



August 4, 2022

Administrators and Board Members  
Maryland State Board of Elections  
151 West Street, Suite 200  
Annapolis, MD 21401

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(Please share with the other members of the Board, whose email addresses are not listed on the website.)*

Dear Administrators and Board Members of the State Board of Elections:

Since 2004, the ACLU of Maryland, Common Cause Maryland, and many of our partners in the Everyone Votes Maryland coalition have worked across the state and in collaboration with the Maryland State Board of Elections (SBE) to ensure every Marylander can exercise their fundamental right to vote. We write in the service of what Maryland voters and our democracy deserve: a well-resourced election system run by proactive, engaged elections administrators, board members that govern with passion about voting rights and with an understanding of the myriad barriers to voting that exist for some people, and a transparent process that promises clarity, equity, and accountability.

While this letter is intended to outline our organizations' concerns and recommendations following the 2022 Primary election, we want to applaud the SBE for maintaining an open line of communication with our organizations and working collaboratively with the Everyone Votes coalition, despite the turmoil of the pandemic and redistricting.

Many of these errors were the fault of local boards of election, in addition to vendors contracted by either SBE or local boards. The law is clear that the local boards and staff are accountable to the State Board of Elections. We recognize that the law does not provide specific accountability mechanisms for holding the local boards and their staff accountable; therefore, our call for accountability includes a call to elected officials to fix the culture of shrugging shoulders whenever vendors, local boards, or SBE make mistakes that impact voters.

We detail the specific, undisputed mistakes made below, but these mistakes are the consequence of broader systemic issues: 1) inadequate planning; 2) human error and a lack of systems to catch errors; 3) insufficient transparency and communication, and 4) lack of accountability. We learned of the errors listed below through various public sources, coalition partners, and our Election Protection hotlines. It should be no surprise to SBE staff that our organizations are concerned about process issues and mistakes that create confusion and mistrust. When it comes to voting, confusion and mistrust lead to voter disenfranchisement.

### **Serious Problems and Specific Recommendations**

The following is a list of issues that were brought to our attention during the primary season:

- 1) Mail-in ballot envelope printing error:** The mail-in ballot envelope reveals the voters' party information in a code visible in the window of the envelope.

**Recommendation:** Require staff and vendors run quality control proofs that stakeholders carefully review before printing and mailing in bulk. If not done already, SBE should work to secure a state-based vendor. Stakeholders should include staff of the state and local boards of elections and representatives of historically disenfranchised populations for equity, accessibility and accountability considerations. There should be thorough vetting, high standards, and accountability for vendors. We suggest designating a SBE staff member to be ultimately responsible for quality control for all printed and mailed materials.

- 2) Baltimore City voters put in the wrong districts:** 150 voters in Districts 43A and 45 were assigned to the incorrect district. In a statement to the Baltimore Brew, SBE said the issue occurred because redistricting requires making manual changes in the database and four streets were not moved into the correct precinct. On Primary Day, at least two voters in 43A/45 reported getting the wrong ballot (the ballot for the other district) at their polling site, suggesting that this issue was never resolved. In District 41, 212 voters were initially sent correct ballots, then they received a notice that their ballots were incorrect and they received new ballots, then they received another notice explaining that the second ballots sent to them were actually incorrect (and the first ballots were, in fact, correct all along).

**Recommendation:** There must be accountability for these egregious mistakes. Create quality control processes to test and review voter rolls, district changes, and other voter registration files and databases. In redistricting years, there should be a comprehensive review process once voters have been reassigned to new districts conducted by a person or team other than those who did the reassignments. This U.S. Election Assistance Commission [Guide to Redistricting](#) is a helpful resource for best redistricting practices. The voters in the affected districts should be contacted and reassured that they have been assigned to the correct precinct before the General Election.

- 3) Duplicate ballots sent to voters:** In early July, about 800 voters in Montgomery County were mailed duplicate ballots. SBE confirmed that 142 voters in 10 other counties were also mailed duplicate ballots.

**Recommendation:** Investigate how this happened and add layers of review to prevent duplicate ballots being mailed to voters. If it was the fault of the vendor, hold them accountable.

- 4) Incorrect sample ballots sent:** In Prince George’s County, about 10,000 voters received incorrect sample ballots as a result of a printing mistake. In Queen Anne’s County, registered voters received Republican sample ballots regardless of their registered party affiliation. In Calvert County, the vendor made a coding error that caused 20,000 voters to receive the wrong party’s sample ballot.

**Recommendation:** Carefully proof and review all mail from state and local boards of elections. Every mistake risks confusion and mistrust in our voting systems. Provide the highest quality production for every mailer and every mailing list.

- 5) Wrong party ballots sent:** In Howard County, voters reported receiving a Republican mail-in ballot, even though they are registered Democrats. Those voters were able to go to the local board of elections to get replacement ballots, but we don’t know how many voters were impacted.

**Recommendation:** Investigate how this happened and implement measures to ensure it doesn’t happen again (in Howard Co. or anywhere else.).

- 6) Voting machine issues:** In Montgomery County, the ballot marking devices split races with eight or more candidates into multiple pages, sometimes just leaving one candidate on the second page. The subsequent pages did not have information indicating which race the candidate was part of. While this issue was reported in Montgomery County, this is a statewide issue and races in other jurisdictions also impacted.

**Recommendation:** Similar to paper mail and ballots, proof and test electronic versions of ballots and forms, including the electronic ballots displayed in the ES&S Express Vote ballot marking devices. Conduct the review through an equity and accessibility lens, or engage stakeholders who can, in order to mitigate viewing as someone who is familiar with voting machines, voting systems, and what is on the ballot. A sample of the electronic ballot should also be made available to candidates and voters. This U.S. Election Assistance Commission [Guide to Designing Usable Ballots](#) contains additional recommendations such as giving candidates fair space on the ballot and ensuring the contest header on the ballot is more prominent than the candidates’ names to ensure maximum voter comprehension.

### **Core Recommendations**

It is crucial that comprehensive, layered systems are created to prevent mistakes; including quality assurance procedures, risk management measures, and staff accountability through clear roles and responsibilities for protecting voters from preventable mistakes.

When mistakes do occur, investigate their causes and ensure results are shared with and explained to the public, and hold those responsible accountable. Without these measures, the

public cannot be assured that the same or similar problems will not occur in the future. Maryland voters deserve a detailed explanation of the errors listed above (and any others), to include what happened, how it happened, and what will be done to prevent it from happening again. This report should be in writing or made verbally at a public SBE meeting, before the General Election. We also encourage including recommendations, if any, for specific local boards of election where greater oversight and accountability is necessary.

Finally, we are requesting that the State Board of Elections and all local boards of elections devise a comprehensive plan with layers of oversight, audits, emergency/contingency planning, logistics, and outreach for the November election. Contingency plans should be robust, anticipating all possible issues that might arise throughout the process. Errors, late openings, and long lines are problems every election year. We know there will always be challenges, but we must do better at anticipating and preventing issues to deliver a smooth, safe, accessible, and equitable election.

We are happy to schedule time to discuss the specifics of this letter and are committed to supporting these efforts where possible.

Sincerely,

Joanne Antoine, Executive Director, Common Cause Maryland  
Amy Cruice, Election Protection Director, ACLU of Maryland  
Marnie Leonard, Voting Rights Intern, ACLU of Maryland

CC: David Garreis, President, Maryland Association of Election Officials (MAEO)