



## DEPARTMENT DIRECTIVE

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<b>Title:</b> <b>Incarcerated Individual Voting Rights and Procedures</b>	<b>Directive Number:</b> DPSCS.200.0008
<b>Related MD Statute/Regulations:</b> Election Law Article, § 3-102, Annotated Code of Maryland. Correctional Services Article, § 2-501 and § 2-601, Annotated Code of Maryland COMAR 33.01.07 – Voting in Correctional Facilities (Pending Final Action)	<b>Supersedes:</b> DPSCS.200.0008, dated June 21, 2022
	<b>Related ACA and MCCS Standards:</b> None
<b>Related Directives:</b> OPS.280.0001 – Intake Procedures OPS.230.0005 – Release Procedures DPSCS.200.0007 – ADA Title II Non-discrimination and Accommodations for Persons with Disabilities.	<b>Issued Date:</b> March 26, 2024  <b>Effective Date:</b> March 27, 2024
<b>Variance:</b> The Commissioners and Director of Patuxent Institution, and each managing official may issue a policy to implement specific procedures related to this policy.	<b>Number of Pages:</b> 12

**.01 Purpose.**

The purpose of this directive is to establish and maintain election and voting policy and procedure for use within the Department of Public Safety and Correctional Services (Department) correctional facilities.

**.02 Scope.**

This policy applies to all Department correctional facilities with incarcerated individuals who may be eligible to vote in accordance with Election Law Article, § 3-102, Annotated Code of Maryland, as well as to all correctional facilities from which an incarcerated individual may be released.

**.03 Policy.**

It is the policy of the Department to work collaboratively with the State Board of Elections (State Board) and all local boards (local boards) in jurisdictions where Department correctional facilities are located to:

- A. Ensure that an incarcerated individual in the custody of the Department, who is currently in a pretrial status, sentenced to imprisonment for a misdemeanor, or convicted of a felony who is not currently serving a sentence for the felony, is informed of the right and given the opportunity to vote in local, State, and federal elections; and
- B. Ensure that an incarcerated individual serving a sentence for a felony is informed that the incarcerated individual's voting rights will be restored upon release from a Department correctional facility and is provided with a voter registration application at the time of release in accordance with the procedures established in OPS.230.000—Release Procedures.

**.04 Definitions.**

A. In this directive, the following terms have the meanings indicated.

B. Terms Defined.

- (1) “Commissioner” means the Commissioner of Correction and the Commissioner of Pretrial Detention and Services.
- (2) “Correctional facility” has the meaning stated in Correctional Services Article, §1-101, Annotated Code of Maryland: ““Correctional facility” means a facility that is operated for the purpose of detaining or confining adults who are charged with or found guilty of a crime.”
- (3) “Designated election official” means an employee of the State Board, a local board, or an individual designated by the State Board or local board to collect an incarcerated individual's voter registration application, mail-in ballot request form, completed ballot, and any other official election document.
- (4) “Director” means the Director of Patuxent Institution.
- (5) “Election cycle” means the period beginning on the day after the previous general election and ending on the day of the next general election.
- (6) Eligible individual.
  - (a) “Eligible individual” means a person who is a citizen of the United States, a Maryland resident, an incarcerated individual in a Department correctional facility, and is:
    - (i) Being held in a pretrial status; or
    - (ii) Serving a sentence of imprisonment for a misdemeanor offense(s).

