

**STATE BOARD OF ELECTIONS**  
**P.O. BOX 6486, ANNAPOLIS, MD 21401-0486 PHONE (410) 269-2840**

William G. Voelp, Chairman  
Justin Williams, Vice Chairman  
Severn E. S. Miller  
Michael G. Summers  
T. Sky Woodward



Linda H. Lamone  
Administrator  
  
Nikki Charlson  
Deputy Administrator

## Memorandum

**To:** Members of the State Board of Elections  
**From:** Melissia Dorsey and Nikki Charlson  
**Date:** June 6, 2023  
**Re:** Proposed Regulations for June 20th Meeting

At the June 20 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. 33.01.01.01 – Definitions
2. 33.01.05.06 – Administrative Complaint Procedure
3. 33.02.03.05 – Judges’ Manual and Training
4. 33.07.11.01 - .02 – Election Judges
5. 33.15.02.01 – New or Changed Precincts
6. 33.15.03.01 - .02 – Polling Places
7. 33.17.05.03 – Early Voting – Election Judges – Training of Election Judges

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 01 DEFINITIONS; GENERAL PROVISIONS**  
**Chapter 01 Definitions**

Authority: Election Law Article, §§ 1-101, 2-102(b)(4), 2-303(g), and 2-303.1(b)(3), Annotated Code of Maryland

**.01 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1) - (17) (text unchanged)

(18) Historically Disenfranchised Communities.

*(a) "Historically disenfranchised communities" has the meaning stated in Election Law Article § 1-101(aa-1), Annotated Code of Maryland.*

*(b) A historically disenfranchised community may be identified by:*

- (i) Demographic and historical data brought to the attention of the State Board showing that a racial, ethnic, or socioeconomic group has been historically subject to voter suppression efforts; or*
- (ii) A factual finding by a court of competent jurisdiction or legislative body with binding authority over the State Board that a racial, ethnic, or socioeconomic group has historically been subject to voter suppression efforts.*

[(18)] (19) - [(41)] (42) (text unchanged)

**Explanation:** The proposed change provides an interpretation of the definition of "historically disenfranchised communities." The interpretation will permit local boards and the State Board to conduct the necessary analysis required by Election Law Article § 2-303.1(b)(3)(vii) & (c)(2) attendant to polling place plans.

**Subtitle 01 DEFINITIONS; GENERAL PROVISIONS**  
**Chapter 05 Administrative Complaint Procedure**

Authority: Election Law Article, §§2-102(b)(4), 2-202(b), 3-602, and 11-305, Annotated Code of Maryland;  
42 U.S.C. §15512(a)

**.06 Complaint – Consolidation, Record, Hearing, and Determination.**

A. - B. (text unchanged)

C. Hearing.

(1) - (3) (text unchanged)

(4) [The State Board shall give at least 5 business days advance notice of the date, time, and place of the hearing] *At least 5 business days before a hearing, the State Board shall provide notice of the date, time, place, and method (in-person or virtual) of the hearing. For good cause, a*

*complainant may request an alternative date, time, or method for the hearing. The requisite notice shall be:*

(a) *Sent [By] by mail to the complainant, each named respondent, and any other interested person who has asked in writing to be advised of the hearing;*

(b) *Posted [On] on the State Board website; and*

(c) *[By posting] Posted in a prominent place, available to the general public, at the offices of the State Board.*

(5) - (20) (text unchanged)

D. (text unchanged)

**Explanation:** The proposed change allows a hearing to be conducted either in person or virtually and allows the complainant to request - for good cause - another date, time, or method for the hearing. We received comments in response to prior proposed changes stating the virtual hearings make this process more accessible to voters with disabilities.

## **Subtitle 02 MEETINGS AND TRAINING**

### **Chapter 03 Judges' Manuals and Training**

Authority: Election Law Article, §§2-102(b)(4), 2-202(b), and 10-206, Annotated Code of Maryland

#### **.05 Judges' Training Program.**

A. - B. (text unchanged)

C. Requirements for Training Compensation.

(1) A local board shall pay *at least* \$50 to an election judge who completes the training program.

(2) - (3) (text unchanged)

**Explanation:** The proposed language is based on the AELR review of changes to this regulation presented at the April Board meeting. To conform the regulation to [HB1200](#) (2023), the language should be "shall pay at least \$50."

