

U.S. ELECTION ASSISTANCE COMMISSION



2012 Election Administration & Voting Survey

Maryland

Statutory Overview

In order to better understand state laws governing federal elections, the U.S. Election Assistance Commission, as part of its biennial Election Administration and Voting Survey, is collecting information on state election laws and procedures. These answers will help EAC to better understand the quantitative data relating to the 2012 general election that we are collecting from all U.S. states and territories.

EAC understands that responding to this Statutory Overview may require significant staff time on the part of your office. Please be assured that we have attempted to minimize the burden, and we appreciate your cooperation in this very important project.

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DIRECTIONS AND EXAMPLE

Please provide your state's legal citation for the responses to these questions (where applicable). Prior to beginning the Statutory Overview, please ensure that "track changes" is turned on; this will provide a record of all changes that are made including insertions, deletions, and formatting changes. To turn on track changes hold down "Control" and "Shift" and "E" at the same time. For additional assistance in working with "track changes" please contact your Technical Assistance point of contact at ICF International.

We have provided you with your answers to the 2010 Statutory Overview. If there has not been a change in your State's laws or legal citation in the response to a question, please mark No Change Since 2010 with an "X" as shown below:

X **No Change Since 2010**

If the response has changed since 2010, please mark Changed Since 2010 with an "X" and modify the answer as needed using track changes. If you need to replace the entire answer, please delete the 2010 response and record your 2012 response between the red bracketed text lines, as described below.

X **Changed Since 2010**

Please answer each question to the best of your ability. If terms are ambiguous or not relevant, please explain why. If a question is not applicable to your state, please explain why. If a definition or term lacks statutory reference but is widely understood in practice, please explain. If election procedures vary at the local level within your state, please explain to the best of your ability.

If state laws are currently enjoined or otherwise blocked from enforcement by a state or federal court, or executive decision, please specify.

Please keep your responses between the red, bracketed text lines. This will help us extract your answers into our central database.

Example:

A1. How does your state define the following terms related to votes and ballots? Please provide your state's legal citation defining these terms, where applicable.

- a. Over-vote

[Begin definition (a) below this line.]

Your answer goes here. You may enter the text directly, or cut and paste from another word processing program.

There is no limit to the length of your response.

[End definition (a) above this line.]

SECTION A: GENERAL

A1. How does your state define the following terms related to votes and ballots? Please provide your state's legal citation defining these terms, where applicable.

a. Over-vote

☒ **No Change Since 2010** ☐ **Changed Since 2010**

2010 Response:

[Begin definition (a) below this line.]

An overvote occurs when a voter selects more than the maximum number of choices for a specific contest. This term is not defined in State statute or regulation.

[End definition (a) above this line.]

b. Under-vote

☒ **No Change Since 2010** ☐ **Changed Since 2010**

2010 Response:

[Begin definition (b) below this line.]

An undervote occurs when a voter either makes no selection for a contest or makes less than the maximum number of selections for a contest. This term is not defined in State statute or regulation.

[End definition (b) above this line.]

c. Blank ballot

☒ **No Change Since 2010** ☐ **Changed Since 2010**

2010 Response:

[Begin definition (c) below this line.]

A blank ballot is a ballot where a voter has made no selections for any contest on the ballot. This term is not defined in State statute or regulation.

[End definition (c) above this line.]

d. Void/Spoiled ballot

☒ **No Change Since 2010** ☐ **Changed Since 2010**

2010 Response:

[Begin definition (d) below this line.]

A spoiled ballot is a ballot on which a voter makes an error or otherwise spoils the ballot. The voter may return the spoiled ballot and be issued another ballot. Neither voided ballot nor spoiled ballot are defined in State statute or regulation, and the term “voided ballot” is not used in Maryland.

[End definition (d) above this line.]

e. Provisional/Challenged ballot

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin definition (e) below this line.]

Provisional ballot is defined as “a ballot that is cast by an individual but not counted until the individual’s qualifications to vote have been confirmed by the local board [of elections].” This term is defined in § 1-101(II) of the Election Law Article, Annotated Code of Maryland.

[End definition (e) above this line.]

f. Absentee

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin definition (f) below this line.]

Absentee ballot is defined as a “ballot not used in a polling place.” This term is defined in § 1-101(a) of the Election Law Article, Annotated Code of Maryland.

