

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	09/28/2015	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 11/13/2015

2. COMAR Codification

Title	Subtitle	Chapter	Regulation
33	16	01	01
33	16	02	05
33	16	03	01, .02
33	16	04	01
33	16	05	03, .04
33	16	06	01

3. Name of Promulgating Authority

State Board of Elections

4. Name of Regulations Coordinator
Erin Perrone

Telephone Number
410-269-2845

Mailing Address

151 West Street

City **State** **Zip Code**
Annapolis MD 21401

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erin.perrone@maryland.gov

5. Name of Person to Call About this Document
Nikki Charlson

Telephone No.
410-269-2853

Email Address
nikki.charlson@maryland.gov

6. Check applicable items:

- New Regulations
- Amendments to Existing Regulations
Date when existing text was downloaded from COMAR online: 09/01/2015.
- Repeal of Existing Regulations
- Recodification
- Incorporation by Reference of Documents Requiring DSD Approval
- Reproposal of Substantively Different Text:
:
Md. R
(vol.) (issue) (page nos) (date)
Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

- OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.
- OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Jeffrey Darsie, Assistant Attorney General, (telephone #410-576-6356) on 09/15/2015. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Linda H. Lamone

Title

Telephone No.

Date

09/24/2015

**Title 33
STATE BOARD OF ELECTIONS**

Subtitle 16 PROVISIONAL VOTING

33.16.01 Definitions; General Provisions

Subtitle 16 PROVISIONAL VOTING

33.16.02 Provisional Voting Documents and Supplies

Subtitle 16 PROVISIONAL VOTING

33.16.03 Issuance of Provisional Ballot

Subtitle 16 PROVISIONAL VOTING

33.16.04 Pre-Canvass Procedures

Subtitle 16 PROVISIONAL VOTING

33.16.05 Canvass of Ballots — Procedures

Subtitle 16 PROVISIONAL VOTING

33.16.06 Canvass of Ballots — Rejecting Ballots

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

Notice of Proposed Action

□

The State Board of Elections proposes to amend Regulation .01 under COMAR 33.16.01 Definitions; Provisions; amend Regulation .05 under COMAR 33.16.02 Provisional Voting Documents and Supplies; amend Regulations .01 and .02 under COMAR 33.16.03 Issuance of Provisional Ballot; amend Regulation .01 under COMAR 33.16.04 Pre-Canvass Procedures; amend Regulations .03 and .04 under COMAR 33.16.05 Canvass of Ballots - Procedures; amend Regulation .01 under COMAR 33.16.06 Canvass of Ballots - Rejecting Ballots.

This action was considered by the State Board of Elections at its September 24, 2015 meeting, notice of which was given in accordance with State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to clarify and explain provisional voting processes and procedures.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Erin Perrone, Administrative Assistant, State Board of Elections, PO Box 6486, Annapolis, MD 21401, or call 410-269-2845, or email to erin.perrone@maryland.gov, or fax to 410-974-2019. Comments will be accepted through 12/13/15. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 16

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

No

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

No funds are required to implement these regulations.

E. If these regulations have no economic impact under Part A, indicate reason briefly:

These regulations are technical and administrative in nature.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

These regulations do not impact small business because they are technical and administrative in nature.

G. Small Business Worksheet:

Attached Document:

Title 33 STATE BOARD OF ELECTIONS

Subtitle 16 PROVISIONAL VOTING

Chapter 01 Definitions; General Provisions

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

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) – (3) (text unchanged)

(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.

(5)] "Voter" means an individual who is eligible to receive a provisional ballot packet or applies for and casts a provisional ballot.

Title 33 STATE BOARD OF ELECTIONS

Subtitle 16 PROVISIONAL VOTING

Chapter 02 Provisional Voting Documents and Supplies

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

.05 Other Supplies.

[A.] A local board shall provide each precinct with a table, at least one chair and a privacy booth for voters who are issued a provisional ballot packet.

[B. A local board may also provide a voting booth with a privacy screen for voters who are issued a provisional ballot packet.]

Title 33 STATE BOARD OF ELECTIONS

Subtitle 16 PROVISIONAL VOTING

Chapter 03 Issuance of Provisional Ballot

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

.01 In General.

- A. A voter shall be issued a provisional ballot packet if:
- (1) – (3) (text unchanged)
 - (4) The voter is not eligible to vote a regular ballot because:
 - (a) – (b) (text unchanged)
 - (c) *On election day*, [The] *the* voter indicates, by not signing the change of address affirmation, that the voter changed residence before the close of registration;
 - (d) (text unchanged)
 - (5) – (6) (text unchanged)
- B. – D. (text unchanged)

.02 Before Election Day.

A. At the Local Board Office.

- (1) (text unchanged)
 - (2) The election director may make a determination that the voter is not or will not be on the precinct register due to a clerical error. If there is a clerical error, the election director may correct the error and give the voter the option to:
 - (a) Vote by absentee ballot; [or]
 - (b) If the precinct register has not yet been created, go to the voter's precinct to vote a regular ballot on election day[.]; *or*
 - (c) *If early voting is occurring, go to an early voting center in the voter's county of residence and vote.*
- B. (text unchanged)

Title 33 STATE BOARD OF ELECTIONS

Subtitle 16 PROVISIONAL VOTING

Chapter 04 Pre-Canvass Procedures

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

.01 Securing Ballots.

- Until the canvass begins, every provisional ballot returned by a voter shall:
- [A. Remain] remain sealed in the provisional ballot application envelope[; and
 - B. Be placed in a secure location to which the public does not have access].
- B. Access to Provisional Ballot Applications. Public access to the provisional ballot applications prior to the completion of the canvass is prohibited.*

Title 33 STATE BOARD OF ELECTIONS

Subtitle 16 PROVISIONAL VOTING

Chapter 05 Canvass of Ballots — Procedures

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

.03 Disposition of Provisional Ballot Application.

- A. – B. (text unchanged)
- C. Acceptance of Provisional Ballot Application. The local board shall accept a provisional ballot application only if:
 - (1) (text unchanged)
 - (2) The voter signed [Part II of] the provisional ballot application;
 - (3) – (7) (text unchanged)
- D. – E. (text unchanged)

.04 Record of Disposition.

A. The [local board] *election director* 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. (text unchanged)

Title 33 STATE BOARD OF ELECTIONS

Subtitle 16 PROVISIONAL VOTING

Chapter 06 Canvass of Ballots — Rejecting Ballots

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

.01 Unanimous Vote Required.

A. *In General.* A provisional ballot or a vote on a provisional ballot may not be rejected except by unanimous vote of the local board.

B. *Abstention.* *If a member of the local board abstains from voting, the decision of the local board is unanimous if all other members vote for the same outcome.*

LINDA H. LAMONE
STATE ADMINISTRATOR