## **Subtitle 07 ELECTION DAY ACTIVITIES**

### **Chapter 11 Election Judges**

Authority: Election Law Article, §§2-102(b)(4), 2-202(b), 10-202, 10-203, and 10-205, Annotated Code of Maryland

#### **.01 Definitions.**

A. *In this chapter, the following terms have the meanings indicated.*

B. *Terms Defined.*

- (1) "Previously served" means an election judge who:
  - (a) Was previously appointed in accordance with Election Law Article, §10-203, Annotated Code of Maryland;
  - (b) Completed a term of office; and
  - (c) Served in the capacity of an election judge during the term of office in a statewide primary, general or special election.
- (2) "Term of office" means the time from appointment to the office of election judge through the Tuesday that is 13 weeks before the next statewide primary election.

### **.02 Compensation of Election Judges**

A. *Minimum Compensation.* For each election judge who has not previously served as an election judge, the compensation for each election day and each early voting day actually served shall be at least \$250 per day.

B. *Entitlement to Additional Compensation.* For each election judge who has previously served as an election judge, the compensation for each election day and each early voting day shall be at least \$100 more per day than the compensation provided to an election judge who has not previously served as an election judge.

C. *Limitations on Additional Compensation.* The following individuals are not entitled to additional compensation, unless previously approved by the election director:

- (1) Elections judges serving in their first term of office;
- (2) Elections judges serving a subsequent term of office, but who only acted as a backup election judge during their first term of office;
- (3) Individuals who perform election related tasks but are not sworn in as an election judge and appointed as an election judge.

**Explanation:** The proposed text establishes the minimum compensation to be paid to election judges to reflect the requirements [HB1200](#) (2023), which increased the minimum compensation for election judges. In accordance with HB1200 (2023), the regulation provides for a bonus to be paid to returning election judges and defines a returning election judge for the purposes of such payments.

## **Subtitle 15 PRECINCTS, POLLING PLACES, AND FACILITIES**

### **Chapter 02 New or Changed Precincts**

Authority: Election Law Article, §§2-102(b)(4), 2-202(b), and 2-303(g), Annotated Code of Maryland

[.01. Scope.

A. This chapter applies whenever a local board:

- (1) Creates a new precinct; or
- (2) Changes precinct boundaries.

B. For a special election, a local board may combine polling places established for regularly scheduled elections.]

**.01 Scope.** *This chapter applies whenever a local board:*

- A. *Creates a new precinct; or*
- B. *Changes precinct boundaries.*

**Explanation:** This proposed text clarifies the scope of the article to ensure it is consistent with HB410 (2023), by removing references to consolidation of polling locations for special elections.

## **Subtitle 15 PRECINCTS, POLLING PLACES, AND FACILITIES**

### **Chapter 03 Polling Places**

Authority: Criminal Procedure Article, §11-722; Election Law Article, §§1-101, 2-102(b)(4), 2-202(b), 2-303.1 and 10-101, Annotated Code of Maryland

#### **[.01 Required Accessibility Survey.**

Except in an emergency, a polling place may not be used in any election:

- A. Until it has been fully surveyed, using the State Board's Polling Place Accessibility Survey Form; and
- B. If the building has been substantially modified after it was last surveyed, until it has been fully resurveyed, using the State Board's Polling Place Accessibility Survey Form.]

#### **.01 Required Polling Place Plan.**

A. *Requirements for Polling Place Plan.* A local board shall include in the polling place plan:

- (1) *Evidence that the plan complies with Election Law Article, §10-101(a)(2), Annotated Code of Maryland;*
- (2) *An analysis of how to maximize voter participation in each precinct; and*
- (3) *If the polling place plan proposes to reduce the number of separate buildings used as polling places below the total number of separate buildings used as polling places in the 2018 General Election:*
  - (a) *The address and a description of the location of each affected polling place;*
  - (b) *An analysis of available suitable buildings within the precinct boundary, including the availability of parking and a determination regarding building compliance with the federal Americans with Disabilities Act;*
  - (c) *Of the voters who cast ballots in each affected precinct in the three most recent statewide elections:*
    - (i) *The percentage who voted in person on election day;*
    - (ii) *The percentage who voted by mail;*
    - (iii) *The number who registered to vote on election day; and*

- (iv) the number who voted at an early voting center;
- (d) Proximity of the proposed polling place to a dense concentration of voters in the affected precinct;
- (e) The change in the number of registered voters in the affected precinct from the last statewide election;
- (f) The public transportation options that voters in each affected precinct could use to access the polling place that would serve the precinct under the plan; and
- (g) An analysis of the impact on the ability of historically disenfranchised communities to cast a ballot, including demographic information of the voters in the affected precinct.