[End definition (f) above this line.]

g. Early voting

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin definition (g) below this line.]

This term is not defined in the Election Law Article, but the *Constitution of Maryland*, as amended by Chapter 513 of the Acts of 2007 and ratified by the voters of Maryland in the 2008 General Election, permits voters to vote inside or outside their election districts or wards and up to two weeks before an election.

This constitutional amendment authorizes the Maryland General Assembly to enact legislation related to early voting, but the subsequently enacted law (Chapters 445 of the Acts of 2009) did not define “early voting.”

[End definition (g) above this line.]

h. Active Voter

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin definition (h) below this line.]

An active voter is a voter who registered to vote in Maryland and is not in a “pending” or “inactive” status under the provisions of the National Voter Registration Act of 1994. This term is not defined in State statute or regulation.

[End definition (h) above this line.]

i. Inactive Voter

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin definition (i) below this line.]

An inactive voter is a voter who is registered to vote in Maryland but has not responded to a confirmation notice. While this term is not defined in State statute or regulation, § 3-503 of the Election Law Article, Annotated Code of Maryland, specifies when a voter is placed into inactive status, how a voter is restored to active status, and when a voter is removed from the voter registration list.

[End definition (i) above this line.]

j. Other terms (please specify) _____

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Identify each TERM and definition separately and begin below this line.]

[End TERM(s) and definition(s) above this line.]

A2. Please provide the legal citation for any *significant* changes to election laws or procedures that have been enacted or adopted since the previous Federal election. “Significant” does not include routine or technical changes (such as changes to election

district boundaries or polling place changes). However, EAC would like to learn about any new identification requirements for voters or registrants; changes in eligibility for voting or registering; adoption of alternative voting methods; and other changes that you believe represent a significant change in the way your state runs its elections.

 No Change Since 2010 **X** **Changed Since 2010**

2010 Response:

[Begin response to above question (A2) below this line.]

Online Voter Registration

Chapters 292 and 293 of the Acts of 2011 authorized the State Board of Elections (SBE) to implement an online voter registration system for new voter registrations and updates to existing registrations. There are different requirements depending on whether a user is a domestic, civilian voter or an military or overseas voter (UOCAVA voter).

To use the online voter registration system, a domestic, civilian voter must provide a Maryland driver's license number or State-issued ID card and must consent to use the electronic copy of his or her signature on file with the State's Motor Vehicle Administration (MVA) as his or her signature for the application. A UOCAVA voter must provide the last four digits of his or her social security number and must consent to use his or her social security number as the signature for the application.

Under the law, MVA must transmit – within 5 days of SBE notifying the agency that the individual submitted an application via the online voter registration system – an electronic copy of an individual's signature. SBE is also authorized to take any additional measures it deems necessary to ensure the integrity and accuracy of the voter registration applications submitted via the system and adopt any regulations necessary to administer the system.

The online voter registration system was developed with in-house resources and went live on July 9, 2012. It is available at www.elections.state.md.us, and hundreds of individuals have already used it to register to vote or update existing voter registration records.

Electronic Delivery of Absentee Ballots

In the 2010 elections and the 2012 Primary Election, any absentee voter – including domestic, civilian voter – was able to receive an absentee ballot electronically. In August 2012, the Attorney General's Office advised SBE that, under State law, electronic delivery of absentee ballots should only be permitted for UOCAVA voters, not all voters. SBE adopted this advice, and for the 2012 General Election, only UOCAVA voters were eligible to have absentee ballots electronically delivered.

In response to Hurricane Sandy, however, Governor O'Malley issued an executive order (Executive Order 01.01.2012.26) extending for eligible voters the deadline to request an absentee ballot and allowing these voters to receive an electronic absentee ballot. "Eligible voters" were those voters who had to leave their county of residence due to Hurricane Sandy.

Online Absentee Ballot Marking Wizard

Starting with the 2012 General Election, UOCAVA voters who request an electronic absentee ballot can use an online ballot marking wizard to make selections. (UOCAVA voters will also have the option to print a blank ballot and mark the ballot by hand.) With the wizard, the voter will make selections on the screen and review his or her selections before printing the ballot. The ballot will have the voter's selections marked and include a barcode. During canvassing, local election officials will read this barcode and automatically generate a ballot that can be tabulated by the optical scan voting unit. This process replaces the previous process of manually duplicating ballots.

