in subparagraph (2) of this section, the line shall be located as near as practicable to 100 feet from the entrance and exit and shall be established after consideration of the configuration of the entrance and the effect of placement on public safety and the flow of pedestrian and vehicular traffic.

(2) In Montgomery County, on approval of the local board, the line may be located at any point between 25 feet and 100 feet from the entrance and exit.

C. The signs shall contain the words "No Electioneering Beyond this Point."

D. An election judge is not required to delineate this area with a physical line on the ground.

[.01] .02 - [.03] .04 (text unchanged)

[.04 Reserved.]

Explanation: The proposed language clarifies that the local board need not draw a no electioneering line on the ground.

Subtitle 11 ABSENTEE BALLOTS

Chapter 03 Issuance and Return

Authority: Election Law Article, §§2-102(b)(4), 2-202(b), 2-305, 9-303, 9-305, 9-306, 9-310, 11-301, 11-302, and 11-304, Annotated Code of Maryland

.02 Updating Election Register.

A. (text unchanged)

B. Voting [at Polls] *in Person* after Receiving Absentee Ballot. A voter who has been issued an absentee ballot may cast a provisional ballot at:

(1) the polling place for the precinct of the voter's residence on election day *or* [.]

(2) *the early voting center in the voter's county of residence during early voting.*

Explanation: HB410 defined polling place in a way that includes only election day polling locations. This regulation addresses what happens if a person appears to vote in person after receiving a mail-in ballot. As currently written, due to the definition in HB410, it does not address a scenario where a person appears to vote in person during early voting. This proposed text extends to early voting centers the applicability of this regulation, which provides that voters cast a provisional ballot if they appear to vote in person.

.08 When Ballots Are Timely.

A. (text unchanged)

B. In General. An absentee ballot is considered to have been timely received only if:

(1) - (4) (text unchanged)

(5) *The ballot is received by an early voting center before the polls close at that polling place on the last day of early voting.*

C. (text unchanged)

Explanation: HB410 defined polling place in a way that includes only election day polling locations. This regulation no longer provides an option for timely return of a mail-in ballot at an early voting center. The proposed change allows for timely return to an early voting center.

Subtitle 16 PROVISIONAL VOTING
Chapter 03 Issuance of Provisional Ballot

Authority: Election Law Article, §§2-102(b)(4), 2-202(b), 3-305(e), 9-402, 9-403, 9-404, 9-406, and 11-303(c) and (e), Annotated Code of Maryland

.01 In General.

A. - B. (text unchanged)

C. A voter may receive a provisional ballot packet at an election office or at a polling place *or early voting center*.

D. A voter shall complete the provisional ballot application and vote the ballot while at the election office or polling place *or early voting center* where the packet is received.

Explanation: HB410 defined polling place in a way that includes only election day polling locations. This proposed text clarifies that the voter can receive a provisional ballot application at both election day polling places and early voting centers.

Subtitle 17 EARLY VOTING
Chapter 06 Early Voting Activities

Authority: Election Law Article, §§2-102(b)(4), 2-202(b), 9-406, and 10-301.1, Annotated Code of Maryland

.10 Electioneering.

A. (text unchanged)

B. Clothing, Buttons, etc., in [Polling Place] *Early Voting Center*.

(1) In General. Except as specified in §B(2) of this regulation, an individual, including any candidate, watcher, or challenger, may not enter the No Electioneering Zone outside a [polling place] *early voting center* 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] *early voting center*, 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 *COMAR 33.07.09.01* and 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 entrance closest to* the space in which early voting is being conducted.
(text unchanged)

Explanation: HB410 defined polling place in a way that includes only election day polling locations. Because Election Law§ 16-206(b) only applies to polling locations, the electioneering standards established by election law are now limited to election day polling places. This proposed regulation establishes electioneering practices for both early voting centers. It also clarifies that the local board need not draw a line on the ground.