- (b) “Eligible individual” does not include an individual convicted of a felony and who is currently serving a sentence of imprisonment for that felony in a Department correctional facility or who is otherwise ineligible to vote under Maryland law.
  - (c) “Eligible individual” includes the meaning of “eligible voter” as stated in Election Law Article, § 1-303.1, Annotated Code of Maryland.
- (7) Incarcerated Individual.
- (a) “Incarcerated individual” has the meaning stated in Correctional Services Article, §1-101, Annotated Code of Maryland which states, “‘Incarcerated individual’ means an individual who is actually or constructively detained or confined in a correctional facility.”
  - (b) “Incarcerated individual” includes the term “inmate” as stated prior to October 1, 2023 in Correctional Services Article, §1-101, Annotated Code of Maryland.
  - (c) “Incarcerated individual” includes the term “incarcerated person”.
- (8) “Managing official” has the meaning stated in Correctional Services Article, §1-101, Annotated Code of Maryland: “‘Managing official’ means the administrator, director, warden, superintendent, sheriff, or other individual responsible for the management of a correctional facility.”
- (9) “Misdemeanor” means a crime not declared by the Maryland General Assembly to be a felony.
- (10) “Pretrial Status” refers to the period of time between the filing of criminal charges against a defendant and the disposition of the charges by the court that has jurisdiction over the defendant.
- (11) Voting information packet (voting packet).
- (a) “Voting information packet” has the meaning stated in COMAR 33.01.07.01.
  - (b) “Voting information packet” is a packet of documents provided by the State Board to eligible individuals, which contains:
    - (i) A Voter Registration Application (VRA) with a foldable, postage-paid mailer on the reverse side;
    - (ii) A Mail-In Ballot Request form (MIBR) with a, postage-paid envelope; and
    - (iii) The applicable instructions for each form.

**.05 Responsibilities.**

**A. Office of the Secretary.**

- (1) The Department's Office of Data Development shall provide the number of eligible individuals in each Department correctional facility to the State Board on or before each of the following dates:
  - (a) December 15 of the year preceding a presidential election year;
  - (b) February 1 of a gubernatorial election year;
  - (c) July 1 of each even numbered year; and
  - (d) In the event of a special election, no later than sixty (60) days before the deadline date to submit a VRA to vote in the special election.
- (2) The lists of eligible individuals identified in §.05A(1) of this directive shall be forwarded to the Commissioner of Correction, Commissioner of Pretrial Detention and Services, and Director of Patuxent Institution to be disseminated to the managing official of each correctional facility.
- (3) Following the delivery of the first eligible individual list for a new election cycle, an updated list of eligible individuals shall be made available to the managing officials at least six times a year on the Doc\$ (X): drive in the "Eligible Voters" folder until the election cycle is complete.

**B. Commissioners and Director.**

- (1) Each Commissioner and the Director shall designate one (1) managing official from Baltimore City and each county where a Department correctional facility is located, to arrange and carry out the required background investigations for designated election officials assigned to collect VRAs, MIBRs, and ballots.
- (2) The Director of Patuxent Institution shall designate one (1) managing official from the facility to ensure that the background investigations are complete for designated election officials assigned by the local board in Howard County.

**C. Managing Officials.**

- (1) The managing official shall designate one individual to be the primary contact person for the local board's designated election officials.
- (2) For each election cycle, a managing official or designee shall:

- (a) Ensure that time-sensitive election notices, deadlines, and promotional information provided by the State Board are posted in incarcerated individual housing and recreation areas to advise incarcerated individuals of the:
    - (i) Voter eligibility requirements;
    - (ii) Right to request a VRA and MIBR; and
    - (iii) Deadlines for returning a VRA, MIBR, and ballot to the correct local board.
  - (b) Access the Doc\$ (X:) drive X:\Eligible Voters to retrieve the most recent eligible individual list for the managing official's facility;
  - (c) Receive and distribute the voting packets to eligible individuals:
    - (i) Within three (3) business days of receipt from the State Board; and
    - (ii) No later than three (3) business days after the initial classification process is completed, if an eligible individual was processed for intake after dissemination of voting packets received in §.05C(1)(a); or
    - (iii) Upon request.
  - (d) Store the State Board voting packets in a secure location prior to distribution to eligible individuals and any extra packets that remain after distribution;
  - (e) Notify the State Board immediately if a facility needs additional voting packets; and
  - (f) Ensure that outgoing election mail is postmarked on the day it was initially received by a Department employee for delivery to the facility's mailroom.
- (3) The managing official or designee shall ensure that:
- (a) Restoration of voting rights notices are posted throughout the facility to inform ineligible incarcerated individuals that upon release they may be eligible to register to vote; and
  - (b) A VRA and information about the restoration of voting rights is included in every incarcerated individual's release envelope in accordance with OPS.230.0005—Release Procedures.
- (4) The managing official or designee shall:
- (a) Designate non-custody staff identified in [§.06C\(2\)](#) to:
    - (i) Assist an incarcerated individual to complete a VRA; and

