

U.S. ELECTION ASSISTANCE COMMISSION



2010 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 2010 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 2008 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 2008 with an "X" as shown below:

 X No Change Since 2008

If the response has changed since 2008, please mark Changed Since 2008 with an "X" and modify the answer as needed using track changes. If you need to replace the entire answer, please delete the 2008 response and record your 2010 response between the red bracketed text lines, as described below.

 X Changed Since 2008

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

| X No Change Since 2008 Changed Since 2008

2008 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

| X No Change Since 2008 Changed Since 2008

2008 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

| X No Change Since 2008 Changed Since 2008

2008 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

| X No Change Since 2008 Changed Since 2008

2008 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

☐ No Change Since 2008 ☒ Changed Since 2008

2008 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(~~llk~~) of the Election Law Article, Annotated Code of Maryland.

[End definition (e) above this line.]

f. Absentee

☒ No Change Since 2008 ☐ Changed Since 2008

2008 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

☐ No Change Since 2008 ☒ Changed Since 2008

2008 Response:

[Begin definition (g) below this line.]

~~There are only two kinds of voting in Maryland—polling place voting (includes provisional voting) and absentee voting. Early voting is not defined in State statute or regulation. 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

☒ No Change Since 2008 ☐ Changed Since 2008

2008 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

☒ No Change Since 2008 ☐ Changed Since 2008

2008 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) _____

☒ No Change Since 2008 ☐ Changed Since 2008

2008 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 2008 ☒ Changed Since 2008

2008 Response:

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

~~In 2006, there was a challenge to the statute authorizing early voting. In its resulting opinion (issued after the 2006 General Election), the State’s highest court held that the statute was unconstitutional because it violated the constitutional requirement that a voter vote in his or her election district or ward. One of the consequences of this decision was how provisional ballots are counted in Maryland. As a result, the State revised its policies on canvassing provisional ballots to comply with the court’s decision.~~

~~In 2004 and 2006, consistent with § 11-303(e) of the Election Law Article, if a voter cast a provisional ballot in the wrong precinct, the provisional ballot was “accepted in part” and those contests for which the voter was eligible to vote were counted. In other words, the voter’s votes for statewide contests would be counted as would any other votes for contests that would have appeared on his ballot if he had voted in the correct precinct.~~

~~Starting in 2007 and in effect for the 2008 elections, if a voter cast a provisional ballot in the wrong precinct and that precinct is not in the election district where the voter currently resides, the entire provisional ballot will be rejected. This will result in an increase in the number of rejected provisional ballots and a decrease in the number of “accepted in part” provisional ballots.~~

~~Another consequence of the court’s decision was its questioning the constitutionality of the State’s “no excuse” absentee voting law. The Constitution of Maryland specifies in Art. I, § 3 that absentee voting is available for voters who are “absent at the time of any election . . . and . . . unable to vote personally,” and the court suggested that the statute authorizing “no excuse” absentee voting violated the constitutional provisions. As a result, the State included language on the 2008 absentee ballot application advising potential absentee voters of the oath they will be required to sign if they vote by absentee ballot.~~

~~Effective July 1, 2007, a new law went into effect concerning the restoration of voting rights for individuals previously convicted of a felony. Under the new § 3-102(b) of the Election Law Article, 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.

In the 2008 General Election, the voters of Maryland ratified an amendment to the Constitution of Maryland. The ratification of this constitutional amendment means that the Maryland General Assembly is authorized to enact legislation permitting voters to vote outside their election district or ward and to vote up to two weeks before election day. In the 2009 Legislative Session, the General Assembly enacted changes to the Election Law Article that established early voting starting with the 2010 elections. See Chapter 445 of the Acts of 2009. Early voting for the 2010 elections starts the 2nd Friday before election and continues through the Thursday before the election, except for Sunday when the early voting centers will be closed. The number of early voting centers in each county is based on the number of registered voters, and early voting centers are open for voting from 10 am to 8 pm.

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A second consequence of the ratification of the constitutional amendment impacts how provisional ballots are canvassed. Because the constitutional amendment authorized the General Assembly to enact legislation permitted voters to vote outside their election districts or wards, §11-303(e) of the Election Law Article – a provision previously struck down as unconstitutional – was restored. With §11-303(e) now enforceable, a provisional ballot cast outside of a voter's election district or ward will be accepted and those contests for which the voter is eligible to vote will be counted. (Conversely, those contests for which the voter is not eligible to vote will not be counted.) For the 2010 elections, we expect to see – when compared to the 2008 statistics – a reduction in the number of “rejected” provisional ballots and an increase in the number of partially counted (or “accepted in part”) provisional ballots. (For the 2006 elections, §11-303(e) was in effect and a provisional ballot cast outside of the voter's election district or wards was accepted and only those contests for which the voter was eligible to vote were counted. In 2010, we return to the 2006 standard, and the 2008 statistics are the anomaly.)

