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Pursuant to State Government Article, §7-206, Annotated Code of Maryland, this issue contains all previously unpublished documents required to be published, and filed on or before July 10, 2023, 5 p.m.

Pursuant to State Government Article, §7-206, Annotated Code of Maryland, I hereby certify that this issue contains all documents required to be codified as of July 10, 2023.

Gail S. Klakring
Administrator, Division of State Documents
Office of the Secretary of State



Title 33 STATE BOARD OF ELECTIONS

Notice of Proposed Action [23-153-P]

The State Board of Elections proposes to:

(1) Amend Regulation .01 under **COMAR 33.01.01 Definitions**;

(2) Adopt new Regulations .01 and .02 under a new chapter, **COMAR 33.07.11 Election Judges**;

(3) Repeal existing Regulation .01 and adopt new Regulation .01 under **COMAR 33.15.02 New or Changed Precincts**; and

(4) Repeal existing Regulations .01 and .02 and adopt new Regulations .01 and .02 under **COMAR 33.15.03 Polling Places**.

This action was considered by the State Board of Elections at its June 20, 2023, meeting, notice of which was given in accordance with General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to:

(1) Provide an interpretation of the definition of “historically disenfranchised communities;”

(2) Define a returning election judge;

(3) Define the compensation of election day election judges;

(4) Clarify the scope of Subtitle 15, Chapter 2 to ensure it is consistent with Ch. 157, Acts of 2023; and

(5) Define the process, form, and content for local boards to develop a polling place plan and process to change polling place locations.

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 Nikki Charlson, Deputy Administrator, State Board of Elections, 151 West Street, Suite 200, Annapolis, MD 21401, or call 410-269-2843, or email to DL_regcomments_SBE@maryland.gov. Comments will be accepted through August 28, 2023. A public hearing has not been scheduled.

Subtitle 01 DEFINITIONS; GENERAL PROVISIONS

33.01.01 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” has the meaning stated in Election Law Article, §1-101(aa-1), Annotated Code of Maryland, and may be identified by:

(a) 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

(b) 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)

Subtitle 07 ELECTION DAY ACTIVITIES

33.07.11 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; and

(3) Individuals who perform election related tasks but are not sworn in as an election judge and appointed as an election judge.

Subtitle 15 PRECINCTS, POLLING PLACES, AND FACILITIES

33.15.02 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.

This chapter applies whenever a local board:

A. Creates a new precinct; or

B. Changes precinct boundaries.

33.15.03 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(c)] 10-101, Annotated Code of Maryland

.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 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) If 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 polling places.

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. *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 or precincts with the current polling place and proposed polling place; and

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

C. *Exception for Emergency Changes.* The requirements of §§A and B of this regulation 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.*

LINDA H. LAMONE
State Administrator of Elections

Notice of Proposed Action

[23-156-P]

The State Board of Elections proposes to:

(1) Adopt new Regulations **.01—.05** under a new chapter, **COMAR 33.13.21 Online Platforms**; and

(2) Amend Regulation **.02** under **COMAR 33.18.01 Civil Penalties**.

This action was considered by the State Board of Elections at its June 20, 2023, meeting, notice of which was given in accordance with General Provisions Article, §3-302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to:

(1) Define the scope of new COMAR 33.13.21 Online Platforms;

(2) Define “ad network,” online platform,” and “political advertiser purchaser”;

(3) Define the responsibilities of a political advertiser purchaser and online platform;

(4) Define the penalties for violations of COMAR 33.13.21; and

(5) Define the penalties for violations of Election Law Article, §§13-238 and 13-250, Annotated Code of Maryland.

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 Nikki Charlson, Deputy Administrator, State Board of Elections, 151 West St., Suite 200, Annapolis, MD 21401, or call 410-269-2843, or email to DL_regcomments_SBE@maryland.gov. Comments will be accepted through August 28, 2023. A public hearing has not been scheduled.

Subtitle 13 CAMPAIGN FINANCING

33.13.21 Online Platforms

Authority: Election Law Article, §§1-101, 2-102(b)(4), and 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” means an online platform as defined in Election Law Article, §1-101(dd-1), Annotated Code of Maryland, and has \$10,000,000 or greater in 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 the 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 may 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.

Subtitle 18 VIOLATIONS

33.18.01 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.

	1st Offense	2nd Offense	3rd and Subsequent Offenses
A.—J. (text unchanged)			
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	\$750	\$1000	\$1000
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	\$750	\$1000	\$1000

LINDA H. LAMONE
State Administrator of Elections