- (ii) Assist an eligible individual to complete a MIBR and ballot.
  - (b) Provide designated staff with:
    - (i) Training to ensure that designated staff are knowledgeable of the voting procedures;
    - (ii) *Guidelines for DPSCS Support Staff Helping an Individual who is in the Custody of the Department to Participate in the Electoral Process* (Appendix A); and
    - (iii) *The State Board's Voter Registration Volunteer Training and Information Guide* (Appendix B).
  - (c) Review the State Board's *Ballot Drop Boxes: Chain of Custody Procedures for Removal & Return of Election Materials* (Appendix C) and work with local boards to facilitate the collection of VRAs, MIBRs, and ballots;
  - (d) Provide sufficient time and resources to escort eligible individuals to official ballot boxes in order to deposit completed VRAs, MIBRs, and ballots;
  - (e) Ensure the safety and security of designated election officials entering the facilities to collect VRAs, MIBRs, and ballots; and
  - (f) Ensure the security and integrity of the official ballot boxes.
- (5) A managing official shall ensure that a ballot sent from the State or local board to an eligible individual is received and delivered in accordance with the procedures for distribution of legal mail as established in [Executive Directive OPS.250.0001 – Inmate Mail – Mail Room Procedures](#).

**D. State Board—Notifications and Responsibilities.**

- (1) The State Board shall:
- (a) Provide informational posters and flyers that explain voter eligibility requirements and restoration of voting rights (Appendix D);
  - (b) Provide voting packets to each Department correctional facility at least thirty (30) days before the deadline to submit a VRA for a primary, general, or special election;
  - (c) Provide instructions for completion of the VRA, MIBR, and at least thirty (30) days before the deadline to submit a VRA for a primary, general, or special election; and

- (d) If a local board declines to collect completed VRAs, MIBRs, and ballots placed in a facility's official ballot box, provide a designated election official to collect the contents of each official ballot box within the facility on and before the deadline dates.
- (2) At the beginning of each election cycle, but not later than March 1 of each year, the State Board shall provide the Department with the:
  - (a) Contact information and mailing addresses for each local board within Maryland;
  - (b) Specific deadline dates for the return of a completed VRA to the local board;
  - (c) Specific deadline dates for the return of a completed MIBR to the local board; and
  - (d) Specific deadline dates for the return of a completed ballot to the local board.
- (3) The State Board shall work with local boards and State Board contractors to ensure that VRAs, MIBRs, and ballots deposited into a correctional facility's official ballot box are collected on or before the specified deadline dates.

**.06 Procedures.**

**A. Eligible Individuals.**

- (1) An eligible individual shall be offered a voting packet.
- (2) Prior to receipt of a voting packet, an eligible individual shall present the individual's incarcerated individual identification card to the managing official or designee, verify their registered name, sign, and date the Voting Packet Form Log indicating receipt of the voting packet.
- (3) Any incarcerated individual may request and shall receive a voting packet even if staff believes that the incarcerated individual may be ineligible to register to vote or a deadline for submission has been missed. The State Board will make the final determination on whether an individual is eligible to register as a Maryland voter.
- (4) Except as provided in §.06C of this directive, before each applicable deadline, an eligible individual is responsible for:
  - (a) Researching candidates and ballot questions;
  - (b) Reading and completing the VRA, MIBR, and ballot;
  - (c) Properly folding, sealing, and addressing the VRA and MIBR;
  - (d) Properly folding, sealing, addressing, and signing a ballot return envelope; and

- (e) Depositing the individual's own completed VRA, MIBR, and ballot in an official ballot box or in the correctional facility's outgoing mail.
- (5) An eligible individual only needs to submit a completed VRA to a local board one time for all future elections. A VRA may also be used to change your voting address or political party affiliation.