There has been recent change to one of the eligibility requirements to register to vote. Prior to June 1, 2010, an individual who is under guardianship for mental disability was not eligible to vote. The General Assembly enacted legislation in the 2010 Legislation Session that changed the eligibility requirement concerning mental guardianship. See Chapters 203 & 204 of the Acts of 2010 and codified as §3-102(b)(2), Election Law Article. Under the new law, a person is not eligible to register to vote if the individual is under guardianship for mental disability **and** a “court of competent jurisdiction has specifically found by clear and convincing evidence that the individual cannot communicate, with or without accommodations, a desire to participate in the voting process.”

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Chapter 271 of the Acts of 2010 changed the deadline for a voter to change his or her party affiliation. Previously, the deadline was 13 weeks before a primary election. With the enactment of this law (codified as §3-303(b) and effective June 1, 2010), the deadline to change party affiliation is 21 days before a primary election, the same day as the deadline to register to vote.

For the 2010 elections, the State Board of Elections will be delivering electronic absentee ballots voters via SBE's voter look-up website. In previous elections, election officials

honored requests for electronic absentee ballots by creating an individual email for each voter. Because of the inefficiencies of creating individual emails, SBE decided to use the existing voter look-up website to deliver absentee ballots. A voter who has requested an electronic absentee ballot will receive an email from SBE with a link to the voter look-up website and a unique ballot tracking number. When the voter is ready to access his or her ballot, the voter logs onto the voter look-up website and when prompted, enters the ballot tracking number. The voter can then print the absentee ballot, oath and all instructions and an envelope template for returning the voted ballot. (Under State law, all absentee ballots must be returned by mail or in person; there is no electronic return of the voted ballot.)

[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 2008 _____ Changed Since 2008

2008 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 2008 _____ Changed Since 2008

2008 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 2008 _____ Changed Since 2008

2008 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?

| No Change Since 2008 X Changed Since 2008

2008 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-~~& C~~.

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 drivers 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.

| **X** No Change Since 2008 _____ Changed Since 2008

2008 Response:

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

There is currently a real-time interface between the State's voter registration system and the Motor Vehicle Administration's (MVA) driver's license system. This interface is used to

verify driver's license and MVA-issued identification card numbers. 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.

We also compare data in the State's voter registration system with data in MVA's database to verify that individuals who indicated an interest in registering to vote or updating their voter registration information but there is no record in the voter registration system of the individual or of the updated information.

[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?

| X No Change Since 2008 Changed Since 2008

2008 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?)

| X No Change Since 2008 Changed Since 2008

2008 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.).

| X No Change Since 2008 _____ Changed Since 2008

2008 Response:

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

Yes. Maryland currently 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 to an election official. Additionally, voters can use an online searchable database to verify their registration status.

[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?

☐ No Change Since 2008 ☒ Changed Since 2008

2008 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?

☒ No Change Since 2008 ☐ Changed Since 2008

2008 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?

☐ No Change Since 2008 ☒ Changed Since 2008

2008 Response:

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

Each county has at least four ~~three~~ additional "precincts" – one for all absentee ballots counted during the 1st absentee canvass, one for all provisional ballots counted during the provisional canvass, ~~and~~ 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 2008 ☒ Changed Since 2008

2008 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 2008 ☒ Changed Since 2008

2008 Response:

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

~~Another consequence of the court's decision in the 2006 challenge to early voting was its questioning the constitutionality of the State's "no excuse" absentee voting law. The Constitution of Maryland specifies in Art. I, § 3 that absentee voting is available for voters who are "absent at the time of any election . . . and . . . unable to vote personally," and the court suggested that the statute authorizing "no excuse" absentee voting violated the constitutional provisions. As a result, the State included language on the 2008 absentee ballot application advising potential absentee voters of the oath they will be required to sign if they vote by absentee ballot.~~

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 2008 ☒ Changed Since 2008

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2008 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.

For the 2010 elections, the State's touchscreen voting system will be used for early voting. Results from early voting will be printed from the units and loaded into the central database on election day. See COMAR 33.17.07.04. There will be a "precinct" for each early voting center, and all votes on a touchscreen voting unit at that early voting center will be included in the corresponding "precinct."

If a voters wishes to vote by absentee ballot, the ~~A~~ voter ~~who is eligible to vote by absentee ballot~~ 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 will also be mailed, faxed or delivered via the State Board of Elections' website.)

[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 2008 Changed Since 2008

2008 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.

| No Change Since 2008 ~~X~~ Changed Since 2008

2008 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)~~~~§2.1(A)(3) of the Guidelines for the Administration of Provisional Voting~~);
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 & ~~§ 2.1(A)(4), Guidelines~~~~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 (~~§ 2.1(A)(6), Guidelines~~~~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.

 No Change Since 2008 X Changed Since 2008

2008 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. correct election district or ward are counted. A provisional ballot cast in the wrong precinct but in the correct election district or ward will be counted; how much of the ballot will be counted depends on the contests for which the voter is eligible to vote. See § 7.4, Guidelines.