Due to Executive Order 01.01.2012.26, eligible domestic, civilian voters were able to use the online ballot marking wizard to make selections on their absentee ballots.

Special Elections by Mail

Chapters 677 of the Acts of 2012 authorized Montgomery County to conduct a special election for the Montgomery County Council by mail and vote centers. While this law only applies to a special election to fill a vacancy on the Montgomery County Council, this is the first time that an election in Maryland could be held by mail with accessible vote centers.

[End response to above question (A2) above this line.]

SECTION B: VOTER REGISTRATION

B1. Is your state's voter registration database system best described as a bottom-up, a top-down, or a hybrid? (Note: A bottom-up system generally uploads information retained at the local level and compiled at regular intervals to form the statewide voter registration list. A top-down system is hosted on a single, central platform/mainframe and is generally maintained by the state with information supplied by local jurisdictions. A hybrid is some combination of both systems described above.)

☒ **X** **No Change Since 2010** ☐ **Changed Since 2010**

2010 Response:

[Begin response to above question (B1) below this line.]

Maryland's statewide voting system is a top-down system.

[End response to above question (B1) above this line.]

If your state uses a bottom-up or hybrid system, how often do local jurisdictions transmit registration information to the state list?

☒ **X** **No Change Since 2010** ☐ **Changed Since 2010**

2010 Response:

[Begin response to above clarification question to B1 below this line.]

n/a

[End response to above clarification question to B1 above this line.]

B2. Please describe the process used in your state to move voters from the active list to the inactive list, and from the inactive list to the active list. Is a different process used for UOCAVA voters?

☒ **X** **No Change Since 2010** ☐ **Changed Since 2010**

2010 Response:

[Begin response to above question (B2) below this line.]

If a voter fails to respond to a confirmation notice, the voter's name is placed into inactive status on the State's voter registration list. *See* § 3-503, Election Law Article, Annotated Code of Maryland. A confirmation notice is defined as a notice, approved by the State Board, that is sent by forwardable mail with a return card. *See* § 3-502(a)(2), Election Law Article.

If an election official receives any information that a voter registered in Maryland has moved to a different address in Maryland, the appropriate election officials shall change the voter's record and send the voter a confirmation notice. *See* § 3-502(b), Election Law Article.

If it appears from information from the United States Postal Service or from agencies handling condemnations and razings that a voter has moved to a different address outside of Maryland, the election official in the county where the voter most recently resided in the State shall send the voter a confirmation notice informing the voter of his or her potential inactive status. *See* § 3-502(c), Election Law Article.

Upon receipt of the return card, the election director shall make any needed corrections to the voter's record and retain the original registration documents. *See* § 3-502(d), Election Law Article. The election director may not remove a voter on the grounds of an address change unless the voter: (1) confirms in writing that he or she has changed residence to a location outside of Maryland; or (2) voter failed to respond to the confirmation notice and has not voted or appeared to vote in an election during the period from the date of the confirmation notice through the next two general elections. *See* § 3-502(e), Election Law Article. An inactive voter who fails to vote in an election in the period ending with the second general election shall be removed from the State's voter registration list. *See* § 3-503(c), Election Law Article.

A voter who is in inactive status shall be restored to active status after completing and signing any of the following election documents:

1. A voter registration application;
2. A petition to place an individual or question on the ballot, create a new political party, or appoint a charter board;
3. A certificate of candidacy;
4. An absentee ballot application; or
5. A written affirmation of residence completed on election day.

See § 3-503, Election Law Article.

There are no changes to the procedures for UOCAVA voters.

[End response to above question (B2) above this line.]

B3. Please describe your state's process for removing voters from the voter registration rolls (not merely moving them from active to inactive). Please include information regarding notices and confirmations. Are these procedures the same for UOCAVA voters?

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin response to above question (B3) below this line.]

Under § 3-501 of the Election Law Article, Annotated Code of Maryland, a voter may be removed only:

1. At the request of the voter as long as the request is signed by the voter, authenticated by the election director, and in a format acceptable to the State Board or on a cancellation notice provided by the voter on a voter registration application;
2. Upon determining based on information from death records, felony convictions, or condemnation or razing procedures, that the voter is no longer eligible to vote;
3. If the voter has moved out of Maryland, as determined by conducting a confirmation mailing; or
4. If, in accordance with the administrative complaint process, it has been determined that the voter is not qualified to be registered to vote.

