

Section B

U.S. ELECTION ASSISTANCE COMMISSION



2008 Election Administration & Voting Survey

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 us to better understand the quantitative data relating to the 2008 general election that we are collecting from all U.S. states and territories.

We understand 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).

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 legal standing 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, please specify.

Please put 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

[Begin definition (a) below this line.]

*Please note the Mississippi Code does not define many of the terms listed in this subsection. Code sections that reference these terms will be provided.

Miss. Code Ann. §§ 23-15-613; 23-15-483; 23-15-523

[End definition (a) above this line.]

b. Under-vote

[Begin definition (b) below this line.]

Miss. Code Ann. § 23-15-613

[End definition (b) above this line.]

c. Blank ballot

[Begin definition (c) below this line.]

Miss. Code Ann. §§ 23-15-483; 23-15-523; 23-15-591; 23-15-541; 23-15-335

[End definition (c) above this line.]

d. Void/Spoiled ballot

[Begin definition (d) below this line.]

Miss. Code Ann. §§ 23-15-477; 23-15-517

[End definition (d) above this line.]

e. Provisional/Challenged ballot

[Begin definition (e) below this line.]

Miss. Code Ann. §§ 23-15-573; 23-15-643; 23-15-571; 23-15-579; 23-15-671

[End definition (e) above this line.]

f. Absentee

[Begin definition (f) below this line.]

Miss. Code Ann. §§ 23-15-713; 23-15-671

[End definition (f) above this line.]

g. Early voting

[Begin definition (g) below this line.]

Not Applicable

[End definition (g) above this line.]

h. Active Voter

[Begin definition (h) below this line.]

Miss. Code Ann. § 23-15-41

[End definition (h) above this line.]

i. Inactive Voter

[Begin definition (i) below this line.]

Not Applicable

[End definition (i) above this line.]

j. Other terms (please specify) _____

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

Not Applicable

[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. By “significant,” we do not mean routine or technical changes (such as changes to election district boundaries or polling place changes). However, we 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.

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

Miss. Code Ann. §§

23-15-11; H.B. 104 (2008) *Has not been reviewed by Department of Justice for compliance with the Voting Rights Act.

23-15-35; S.B. 2744 (2008)

23-15-211; S.B. 2910 (2008)

23-15-283; S.B. 2910 (2008)

23-15-359; H.B. 703 (2008)

23-15-541; S.B. 2910 (2008)

23-15-523; S.B. 2910 (2008)

23-15-625; S.B. 2910 (2008)

23-15-627; S.B. 2910 (2008)

23-15-633; S.B. 2910 (2008)

23-15-635; S.B. 2910 (2008)

23-15-719; S.B. 2910 (2008)
37-7-227; H.B. 239 (2008)
37-9-25; H.B. 2149 (2008)

[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.)

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

Hybrid

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

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

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

Local jurisdictions transmit voter registration information to the state registration list instantaneously.

[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?

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

- a. NVRA requirements
- b. No

[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?

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

- a. NVRA requirements
- b. Yes

[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.

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

- a. Yes, Mississippi's voter registration database can share information electronically with the state's drivers license agency.
- b. No, Mississippi's database cannot be linked with databases in other state or federal agencies.

[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 using NCOA?

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

- a. Individual counties are responsible for maintaining voter registration lists and are allowed to purchase NCOA information individually.
- b. The State has not engaged in the use of NCOA in a uniform manner; the individual counties have the responsibility for voter roll maintenance.

[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?)

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

- a. Persons convicted of any one of twenty-one disenfranchising crimes recognized in Mississippi will either be removed from the voter rolls, if currently registered, or prohibited from registering to vote.
- b. Disenfranchised voters may petition their representative in the legislature to have their voting rights restored by the legislature or they may be granted a full pardon by the Governor. Additionally the Governor may restore the civil rights of an individual through an executive order.

[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.).

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

Yes, voters may obtain information regarding voter registration from the Secretary of State's website. Voters may download, print and sign voter registration applications from the Secretary of State's website.

[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?

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

The votes are counted at a central location within each county.

[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?

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

Results are tabulated and reported by precinct.

[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?

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

Absentee ballots are reported separately. They are then added to the total.

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

d. How are UOCAVA ballots counted and reported?

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

The UOCAVA votes are counted and reported in the same manner as other absentee ballots.

[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.)

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

In order to vote absentee a voter must declare one of the reasons stated in Miss. Code Ann. 23-15-627.

[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?

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

No

[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?

[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.

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

If a person declares that he is a registered voter in the jurisdiction in which he offers to vote, and he is eligible to vote in the election but his name does not appear on the pollbooks, or if he has been illegally denied registration, he may vote by affidavit ballot. Miss. Code Ann. § 23-15-573.

[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.

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

- a. If the voter is not registered in the precinct, then the ballot will not count.
- b. In canvassing returns the County Election Commission may review the ballot to make a determination as to whether the ballot should be counted. Miss. Code Ann. § 23-15-573.

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

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

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

- a. Post-election audits are not provided in statute.
- b. Ballot boxes may be viewed or examined by certain parties any time within 12 days after the canvass and examination of the ballot boxes. Miss Code Ann. § 23-15-911.

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

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

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

Pollworkers must attend an eight hour training course once every four years. Miss. Code Ann. § 23-15-239.

[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.

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

- a. Seventy-eight counties use TSX machines which are incapable of an over-vote, and can ascertain the amount of under-voting.
- b. Three and one hybrid counties use scannable ballots which may be over-voted, but will be rejected by the scanner for the first vote attempt. A second attempt will allow the vote to be cast. The number of over and under votes may be ascertained.

[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;

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

No identification required, unless prospective voter is attempting first-time voting after mail-in voter registration.

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

- b. casting an in-person ballot;

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

None

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

- c. casting a mail-in or absentee vote;

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

None

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

- d. casting a ballot under UOCAVA;

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

None

[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).

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

Not Applicable

[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.

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

- a. Miss. Code Ann. Section 23-15-577 allows for a candidate or a representative of a candidate to be present to inspect the manner in which the election is held. Further, Miss. Code Ann. Section 23-15-245 requires that bailiffs in each polling place must keep clear a space thirty feet in every direction except election officer and two challengers of good conduct and behavior, selected by each political party.
- b. Decisions to allow observers are ultimately left to the discretion of county election officials.

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

SECTION E: OTHER

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

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

No, it has not been revised.

[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.

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

Not Applicable

[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 3/31/09). 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 – 2008 Election Administration and Voting Survey, 1225 New York Avenue, Suite 1100, Washington, DC 20005.