**B. Form for Polling Place Plan.**

- (1) The State Board shall:
  - (a) Prescribe a form for a local board to use to provide a proposed polling place plan; and
  - (b) Provide each local board with the form at least 1 year before a primary election.
- (2) Contents of Form. The form shall include questions related to whether the proposed polling place plan meets the requirements defined in §A of this regulation.
- (3) Form Submission. A local board shall submit the form at least 6 months before each statewide primary election. Completion and submission of the form shall constitute fulfillment of a local board's duty to submit a polling place plan pursuant to Election Law Article § 2-303.1(a), Annotated Code of Maryland.

**C. Additional Information.** For each polling place plan, a local board shall submit with the form required in §B of this regulation:

- (1) A Polling Place Selection Form;
- (2) The State of Maryland's Accessibility Survey form for each polling place;
- (3) Documentation of the local board's approval of the polling place plan;
- (4) A polling place diagram;
- (5) Photographs of the interior and exterior of each polling place; and
- (6) Where a plan proposes to reduce the total number of separate buildings used as polling places in the 2018 General Election, documentation to support the determination that all buildings that will no longer be used as polling places are no longer suitable to be used as a polling place.

**D. Approval of Polling Place Plan**

- (1) The polling place plan shall be approved if:
  - (a) It complies with the requirements of §A of this regulation and Election Law Article, §10-101(a)(2), Annotated Code of Maryland; and
  - (b) It will not negatively affect access to voting for historically disenfranchised communities.
- (2) The polling place plan shall be rejected if it does not meet the requirements §A of this regulation and Election Law Article, §10-101(a)(2), Annotated Code of Maryland. The basis for rejection shall be set forth and provided to the local board.

*(3) If the plan is rejected, the local board shall submit a revised polling place plan to the State Board within 15 days after the date on which the State Board rejected the previous plan.*

**[.02 New or Changed Polling Place.**

A. Notice Required. Whenever a local board changes the location of a polling place, the local board shall notify all voters who are affected by the change.

B. How and When—General. Except as provided in §C of this regulation, the local board shall mail this notice to the affected voters before the next election.

C. How and When—Emergencies.

(1) If an emergency prevents compliance with §B of this regulation, the local board shall:

(a) Take whatever steps it considers reasonable to notify affected voters of the change; and

(b) Inform the State Administrator of the change and the steps being taken to notify voters.

(2) The notice required by this section:

(a) Shall include a prominent notice posted at the former polling place; and

(b) May include:

(i) Television, radio, and newspaper announcements and advertisements; and

(ii) Postings on the Internet.]

**.02 New or Changed Polling Place.**

A. *Board Action Required to Change the Location of a Polling Place.* A local board may not vote to change the location of a polling place unless the local board first:

(1) *Holds a meeting to discuss the proposed change; and*

(2) *Provides an opportunity for interested parties to testify on the proposed change at the meeting.*

B. *Notice of Proposed Changes.*

(1) *Each local board shall:*

(a) *Maintain a contact list of individuals and organizations who wish to be notified about local board meetings at which proposed changes to the locations of polling places will be discussed; and*

(b) *Enable individuals and organizations to register for the contact list.*

(2) *At least 14 days before the meeting required by §A of this regulation, the local board shall provide written notice of the meeting to:*

(a) *Each individual and organization on the contact list; and*

(b) *The following elected officials:*

(i) *County Executive or Mayor of Baltimore City, if applicable;*

(ii) *County Commissioner or County Council member elected by voters in the precinct(s) with the current polling place and proposed polling place; and*

*(iii) Member of the General Assembly elected by voters in the precinct(s) with the current polling place and proposed polling place.*

*C. Exception for Emergency Changes. The requirements of §§A and B do not apply if a local board determines that an emergency exists that requires a change to the polling place location during the period beginning 21 days before election day through election day.*