For voters who provide an out-of-state address, the election director sends the voter a written notice of the removal. *See* COMAR 33.05.06.03.

If the local board of elections receives a report of a voter's death from an official source (state vital statistics agency), no notice to the voter's family is required. If the report is from a reliable source (*i.e.*, obituary), the election director is required to mail a notice requesting verification of the voter's death. *See* COMAR 33.05.06.05B.

If the local board of elections receives a report of a voter's felony conviction, the election director is required to mail by regular U.S. mail the voter a notice that describes the report received and that he or she will be removed from the voter registration list unless, within 2 weeks after the date of the letter, the voter objects to the removal and shows cause why the removal should not be processed. *See* COMAR 33.05.06.05C.

There are no changes to the procedures for UOCAVA voters.

[End response to above question (B3) above this line.]

B4. Can your state's voter registration database (or equivalent) share information electronically with your state's driver's license agency (for example, to match records or trace changes in address)? Can your voter registration database be similarly linked with databases in any other state or federal agencies? Please describe these links, including any use of database matching to verify voter registration applications.

_____ **No Change Since 2010** X **Changed Since 2010**

2010 Response:

[Begin response to above question (B4) below this line.]

Starting February 2012, MVA electronically transfers data to SBE. When an individual has a driver's license transaction at MVA and the driver indicates that s/he wishes to register to

vote or update his or her voter registration, MVA stores the data needed for voter registration (including an electronic image of the individual's signature) and sends it to SBE nightly. Local election officials access these files and process them as new voter registration applications or changes to existing voter registration records.

This process replaces three labor intensive processes. First, the manual process for the individual to complete and MVA to forward the paper voter registration forms is no longer needed. Second, local election officials electronically process these records; no data entry is required. Lastly, election officials compared MVA data against voter data to identify individuals who indicated an interest in register to vote or update their voter registration information but there was no record in the voter registration system of the individual or the updated information. MVA sent letters to these individuals, and the local election officials manually entered responses to the mailing. This data comparison and mailing are no longer needed since the data is transferred electronically.

There is also a real-time interface between the State's voter registration system and the MVA's driver's license system. This interface is used by local election officials to verify driver's license and MVA-issued identification card numbers when they are processing a new voter registration application. This interface was implemented to comply with the HAVA verification requirement.

Data from the State's Department of Vital Statistics and Judicial Information System is loaded into the State's voter registration system, and the data is used to verify eligibility for voter registration purposes.

[End response to above question (B4) above this line.]

B5. Please describe how your state uses National Change of Address (NCOA). What has been your state's experience with NCOA?

☒ **No Change Since 2010** ☐ **Changed Since 2010**

2010 Response:

[Begin response to above question (B5) below this line.]

Maryland does not use the National Change of Address.

[End response to above question (B5) above this line.]

B6. Please describe your state's voting eligibility requirements as they relate to individuals with a felony conviction. (For example, are convicted felons allowed to vote while in prison or while on parole or probation? Are voting rights automatically restored or does the individual have to apply for a pardon, certificate of eligibility or other similar certificate? Does an individual whose voting rights have been restored have to produce documentation of his/her status when registering to vote?)

☒ **No Change Since 2010** ☐ **Changed Since 2010**

2010 Response:

[Begin response to above question (B6) below this line.]

Effective July 1, 2007, a new law went into effect concerning the restoration of voting rights for individuals previously convicted of a felony. Under this law, individuals previously convicted of a felony are eligible to vote when they have completed serving their court-ordered sentence of imprisonment, including any parole or probation for the conviction. Previously, the individual was not eligible until he or she had completed “parole, community service, restitutions, and fines” in connection with a first conviction and was prohibited for life if he or she was convicted of a second crime or subsequent crime of violence.

If there is information about the individual’s criminal conviction in the State’s voter registration list, the local election officials use the court system’s information to determine whether the applicant has completed his or her sentence and is now eligible to register and vote. If the court system’s information shows that the applicant has completed his or her sentence (including parole and probation), the registration process proceeds. If the court system’s information shows that the applicant has not completed his sentence (including parole and probation), the applicant is placed in “pending” status and the voter registration system automatically generates a letter asking the applicant to contact his or her local board of elections.

[End response to above question (B6) above this line.]