**B. Deadlines.**

- (1) For each election cycle, deadline dates for the return of a VRA, MIBR, and ballot shall be posted in housing and recreation areas.
- (2) If an eligible individual is unsure of the deadline date for a VRA, MIBR, or ballot, the eligible individual may request the information from the individual's housing officer, case manager, or librarian.
- (3) VRA. An eligible incarcerated individual is responsible for returning a completed VRA to the correct local board so that it is postmarked, received, or placed in the facility's official ballot box at least twenty-one (21) days before the:
  - (a) Primary election date if participating in the primary election;
  - (b) Special election date if participating in a special election; or
  - (c) General election if participating in the general election.
- (4) MIBR. An eligible individual is responsible for returning a completed MIBR to the correct local board so that it is received by the local board at least seven (7) days before the:
  - (a) Primary election date if participating in the primary election;
  - (b) Special election date if participating in a special election; or
  - (c) General election if participating in the general election.
- (5) Ballot. An eligible individual is responsible for returning a completed ballot to the correct local board so that it is postmarked or placed in the facility's official ballot box by the:
  - (a) Primary election day if participating in the primary election;
  - (b) Special election date if participating in a special election; or
  - (c) General Election Day if participating in the general election.

**C. Americans with Disabilities Act (ADA) Accommodations and Reading and Language Assistance.**



- (1) If an eligible individual has a disability, is unable to read or write, or has limited English proficiency, the eligible individual may make a request for an ADA accommodation in accordance with the procedures established in [DPSCS.200.0007— ADA Title II Non-discrimination and Accommodations for Persons with Disabilities](#) to receive assistance completing a VRA, MIBR, and ballot.
- (2) An eligible individual may only request voting assistance or an ADA accommodation from the following staff:
  - (a) Facility ADA Coordinators;
  - (b) Chaplains;
  - (c) Librarians;
  - (d) Reentry Coordinators;
  - (e) Social Workers;
  - (f) Educators; and
  - (g) Volunteers trained and designated to provide assistance to an individual with a disability or limited English proficiency.
- (3) In accordance with Election Law Article, §9-308. Annotated Code of Maryland the following individuals are not permitted to provide voting assistance:
  - (a) A candidate on the ballot;
  - (b) the voter's employer or an agent of the employer; or
  - (c) An officer or agent of the voter's union.
- (4) Certification of Assistance.
  - (a) Designated staff assisting an incarcerated individual to complete a VRA, MIBR, and ballot shall complete all required certifications and acknowledgements for providing assistance, and cannot suggest how an eligible individual should register or vote.
  - (b) MIBR. If an eligible individual needs help completing the MIBR, the designated staff may assist the eligible individual with completing Parts 1 through 6; however, the eligible individual must complete Part 7 of the application. If the eligible individual is unable to sign the MIBR, the designated staff should print the eligible voter's name in Part 7 and write their initials after the eligible individual's name.

- (c) Ballot. If an eligible individual needs help completing the ballot, the designated staff helping the eligible individual must mark the ballot according to the eligible individual's wishes and cannot make an effort to influence the eligible individual's decision. The designated staff must also complete the *Certification of Person Assisting Mail-in Voter* form that is provided with a mail-in ballot (Appendix E). This certification must be returned with the completed ballot.
- (5) A managing official or designee, shall ensure that an incarcerated individual who is visually impaired receives upon request a large type format [Voter Registration Application](#) provided on the State Board of Elections' website or call 1-800-222-8683 for large type format Maryland Mail-In Ballot Request Form. These forms are also available on the [SafetyNet](#) as supporting documents to this directive.
- (6) As applicable, a managing official shall ensure that eligible incarcerated individuals with limited English proficiency receive the following on request:
  - (a) An appointment with a member of the support staff to read the VRA, MIBR, and ballot to the eligible individual;
  - (b) A printed copy of:
    - (i) A translated version [Voter Registration Application](#) from the Board of Elections' website;
    - (ii) A Spanish version of the [Maryland Mail-In Ballot Request](#) from the Board of Elections' website; or
  - (c) Translation services if a translation of the VRA, MIBR, and ballot in the appropriate language is not available.