*D. Notice Required to Voters.*

*(1) Whenever a local board changes the location of a polling place, the local board shall notify all voters who are affected by the change.*

*(2) Except as provided in §D(3)(b) of this regulation, the local board shall mail this notice to the affected voters before the next election.*

*(3) How and When - Emergencies.*

*(a) If an emergency prevents compliance with §B of this regulation, the local board shall:*

*(i) Take whatever steps it considers reasonable to notify affected voters of the change; and*

*(ii) Inform the State Administrator of the change and the steps being taken to notify voters.*

*(b) The notice required by this section:*

*(i) Shall include a prominent notice posted at the former polling place; and*

*(ii) May include television, radio, and newspaper announcements and advertisements and postings on the Internet.*

**Explanation:** This proposed text defines the process for local boards to develop a polling place plan. It mirrors the process established for polling place plans and the requirements of HB410 of the 2023 Legislative Session. Further, the proposed regulation provides for the creation of a form by SBE to be used by the local boards to submit the polling place plan, as well as the documentation that must accompany the form. Finally, the regulation updates existing notice requirements for changes to polling places to reflect the new requirements of HB410.

## **Subtitle 17 EARLY VOTING**

### **Chapter 05 Election Judges**

Authority: Election Law Article, §§2-102(b)(4), 9-102(i), 10-206(g), 10-301.1(h), and 12-106(a), Annotated Code of Maryland

#### **.03 Training of Election Judges.**

A. - C. (text unchanged)

D. Judges Training Program.

(1) - (2)

(3) Requirements for Training Compensation.



- (a) A local board shall pay *at least* \$50 to an election judge who completes the training program.
  - (i) - (ii) (text unchanged)
- (b) (text unchanged)

**Explanation:** The proposed language is based on the AELR review of changes to this regulation presented at the April Board meeting. To conform the regulation to [HB1200](#) (2023), the language should be “shall pay at least \$50”.

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## Memorandum

**To:** State Board Members  
**From:** Jared DeMarinis  
**Date:** May 6, 2023  
**Re:** Proposed Changes to Regulations

At the next board meeting, I will propose changes to the following COMAR provision<sup>1</sup> (see enclosure):

- *33.13.21 -Online Platforms*
  - *.01 Scope*
  - *.02 Definitions*
  - *.03 Political Advertiser Purchaser Responsibilities.*
  - *.04 Online Platform Responsibilities.*
  - *.05 Penalties.*
- 33.18.01 – Penalties
  - .02- Civil Penalties

### **Campaign Financing (Subtitle 13)**

#### **.21 Online Platforms**

The proposed regulations clarify the requirements of Election Law Article §13-405 for online platforms and the placements of qualifying paid digital communications. The regulations address the concerns of the court raised in *Washington Post v. MacManus*. 944 F.3d 506 (2019) by limiting the scope of applicability and modifying the definition of the online platform.

The regulations are crafted to increase political speech and open marketplace of political discussion. Qualifying paid digital communications target voters and potential voters in ways that other mediums of political communications can not. Political campaigns may never see or have the ability to address the issues or statements disseminated in the qualifying paid digital communications. The database allows political campaigns, independent expenditure entities and other stakeholders to identify political ads hidden from the general public due to microtargeting and respond in kind. The database is narrowly tailored to limit the financial burden and impact on the online platforms without chilling speech.

<sup>1</sup> Italicized text is new section or language.

### *.01 Scope*

The proposed regulation narrows the application of the statute and regulations to online platforms that are not press organizations or entities.

### *.02 Definitions*

The proposed regulations define key terms of art and narrowly tailors the definition of an online platform with a revenue component.

### *.03 Political Advertiser Purchaser Responsibilities*

The proposed regulations define the responsibilities of the political advertiser purchaser with respect to an online platform. It requires the purchaser to affirmatively notify the online platform that it intends to place a qualifying paid digital communication on the platform to influence voters. The regulation requires the purchaser to provide the platform with the necessary information to be published on the database. Additionally, the regulation mandates the purchaser to notify the State Board of Election within 48 hours if the online platform does not provide a mechanism to identify the placement of qualifying paid digital communications.