B7. Does your state currently use the Internet in any way to facilitate voter registration? If yes, please describe how your state allows voters to use the Internet in the registration process (e.g., entire registration completed online; completed online but then must be printed, signed, and mailed by voter, etc.).

 No Change Since 2010 X Changed Since 2010

2010 Response:

[Begin response to above question (B7) below this line.]

Yes. Starting in July 2012, eligible Maryland residents can register to vote or update existing voter registration records online. This online registration process is entirely electronic; no printing or mailing is required.

An individual can also use the online voter registration system to complete the application but then print, sign and mail the application. This is the only available option if an individual is a domestic, civilian voter and his or her driver’s license cannot be validated by MVA.

SBE also posts a typeable PDF file of the voter registration application. An individual can type the information into the form, print and sign the form, and mail it his or her local election official.

[End response to above question (B7) above this line.]

SECTION C: ELECTION ADMINISTRATION

C1. Please describe how all votes cast at a place other than the voter's precinct of registration are tabulated (for example, please include descriptions of such votes as absentee ballots, mail-in ballots, votes cast at vote centers, provisional ballots, early voting locations, etc.).

a. Are the votes counted centrally or at the precincts?

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin response to above question (a) below this line.]

Absentee and provisional ballots are counted centrally. Ballots cast on the touchscreen voting units during early voting are accumulated centrally on election day.

[End response to above question (a) above this line.]

b. If centrally tabulated, are the votes redirected to the appropriate precinct for reporting in the canvass?

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin response to above question (b) below this line.]

No.

[End response to above question (b) above this line.]

c. Are the absentee, mail, etc., votes reported separately for each precinct, or are they added to the in-precinct results and reported as just a single number?

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin response to above question (c) below this line.]

Each county has at least four additional "precincts" – one for all absentee ballots counted during the 1st absentee canvass, one for all provisional ballots counted during the provisional canvass, one for all absentee ballots counted during the 2nd absentee canvass, and at least one for votes cast at each early voting center. If a county has

more than one early voting center, the county will have a corresponding “precinct” for each early voting center.

[End response to above question (c) above this line.]

d. How are UOCAVA ballots counted and reported?

☒ **No Change Since 2010** ☐ **Changed Since 2010**

2010 Response:

[Begin response to above question (d) below this line.]

They are counted and reported in one of the absentee “precincts.” If a UOCAVA ballot is counted during the 1st absentee canvass, the ballot will be counted and reported in this “precinct.” Likewise, if an absentee ballot is counted during the 2nd absentee canvass, the ballot will be counted and reported in this “precinct.”

[End response to above question (d) above this line.]

C2. Does your state require a reason for voting absentee, or does your state allow no-excuse absentee voting? (If a reason is required, please provide the legal citation.)

☒ **No Change Since 2010** ☐ **Changed Since 2010**

2010 Response:

[Begin response to above question (C2) below this line.]

Maryland has no-excuse absentee voting.

[End response to above question (C2) above this line.]

C3. Does your state provide for in-person early voting? If so, how is early voting defined? When early voting is used, are the ballots counted at the precinct or at a central location? How are these votes reported?

☐ **No Change Since 2010** ☒ **Changed Since 2010**

2010 Response:

[Begin response to above question (C3) below this line.]

Before election day, a voter can choose to vote during early voting or vote by absentee ballot.

The State’s touchscreen voting system is used for early voting. Results from early voting are printed from the units and loaded into the central database on election day. *See* COMAR 33.17.07.04. There is a “precinct” for each early voting center, and all votes on a

touchscreen voting unit at that early voting center are included in the corresponding “precinct.”

If a voters wishes to vote by absentee ballot, the voter may go to a local board of elections’ office, receive an absentee ballot, and vote the absentee ballot at the office. The ballot is an absentee ballot and therefore would be counted and reported in the “absentee” precinct. (Absentee ballots can also be mailed to domestic, civilian voters and mailed, faxed or delivered via the State Board of Elections’ website to UOCAVA voters.)

[End response to above question (C3) above this line.]

C4. Do any jurisdictions in your state use a vote-by-mail system to replace (and not merely supplement) at-the-precinct voting in any elections?

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin response to above question (C4) below this line.]

No.

[End response to above question (C4) above this line.]

C5. Please list each of the situations that require a provisional ballot in your state. Please provide the relevant legal citation for each situation.

