

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.]

This term is not used or defined in Indiana election law. There are statutes describing how ballots are to be counted when different types of over-votes occur. Indiana Code 3-12-1-7 sets forth several examples.

[End definition (a) above this line.]

- b. Under-vote

This term is not used or defined in Indiana election law.

[Begin definition (b) below this line.]

[End definition (b) above this line.]

- c. Blank ballot

[Begin definition (c) below this line.]

This term is not used or defined in Indiana election law.

[End definition (c) above this line.]

- d. Void/Spoiled ballot

[Begin definition (d) below this line.]

This term is not defined in Indiana election law, but is used in Indiana Code 3-12-1 to describe several types of ballots which are considered "void":

IC 3-12-1-2. Ballot void if not properly endorsed; absentee ballots

Sec. 2. (a) This section does not apply to absentee ballots.
(b) The whole ballot may not be counted, subject to section 12 of this chapter, if the ballot is not endorsed with the initials of the poll clerks.

IC 3-12-1-3. Ballot void if it bears distinguishing mark or mutilation

Sec. 3. The whole ballot is void if the ballot bears any distinguishing mark (other than a voting mark) or a mutilation made by the voter or an election officer with the intent to enable a person to determine who cast the marked or mutilated ballot.

IC 3-12-1-4. Ballot void for extrinsic act; erasures

Sec. 4. (a) The whole ballot is void if a voter does any act extrinsic to the ballot, such as enclosing any paper or other article in the folded ballot, with the intent to enable a person to determine that the voter cast the ballot.

(b) An erasure by a voter does not make the whole ballot void unless made with the intent to enable a person to determine who cast the ballot, but it does not register a vote for the elected office, political party office, or public question for which it is made.

IC 3-12-1-10.

Void ballot

Sec. 10. A ballot on which a voter writes:

- (1) the voter's name;
- (2) the voter's initials;
- (3) a number; or

(4) a symbol (such as a star, circle, parallel lines, dots, or any combination of such symbols), if written with the intent to enable a person to determine who cast the ballot;

is void.

IC 3-12-1-12.

Application to votes cast by any method; counting vote made invalid by mistake or inadvertence of election officer

Sec. 12. (a) This section applies to votes cast by any method.

(b) Except as provided in section 13 of this chapter, a ballot that has been marked and cast by a voter in compliance with this title but may otherwise not be counted solely as the result of the act or failure to act of an election officer may nevertheless be counted in a proceeding under IC 3-12-6, IC 3-12-8, or IC 3-12-11 unless evidence of fraud, tampering, or misconduct affecting the integrity of the ballot is presented by a party to the proceeding.

(c) The act or failure to act by an election officer is not by itself evidence of fraud, tampering, or misconduct affecting the integrity of the ballot.

IC 3-12-1-13.

Absentee ballots; necessary endorsements

Sec. 13. (a) This section applies only to absentee ballots.

(b) The whole ballot may not be counted unless the ballot is endorsed with the initials of:

- (1) the two (2) members of the absentee voter board in the office of the circuit court clerk under IC 3-11-4-19 or IC 3-11-10-26; or
- (2) the two (2) appointed members of the county election board (or their designated representatives) under IC 3-11-4-19.

The term “spoiled ballot” is also used in connection with the opportunity to obtain a replacement absentee ballot (IC 3-11-4-17.7; IC 3-11-10-25; IC 3-11-10-26) or a replacement ballot voted at the polls (IC 3-11-13-28.5, IC 3-11-13-29 and IC 3-11-13-35).

[End definition (d) above this line.]

e. Provisional/Challenged ballot

[Begin definition (e) below this line.]

“Provisional ballot” is defined at Indiana Code 3-5-2-40.6:

Sec. 40.6. "Provisional ballot" refers to a ballot cast in accordance with the provisions of IC 3-11.7.

[End definition (e) above this line.]

f. Absentee

[Begin definition (f) below this line.]