### *.04 Online Platform Responsibilities*

The proposed regulation requires the online platform to provide a mechanism to identify a political advertiser purchaser prior to the completion of the commercial transaction for the placement of qualifying paid digital communication. Additionally, the regulation clarifies the requirements for the public database of the qualifying paid digital communications on the online platform and whether the commercial transaction used any intermediary sites such as an ad network for placement.

### *.05 Penalties*

The proposed regulation sets the civil penalties for noncompliance with the statute and regulations.

## **.18 Penalties**

### **.02 Civil Penalties**

In the 2023 General Assembly Legislative session, SB 269/HB 169 prohibited the use of currencies other than United States currency in making monetary contributions, donations, expenditures or disbursements, The proposed regulation sets the civil citation penalties for failure to use United States currency in those situations.

Attachment: Proposed Regulations

**Title 33 State Board of Elections**  
**Subtitle 13 Campaign Financing**  
**Chapter 21 Online Platforms**

*Authority: Election Law Article, §§1-101, 2-102(b)(4), 13-405, Annotated Code of Maryland*

*.01 Scope.*

*This chapter does not apply to a press organization, or a website owned or controlled by a press organization.*

*.02 Definitions.*

*A. In this chapter, the following terms have the meanings indicated.*

*B. Terms Defined.*

*(1) "Ad network" means any entity whose business is to facilitate the placement of advertisements on behalf of a third party for a fee by buying or selling directly or indirectly advertisement space on third party online platforms, websites, software applications or social media sites seeking to host advertisements.*

*(2) Online Platform.*

*(a) "Online platform" has the meaning stated in Election Law Article, §1-101(dd-1), Annotated Code of Maryland*

*(b) For the purposes of this chapter an "online platform" must have \$10 million or greater in annual gross revenue.*

*(3) "Political advertiser purchaser" means any of the following to the extent it seeks to make a qualifying paid digital communication on an online platform:*

*(a) A political committee;*

*(b) A candidate;*

*(c) A person required to register to file an independent expenditure report pursuant to Election Law Article, §13-306, Annotated Code of Maryland;*

*(d) A person required to register to file an election communication report pursuant to Election Law Article, §13-307, Annotated Code of Maryland;*

*(e) A participating organization;*

*(f) An out-of-State political committee required to file a campaign finance report;*

*(g) An agent as defined in COMAR 13.07.07.01;*

*(h) A foreign principal as defined in Election Law Article, §13-236.1, Annotated Code of Maryland; and*

*(i) An individual required to register with the Attorney General of the United States pursuant to 22 U.S.C. §§ 611 – 621, the Foreign Agent Registration Act of 1938.*

*.03 Political Advertiser Purchaser Responsibilities.*

*A. Notice. A political advertiser purchaser shall provide notice that it is disseminating a qualifying paid digital communication to the online platform on which it intends to disseminate that qualifying paid digital communication.*

*B. Required Information. A political advertiser purchaser shall provide to the online platform at the time of the initial point of purchase for the dissemination of a qualifying paid digital communication by the online platform the following information:*

*(1) The name of the political advertiser purchaser and, if an agent, the name of the entity represented by the agent;*

*(2) A telephone number, mailing address and email address of the political advertiser purchaser; and*

*(3) A copy of the qualifying paid digital communication.*

*C. Notice to the State Board. If a political advertiser purchaser is not able to provide the notice required by § A of this regulation because the online platform is not equipped to receive such notice, then the political advertiser purchaser shall provide in writing within 48 hours to the State Board:*

*(1) Notice that the online platform failed to provide a mechanism for disclosing to the online platform that political advertiser purchaser is disseminating a qualifying paid digital communication; and*

*(2) All of the information required in § B of this regulation.*

*.04 Online Platform Responsibilities.*

*A. Notice. An online platform shall provide a mechanism for a political advertiser purchaser to provide notice to the online platform that it is placing a qualifying paid digital communication for dissemination.*

*B. Database Requirements. If the online platform is the initial point of the purchase for the dissemination of a qualifying paid digital communication, the online platform shall make available for public inspection on a website owned or controlled by the online platform in a machine readable database within 48 hours after receiving the notice described in § A of this regulation the following information:*