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin response to above question (C5) below this line.]

A provisional ballot is issued under the following circumstances:

1. The voter’s name is not on the precinct register (§ 9-104(b)(2)(i), Election Law Article, Annotated Code of Maryland);
2. The voter is unable to provide the required identification (§ 9-104(b)(2)(iii));
3. The voter’s registration is “pending” because the voter’s identification information could not be verified or was not provided (COMAR 33.16.03.01A(3));
4. An election official determines that the individual is not eligible to vote a regular ballot because:
 - a. The precinct register indicates that the voter was issued an absentee ballot or already voted;
 - b. The voter’s party affiliation (as indicated on the precinct register) differs from the party the voter believes he or she is registered with and therefore the voter is unable to cast the correct party primary ballot;

- c. The voter indicates, by not signing the change of address affirmation, that he or she is not eligible to cast a regular ballot in that precinct; (§ 9-404(b)(2), Election Law Article & COMAR 33.16.03.01A(4));
5. The voter's right to vote is challenged and the voter was unable to provide one of the specified forms of identification (§ 10-312, Election Law Article);
6. The voter votes in an election as a result of a federal or State court order or any other order extending the time established for closing for polls (COMAR 33.16.03.01A(6)); and
7. Used as part of a local board's contingency plan if a polling place is waiting for additional equipment and lines are forming.

[End response to above question (C5) above this line.]

C6. Does your state count provisional ballots of voters who are registered in different precincts, or are those ballots automatically rejected? Please describe the process used by local election officials in determining whether to count a provisional ballot.

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin response to above question (C6) below this line.]

Provisional ballots that are cast in the wrong precinct are accepted. If the voter voted in the wrong precinct, only those contests for which the voter is eligible (based on the address he or she provided on the provisional ballot application) are counted. *See* 11-303(e), Election Law Article and COMAR 33.16.05.03D.

[End response to above question (C6) above this line.]

C7. Please describe your state's laws regarding post-election audits, if any. A post-election audit refers to hand-counting votes on paper records and comparing those counts to the corresponding vote counts originally reported, as a check on the accuracy of election results, and resolving discrepancies using accurate hand counts of the paper records as the benchmark.

If your state has post-election auditing, consider including in your response information such as the unit being audited (e.g., precincts, machines); the sampling method (e.g., fixed percentages); whether there is a specific trigger for the audit; the location of the random selection (e.g., state, county); and the races that can be audited.

 No Change Since 2010 X Changed Since 2010

2010 Response:

[Begin response to above question (C7) below this line.]

Currently, there are two separate post-election audit requirements.

First, there is a post-election audit required by COMAR 33.08.01.10. This audit starts the day after the election to confirm the accuracy of the election. The purpose of the audit is to confirm that the number of ballots cast equals the number of qualified voters who checked-in to vote at a polling place. The first precincts audited are those precincts selected for the 10% verification, and the audit includes reconciling voter authority cards, votes cast, etc.

Second, a voting system verification is required by COMAR 33.10.02.38. This verification is performed to demonstrate and confirm the accuracy of the voting system's tabulation logic. The process includes manually adding the total reports from each voting unit, comparing the manually added totals to the GEMS report, and comparing the verification results to the post-election audit required by COMAR 33.08.01.10.

At its May 2012 meeting, the State Board of Elections began the process to change the post-election verification and audit regulations. The proposed changes were adopted under the State's Administrative Procedures Act, published in the *Maryland Register*, and the 30 day public comment period has ended. The proposed changes are not yet final but may be in effect for the 2012 General Election.

Under the proposed changes, the post-election voting system verification includes manually tallying all of the totals reports from each voting unit in the selected precincts and comparing the manual tallies against the reports generated by the voting system's election management system. Local election officials must conduct this verification on a random selection of 5% of its precincts or 3 precincts, whichever is greater. If a discrepancy is discovered, the discrepancy must be resolved before the election is certified.

The post-election audit has a manual process and an automated process. In the manual audit, local election officials count signed voter authority cards (the form signed by voters during the check-in process) and compare the number of signed cards against the number of ballots cast in 5% of the precincts. If the numbers do not match, local election officials must try to determine the cause of the discrepancy. If the discrepancy cannot be explained but is less than the vote margin in any contest in that precinct, local election officials may certify the election. If the discrepancy is greater than the vote margin in any contest in that precinct, local election officials cannot certify the election until any corrective actions required by SBE are completed.