When a local board of elections processes a provisional ballot application, it reviews and records the election district or ward and precinct at which the voter voted the provisional ballot and compares it to the election district or ward and precinct of the voter's residence. If the election districts or wards are the same, the provisional ballot is accepted, and the local

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~~board determines the contests for which the voter is eligible to vote and counts the votes cast for those contests. If the election districts or wards are different, the provisional ballot is rejected. See §§ 7.4—7.5, Guidelines.~~

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

C7. Please describe your state's laws regarding post-election audits, if any.

☒ **No Change Since 2008** ☐ **Changed Since 2008**

2008 Response:

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

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 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 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.

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

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

☒ **No Change Since 2008** ☐ **Changed Since 2008**

2008 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 2008 Changed Since 2008

2008 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 2008 Changed Since 2008

2008 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 2008 Changed Since 2008

2008 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 2008 Changed Since 2008

2008 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 2008 Changed Since 2008

2008 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 2008 Changed Since 2008

2008 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.

| No Change Since 2008 X Changed Since 2008

2008 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?

☐ No Change Since 2008 ☒ Changed Since 2008

2008 Response:

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

Yes. COMAR 33.01.05.06 was ~~recently~~ 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 ~~as emergency regulations by the Maryland General Assembly's Administrative, Executive, and Legislative Review Committee~~ effective ~~October 31, 2008~~ March 9, 2009.)

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

E2. The Military and Overseas Voter Empowerment Act (MOVE) was signed into law on October 22, 2009. The MOVE Act contains, among other things, provisions regarding States' methods of communication with UOCAVA voters and UOCAVA ballot transmission.

Please describe your State's processes and procedures for implementing MOVE (including any changes in your State's laws or regulations) as they relate to:

- Protecting the security and integrity of the voter registration and ballot application process, the privacy and personal information of the voter, and absentee ballots. (Sect. 577, 578)
- Designating a means of electronic communication for all voting-related materials to UOCAVA voters. (Sect. 577)
- Establishing a ballot tracking mechanism to allow voters to determine whether their ballots were received by the appropriate election official. (Sect. 580(d))

Also, please describe your State's plans to capture data related to the number of registration applications, ballot applications, and blank ballots transmitted to UOCAVA voters via mail and electronic means (Internet, email, fax) *and* the number of registration applications, ballot applications, and completed ballots returned by UOCAVA voters via mail and electronic means (Internet, email, fax).

This question was not asked in 2008. Please provide your answer below.

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

- Protecting the security and integrity of the voter registration and ballot application process, the privacy and personal information of the voter, and absentee ballots – To the extent that voter information can be protected under the State’s Public Information Act, the information is protected. A voter’s driver’s license number or full, 9-digit social security number are protected from disclosure. See COMAR 33.04.01.02B(6).
- Designating a means of electronic communication for all voting-related materials to UOCAVA voters – The designated means of electronic communications in Maryland are email (info@elections.state.md.us), the State Board of Elections’ website (www.elections.state.md.us), and the State Board of Elections’ fax number (410.974.2019). See COMAR 33.11.01.03. The designated means are included on absentee voting instructions and the corresponding oath for absentee voters. See 33.11.03.03. As the State prints the absentee voting instructions and the envelopes with the oath printed on the back, the inclusion of the designated means are ensured.
- Establishing a ballot tracking mechanism to allow voters to determine whether their ballots were received by the appropriate election official – The State Board of Elections began providing this information in the 2008 elections, and the requirement is now codified in COMAR 33.11.06.03. In addition to providing information about the voted ballots, the voter look-up website includes information about the status of the voter’s absentee ballot application and whether the absentee ballot has been sent.

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As information is not entered into the Statewide voter registration system until a registration form is received, it cannot be used to capture data on the number of voter registration applications transmitted to UOCAVA voters. Capturing this information would require each local board to ask a requesting voter whether he or she is a UOCAVA voter and manually track the number of applications sent. This is unrealistic, especially considering voter registration applications are readily available online and can be obtained without a phone call to an election official.

The data entered into modules in the Statewide voter registration system can be used to capture the following data: (1) the number of ballot applications and blank ballots transmitted to UOCAVA voters; (2) number of registration applications, ballot applications, and completed ballots returned by UOCAVA voters. In the absentee module, the user must enter the type of absentee voter (domestic, civilian absentee voter, overseas military, domestic military, overseas citizen, etc) and the delivery method requested by the voter (mail, in person, email, fax, and agent). When voted ballots are received, they are recorded in the absentee module and the specific voter is given credit for voting. All of these fields are exportable and used to provide statistics to the EAC for its post-election reports.

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

E3. 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.

_____ **No Change Since 2008** _____ **Changed Since 2008**

2008 Response:

[Begin response to above question (E3) below this line.]

[End response to above question (E3) 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 – 2010 Election Administration and Voting Survey, 1201 New York Avenue, Suite 300, Washington, DC 20005.