- (1) The date of the notice to disseminate the qualifying paid digital communication;*
- (2) The name of the political advertiser purchaser and if the political advertiser purchaser is an agent, the political committee or person responsible for the placement of the qualifying paid digital communication;*
- (3) A telephone number, contact mailing address and email address of the political advertiser purchaser and the political committee or person responsible for the placement of the qualifying paid digital communication; and*
- (4) The total amount paid by the political advertiser purchaser for the distribution or dissemination of the campaign material.*

*C. Online Platforms - Not Insertion Order Point. If the online platform is not the initial point of purchase for the dissemination of a qualifying paid digital communication and receives the qualifying paid digital communication from an ad network, the online platform shall make available for public inspection on a website owned or controlled by the online platform in a machine readable database within 48 hours after receiving compensation for the placement of the qualifying paid digital communication the following information:*

- (1) The date the qualifying paid digital communication was disseminated on its platform; and*
- (2) A link to the database on the website owned or controlled by the online platform that is the initial point of purchase for the dissemination of the qualifying paid digital communication containing the information set forth in §B of this regulation.*

*D. Online Platform – Other Requirements. An online platform in §C of this regulation may provide only the link to the database on the website owned or controlled by the online platform that is the initial point of purchase for the dissemination of the qualifying paid digital communication on its website if:*

*(1) The qualified paid digital communication identifies the website of the database of the online platform that is the initial point of purchase in the authority line of the qualified paid digital communication; and*

*(2) The online platform clearly discloses that the source of the qualified paid digital communication came from an ad network.*

*E. Database Labeling. The database on the website shall be identified as “Political Advertisement Disclosures” on the website and be downloadable.*

*F. Safe Harbor. An online platform may rely on the information provided by the political advertiser purchaser and will not be held liable for failure to include a qualifying paid digital communication on its database if the political advertiser purchaser did not provide notice that the political advertiser purchaser intended to disseminate a qualifying paid digital communication.*

*.05 Penalties.*

*A. Civil Penalties - Political Advertiser Purchaser. A political advertiser purchaser that fails to notify the State Board in a timely manner according to the requirements of this chapter is subject to a civil penalty not exceeding \$5,000.*

*B. Civil Penalties – Online Platform. An online platform that violates this chapter is subject to a civil penalty not exceeding \$5,000.*

**Title 33 State Board of Elections  
Subtitle 18 Violations  
Chapter 01 Civil Penalties**

Authority: Election Law Article, §§2-102(b)(4), 13-235, 13-238, 13-239, 13-250 and 13-604.1, Annotated Code of Maryland

*.02 Civil Penalties.*

A. – J. (Text unchanged)

	1st Offense	2nd Offense	3rd and Subsequent Offenses

<i>K. Failure to make a monetary contribution or donation in United States currency in violation of Election Law Article, §13-238, Annotated Code of Maryland</i>	<i>\$750</i>	<i>\$1000</i>	<i>\$1000</i>
<i>L. Failure to make a monetary disbursement or expenditure in United States currency in violation of Election Law Article, §13-250, Annotated Code of Maryland</i>	<i>\$750</i>	<i>\$1000</i>	<i>\$1000</i>



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## Memorandum

**To:** Members of the State Board of Elections  
**From:** Nikki Charlson and Melissia Dorsey  
**Date:** June 5, 2023  
**Re:** Final Adoption of Regulations for June 20 Meeting

At the June 20 meeting, we will present for final adoption changes approved for publication at the February 23 meeting. The proposed changes were published in the April 7, 2023, edition of the *Maryland Register* (Vol. 50, Issue 7). The public comment period closed on May 8, 2023.

We received a letter with comments from the Disability Rights Maryland, League for People with Disabilities, and the Maryland Developmental Disabilities Council. Their comments accompany this memo and fall into the two general areas:

1. Improved accessibility of the *Administrative Complaint Form*. The organizations recommended offering a fillable PDF, providing the form in multiple languages, and allowing the electronic submission of a completed and notarized form. We recently updated the form and included instructions on how to submit the completed form electronically. The English version of the revised form is posted, and the form is currently being translated into Spanish and will be posted once we receive the translation.
2. Improved accessibility of the hearing process. The organizations recommended allowing virtual hearings. We agree with this change, and although it is not necessary to update the regulations to reflect this, we will propose at the June 20 meeting changes to COMAR 33.01.05.06 to specify that virtual hearings are permitted.

