

**Maryland General Assembly  
Department of Legislative Services**

**Emergency Regulation  
Board of Elections  
(DLS Control No. 20-037)**

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**Overview and Legal and Fiscal Impact**

The regulation repeals a requirement that the local election directors conduct a voting center evaluation program for voting centers established for a special election conducted by mail.

The regulation presents no legal issue of concern.

There is no fiscal impact on State or local agencies.

**Regulation of COMAR Affected**

**Board of Elections:**

Special Elections by Mail: Voting Center Procedures: COMAR 33.21.06.01

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**Legal Analysis**

**Background**

Local election directors are required to implement an early voting center evaluation program. This program also applies to voting centers established for a special election conducted by mail. The April 28, 2020 special general election for the 7th Congressional District will be the first special election conducted by mail in Maryland. The evaluation program must include at least two unannounced visits to each voting center to assess the election judges' compliance with applicable procedures and their general performance. Members of the local boards of elections, local board staff members, independent contractors, or volunteers may be used to make these visits and assessments.

This regulation is part of a package of regulations, with DLS Control Number 20-038E, making changes to election processes in response to the coronavirus pandemic. In the proclamations of March 17, 2020 and April 10, 2020, the Governor exercised his power under § 8-103 of the Election Law Article to make changes to election procedures and processes during a declared state of emergency, primarily by postponing the April 28, 2020 presidential primary election to June 2, 2020 and requiring that most voters cast ballots by mail in the April 28, 2020 special general election in the 7th Congressional District and the June 2, 2020 presidential primary election.

## **Summary of Regulation**

The regulation repeals a requirement that the local election directors conduct a voting center evaluation program for voting centers established for a special election conducted by mail.

## **Legal Issues**

This regulation presents no legal issue of concern.

## **Statutory Authority and Legislative Intent**

The State Board of Elections cites §§ 2-102, 9-503, and 9-506 of the Election Law Article as authority for the regulation. Under § 2-102(b)(4), the State board is broadly authorized to adopt regulations to implement its powers and duties. The remaining cited authority is not relevant to the regulation.

Although not cited by the State board, § 9-507 authorizes the State board to adopt regulations to implement voting by mail in special elections. In addition, the State board indicates that the purpose of the regulation is to limit the number of people in early voting centers to reduce the potential for transmission of the coronavirus in accordance with the Governor's proclamations of March 17, 2020 and April 10, 2020. Therefore, § 8-103, which authorizes the Governor to issue such proclamations during a state of emergency, also provides authority for the regulation.

With the addition of §§ 8-103 and 9-507, the relevant cited authority is correct and complete. The regulation complies with the legislative intent of the law.

## **Emergency Status**

The State board requests emergency status beginning April 14, 2020 and expiring July 31, 2020. This emergency period is within the normal time frames approved by the Joint Committee on Administrative, Executive, and Legislative Review. The State board indicates the emergency status is necessary so that the regulation will be in effect for the April 28, 2020 special general election.

## **Technical Corrections and Special Notes**

In response to a suggestion from the Department of Legislative Services, the State board agrees to add §§ 8-103 and 9-507 of the Election Law Article as statutory authority for the regulation.

## **Fiscal Analysis**

There is no fiscal impact on State or local agencies.

## **Agency Estimate of Projected Fiscal Impact**

The State board advises that the regulation has no impact on State or local governments. The Department of Legislative Services concurs.

## **Impact on Budget**

There is no impact on the State operating or capital budget.

## **Agency Estimate of Projected Small Business Impact**

The State board advises that the regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

## **Contact Information**

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