For the automated audit process, SBE provides a report for 100% of the precincts that compares the number of voters checked-in to vote (from the electronic pollbooks) against the number of ballots cast on the voting units. Local election officials conduct a manual audit on any precinct where there the difference between the number of voters checked in to vote and ballots cast is greater than 5.

The proposed changes also include audit requirements for absentee and provisional ballots. Before the audit, SBE establishes the number of absentee and provisional ballots that will be audited. Local election official randomly select the required number of ballots and determine

whether they were properly accepted or rejected. If one or more ballots should have been counted, the local canvassing board must count the ballot before certifying the election. If one or more ballots should have been rejected but the number of ballots is less than the vote margin in any contest on the ballot, local election officials may certify the election. If the discrepancy is greater than the vote margin in any contest on the ballot, local election officials cannot certify the election until any corrective actions required by SBE are completed.

[End response to above question (C7) above this line.]

C8. Please describe any state requirements for poll worker training.

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin response to above question (C8) below this line.]

State law requires that the State Board of Elections develop an instruction program for pollworkers and oversee the implementation of instruction. The instruction program includes an instruction manual (developed in conjunction with the local boards of elections) and training curricula for each type of pollworker. *See* § 10-206, Election Law Article, Annotated Code of Maryland.

State law also requires that each pollworker attend training. *See* § 10-206. The local boards of elections are required to conduct pollworker training classes before each presidential primary (February) and general (November) election, before the gubernatorial primary election (September), and if the State Administrator deems it necessary, before a gubernatorial general election (November). *See* COMAR 33.02.03.04.

[End response to above question (C8) above this line.]

SECTION D: ELECTION DAY ACTIVITIES

D1. Please describe your state's process for capturing "over-vote" and "under-vote" counts.

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin response to above question (D1) below this line.]

Reports generated by the voting system's election management system are designed to show the number of overvotes (absentee and provisional only) and undervotes.

[End response to above question (D1) above this line.]

D2. What identification does your state require from voters in the following situations:

a. registering to vote;

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin response to above question (a) below this line.]

As required by federal law, an applicant is required to provide on the voter registration application a driver's license number or an identification card number issued by the Maryland Motor Vehicle Administration (MVA). If the applicant does not have a driver's license or ID card issued by the MVA, the applicant is required to provide at least the last four digits of his or her social security number.

[End response to above question (a) above this line.]

b. casting an in-person ballot;

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin response to above question (b) below this line.]

Generally, identity is established by asking the individual checking in to vote for his or her name, address and month and date of birth. *See* § 10-310 of the Election Law Article. There are, however, three categories of individuals who will be asked to provide additional identification information before voting for the first time:

1. Voters who: (a) registered to vote by mail after January 1, 2003, and before December 31, 2005; (b) either did not provide a driver's license or social security number or provided a number but it could not be verified; and (c) did not provide other identification information. *See* COMAR 33.07.06.04.
2. Applicants who: (a) submitted a voter registration application after January 1, 2006; (b) provided a driver's license, ID card number issued by the MVA, or social security number that could not be verified; and (c) have not provided other identification information. *See* COMAR 33.07.06.04. These applicants are asked to provide one of the following forms of identification before voting for the first time:
 - i. Current and valid photo identification (defined by COMAR 33.01.01.01B(14) as a Maryland driver's license, an MVA-issued identification card, a student ID card, an employee ID card, a military ID card, a U.S. passport, and any other State or federal government-issued identification card); or
 - ii. A copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the applicant.
3. Applicants who: (a) submitted a voter registration application after January 1, 2006; (b) and did not provide a driver's license, ID card number issued by the MVA, or full or partial social security number. These applicants are asked to provide one of these numbers on their provisional ballot application so that the number can be verified.

[End response to above question (b) above this line.]

c. casting a mail-in or absentee vote;

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin response to above question (c) below this line.]

Same as the answers in (2)(b) above.

[End response to above question (c) above this line.]

d. casting a ballot under UOCAVA;

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin response to above question (d) below this line.]

If a voter authorized to vote an absentee ballot under UOCAVA registered to vote by mail after January 1, 2003, and before December 31, 2005, is not required to show identification or provide additional information before voting for the first time.