For more information on the proposed changes, please refer to my memo dated February 11, 2023, and the accompanying text of the proposed changes. Please let me know if you would like me to resend the memo or text of the proposed changes.

At the meeting, we will recommend final approval of these proposed regulations. If you have any questions about these regulations before the meeting, please do not hesitate to contact me. I will also be at the next meeting to answer any questions.



Empowerment. Integration. Equality.

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[www.DisabilityRightsMD.org](http://www.DisabilityRightsMD.org)

Tracey Hartman, Director of Special Projects  
State Board of Elections  
151 West St., Suite 200  
Annapolis, MD 21401

Disability Rights Maryland (DRM-Formerly Maryland Disability Law Center) is the state's protection and advocacy agency for people with disabilities. We are mandated to advance the civil rights of all Marylanders with disabilities. Disability Rights Maryland works to increase opportunities for Marylanders with disabilities to be part of their communities through voting by advocating for equitable access to the ballot.

The proposed amendment at 33.01.05.06 would require the State Board of Elections (SBE) to hold a hearing for administrative complaints filed under Title III of the Help America Vote Act (HAVA). This amendment aligns with the statutory language of HAVA, which requires an administrative complaint process and allows for a hearing, if requested.<sup>1</sup> 52 U.S.C. § 21112(a)(2)(E).

In addition to this regulatory change, DRM also encourages SBE to take sub-regulatory actions that would make the complaint process more accessible for persons with disabilities.

First, the SBE should ensure that all voters have the ability to file a complaint. This begins with the complaint form itself. The complaint form on SBE's website must be printed, filled out manually, sworn to and witnessed by a notary public, and physically mailed.<sup>2</sup> This form creates several barriers to persons with disabilities, including people who cannot use a writing instrument. Other barriers, such as requiring the form be printed and mailed, create barriers for people who may not have access to these services because of their income, and people with disabilities are more likely to experience poverty than their non-disabled peers. SBE should revise its complaint form to make it more accessible and easier to use. The SBE can create an accessible PDF form that will allow a voter to type their responses directly on to the form prior to printing and notarization to mitigate at least one barrier to the administrative complaint procedure. SBE could also accept complaints in a variety of forms and formats and explain that to voters interested in submitting a complaint. SBE should also allow for electronic submission of complete and notarized forms.

Second, the SBE should allow complainants to have a hearing virtually or in person. If hearings can only be conducted at the State Board of Elections office in Annapolis, the effect will be to restrict the type of voter who can access the hearing process to those who are able to travel to Annapolis during regular business hours. For example, a wheelchair user who doesn't drive and is located in Garrett County would not be able to participate in the hearing on the record if the hearing were to be held only at SBE in Annapolis. On the other hand, a virtual option would provide the opportunity for the person to have options in the way they can participate in a hearing. Virtual hearings over an accessible platform, such as Zoom or Microsoft Teams, will increase opportunities for voters to participate in a hearing accessible regardless of where they reside in the State and their ability to travel. The opportunity to be heard on a

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<sup>1</sup> DRM is unclear if the amendment is for purpose for clarifying current practice, or if SBE

<sup>2</sup> A more comprehensive review of regulations related to administrative complaints is warranted, as many of the requirements of this process were created by the State of Maryland.



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complaint is an important feature of the HAVA complaint process, and the SBE should offer different options to complainants to allow them to effectively participate in a hearing. During the state of emergency in 2020, the State Board of Elections implemented measures to balance the needs of effective election administration while managing a public health crisis. Those measures prove the State Board of Elections has and can offer a wide variety of options to accommodate the range of circumstances Maryland voters present.

Finally, the Board should ensure access to the administrative complaint procedure is accessible to as many voters as possible, including non-English speaking voters. The State Board should consider translating administrative complaint procedure and forms into various languages voters may speak across the state to promote inclusion and increase language access.

Considering the protections provided by the Help America Vote Act, particularly for voters with disabilities, SBE should take sub-regulatory actions consistent with their obligations under Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act to ensure its services, programs, and activities are accessible for people with disabilities. Should the State Board of Elections need guidance or assistance in developing an accessible hearing process, we would be open to collaborating. Please feel free to contact our Voting Rights Advocate at 443-692-2512 or [SamuelaA@DisabilityRightsMD.Org](mailto:SamuelaA@DisabilityRightsMD.Org).

Respectfully submitted,

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