**D. Misuse of Prepaid Postage.**

- (1) If an eligible individual has used the prepaid postage on the reverse side of a VRA or MIBR for a purpose not intended by the State Board and subsequently requests a new VRA or MIBR, the eligible individual shall be given a downloaded version of the [VRA – postage required](#) or [MIBR – postage required](#) to complete and return to the local board. The eligible individual shall either pay the required postage or place the VRA or MIBR in the official ballot box.
- (2) If an eligible individual:
  - (a) Is determined to be an indigent incarcerated individual in accordance with COMAR 12.02.20.01;

- (b) Has used the prepaid postage on the reverse side of a VRA or MIBR for a purpose not intended by the State Board; and
- (c) Requests a new VRA or MIBR, the eligible individual shall be given a downloaded version of the [VRA – postage required](#) or [MIBR – postage required](#) to complete; and
- (d) May either place the VRA or MIBR in the official ballot box or return the completed document to the mailroom supervisor so that postage can be affixed at the same time the VRA or MIBR is stamped with a postmark.

**E. Security and Collection of Applications and Ballots.**

- (1) Designated Election Officials. Before entry into a correctional facility to collect VRAs, MIBRs, and ballots, a designated election official shall complete a background investigation and written agreements and acknowledgements as required by law and Department policy.
- (2) Incarcerated Individuals. In accordance with COMAR 12.03.01.03:
  - (a) An incarcerated individual is required to comply with a rule, policy, procedure, regulation, statute, or other provision of law that was established by a government, the Department, the facility to which the incarcerated individual is assigned, or a program in which the incarcerated individual is assigned or is voluntarily participating.
  - (b) A staff member may charge an incarcerated individual with a Category III rule violation if the incarcerated individual tampers with or damages an official ballot box or intimidates, threatens, or coerces another individual, or interferes with another individual's vote or right to vote.
- (3) A managing official shall:
  - (a) Ensure that an official ballot box is under 24 hour video surveillance;
  - (b) Provide custody staff to escort designated election officials throughout the facility while collecting VRAs, MIBRs, and ballots from official ballot boxes; and
  - (c) Enact procedures to:
    - (i) Ensure that official ballot boxes are protected from damage, disablement, and weather related elements; and
    - (ii) Efficiently replace or repair an official ballot box that has been damaged or made unsecure.

- (4) Department employees, contractors, and program volunteers may not engage in electioneering or campaign activities within or on the grounds of the facility. These individuals may not wear or display campaign materials.
- (5) Designated election officials may only collect VRAs, MIBRs, and ballots from an official ballot box.

**.07 Appendix.**

- A. Guidelines for DPSCS Support Staff Helping an Individual who is Under the Custody of the Department to Participate in the Electoral Process
- B. The State Board of Elections Voter Registration Volunteer Training and Information Guide (2019)
- C. Ballot Drop Boxes: Chain of Custody Procedures for Removal & Return of Election Materials (BCBIC and other correctional facilities)
- D. State Board of Elections Restoration of Voting Rights Information Guide
- E. State Board of Elections — Certification of Voter Assistance for a Ballot (English and Spanish)

**.08 History.**

- A. This directive supersedes provisions established in DPSCS.200.0008 dated June 21, 2022.
- B. This directive supersedes DPSCS.200.0008, September 25, 2021.
- C. Revised - DPSCS.200.0008, dated September 17, 2020.
- D. This directive supersedes provisions of any other prior existing communication with which it may be in conflict.

**.09 Distribution.**

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