If an individual authorized to vote an absentee ballot under UOCAVA registered to vote after January 1, 2006, he or she is treated the same as any other voter registration applicant. That is, he or she must provide a driver's license or ID number issued by the MVA or a social security number and the number must be verified. If the number does not verify, the applicant must provide the identification information listed in (b)(2) above. If the applicant did not provide a number on the application, he or she must provide a number and that number must be verified.

[End response to above question (d) above this line.]

e. any other stage in registration or voting process in which identification is required (please specify).

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin response to above question (e) below this line.]

None.

[End response to above question (e) above this line.]

D3. Please describe your state's laws regarding access to the polling place for election observers. Election observers are people allowed inside the polling place who are not poll workers, election officials or voters. If decisions on access to observers are left to local jurisdictions, please explain.

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin response to above question (D3) below this line.]

Section 10-311(a) of the Election Law Article, Annotated Code of Maryland, authorizes the following entities to designate a registered voter as an accredited challenger and watcher: (1) the State Board of Elections for any polling place in Maryland; (2) a local board for any polling place located in the county of the local board; (3) a candidate; (4) a political party;

and (5) any other group of voters supporting or opposing a candidate, principle, or proposition on the ballot (interpreted to mean a “political committee” formed under § 13-207 of the Election Law Article).

Section 10-311(b) provides accredited challengers and watchers with the right to: (1) enter the polling place one-half hour before the polls open; (2) enter or be present at the polling place at any time when the polls are open; (3) remain in the polling place until all tasks associated with closing the polls are completed; (4) maintain a list of registered voters who have voted or individuals who have cast provisional ballots and take the list outside of the polling place; and (5) enter and leave a polling place for the purpose of taking outside of the polling place information that identifies registered voters who have cast ballots (regular or provisional).

Non-accredited challengers or watchers may only enter a polling place to challenge the identify of a voter (only if there is a reasonable basis for asserting that the individual seeking to vote is not the registered voter that the individual claims to be) and must leave the polling place as soon as a majority of the election judges decides the right to vote of the voter challenged by the challenger or watcher. *See* § 10-311(e), Election Law Article and COMAR 33.07.07.02.

[End response to above question (D3) above this line.]

SECTION E: OTHER

E1. Under HAVA, Section 402, states are required to establish and maintain administrative complaint procedures to remedy grievances. Has your state revised its administrative complaint procedures since they were first implemented? If so, how?

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin response to above question (E1) below this line.]

Yes. COMAR 33.01.05.06 was amended to address shortcomings identified during previously conducted administration complaint hearings. Amendments included expanding the time to schedule a hearing, limiting witnesses to those individuals called by either the complainant or respondent, requiring parties to provide the hearing officer and other parties a list of witnesses the party intends to call and documents or other evidence the parties intend to present, and other administrative changes. (These changes were permanently adopted effective March 9, 2009.)

[End response to above question (E1) above this line.]

E2. Please add any additional comments or information about your state's election administration processes that would help to inform the EAC's interpretation of your data.

 X No Change Since 2010 Changed Since 2010

2010 Response:

[Begin response to above question (E2) below this line.]

[End response to above question (E2) above this line.]

* The information collection associated with the Election Administration and Voting Survey is required for the EAC to meet its statutory requirements under the Help America Vote Act (HAVA) of 2002 (42 U.S.C. 15301), the National Voter Registration Act (NVRA) (42 U.S.C. 1973gg-1 et seq.), and the Uniformed and Overseas Citizens Absentee Voters Act (UOCAVA) (42 U.S.C. 1973ff-1). Respondent's obligation to reply to this information collection is mandatory as required under NVRA (42 U.S.C. 1973gg-1 et seq.) and UOCAVA (42 U.S.C. 1973ff-1). This part of the information collection is being requested to help the EAC to better understand state laws governing federal elections. Respondents include the fifty states, the District of Columbia, and the U.S. Territories. This information will be made publicly available on the EAC website (www.eac.gov). According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not

required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is OMB Control No. 3265-0006 (expires 5/31/2013). The time required to complete this information collection is estimated to average 59 hours per state response. This estimate includes the time for reviewing the instructions, gathering information, and completing the form. Comments regarding this burden estimate should be sent the U.S. Election Assistance Commission – 2012 Election Administration and Voting Survey, 1201 New York Avenue, Suite 300, Washington, DC 20005.