The term “absentee” is not defined in Indiana election law. The procedures and qualifications for voting by absentee ballot are described in detail at Indiana Code 3-11-4 and 3-11-10.

[End definition (f) above this line.]

g. Early voting

[Begin definition (g) below this line.]

The term “early voting” is not defined or used in Indiana law. As discussed below, Indiana law provides for “no excuse needed” absentee

balloting in the county election office before election day, not for “early voting.”

[End definition (g) above this line.]

h. Active Voter

[Begin definition (h) below this line.]

The term “active voter” is used for two purposes in Indiana law: to define the maximum number of voters who may be included within a proposed precinct’s boundaries (Indiana Code 3-11-1.5-3), and in Indiana Code 3-7-38.2 as part of the description of the National Voter Registration Act process for voter list maintenance. The term “active voter” is used in the Consent Decree Plan in *United States of America v. State of Indiana*. See IC 3-5-2-1.7.

[End definition (h) above this line.]

i. Inactive Voter

[Begin definition (i) below this line.]

The term “inactive voter” is not defined in Indiana law. It is used in Indiana Code 3-7-38.2-2 and 3-7-38.2-10 as part of the description of the National Voter Registration Act process for voter list maintenance, and is used in the Consent Decree Plan in *United States of America v. State of Indiana*.

[End definition (i) above this line.]

j. Other terms (please specify) _____

[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. 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.]

There have been no “significant” changes (as defined above) since November 2006. In 2008, state legislation extended the previously existing “vote center pilot program” through 2010, and permitted one additional county to participate.

[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.]

Top-down.

[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.]

NA

[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.]

County voter registration offices move voters from active status to inactive status, and from inactive status to active status.

For detailed information concerning this process, see the Consent Decree in *United States of America v. State of Indiana*, and Indiana Code 3-7-38.2.

Indiana Code 3-7-38.2-9 provides that if a county voter registration office determines that a UOCAVA voter is listed with an address that does not include an APO designation, and the county voter registration office is advised that the voter's residence may have changed, the voter registration office "may disregard the notification of change of residence and is not required to act" under IC 3-7-38.2 to reclassify this registration.

[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.]

County voter registration offices move voters from active status to canceled status.

For detailed information concerning this process and the notices and confirmations used, see the Consent Decree in *United States of America v. State of Indiana*, and Indiana Code 3-7-38.2.

Other than as noted in B.2, a different process is not used 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.

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

The statewide voter registration system shares information electronically with the Bureau of Motor Vehicles (and with the federal Social Security Administration through a link via the BMV); with the Indiana Department of Health, and with the Indiana Department of Correction.

The Department of Health database is used to identify deceased voters. The Department of Correction database is used to identify voters who have been imprisoned following conviction.

[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.]

For detailed information concerning the use of the National Change of Address Program, see the consent decree in *United States of America v. State of Indiana*, and Indiana Code 3-7-38.2, particularly 3-7-38.2-5 through 3-7-38.2-8.

[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.]

- (1) Convicted felons are allowed to register and vote while on parole or probation. A convicted felon is not allowed to register and vote during imprisonment for that crime.**
- (2) Voting rights are automatically restored when the individual is released from lawful custody.**
- (3) No.**

[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.]

Indiana permits an individual to use the Internet to determine if the individual is registered; if so, at what address; and where the voter's polling place is located:

www.indianavoters.com

Indiana law does not permit an individual to apply to register to vote online. An individual may print an application available online, complete the application once it has been printed and mail or hand-deliver the completed application to the county voter registration office.

[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.]

Each county election board determines whether votes are counted centrally or at the precincts. Unless a county election board acts otherwise, all in-person votes and absentee ballots are counted by precinct election boards (or at vote centers in pilot counties using this concept).

A county may choose, by bipartisan resolution, to count all absentee ballots at a central location in the county.

The validity of a provisional ballot is always determined by the county election board, and therefore counted centrally.

[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.]

Votes from centrally counted ballots counted are added to the appropriate precinct's results.

[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.]

The results from absentee ballots are reported separately for each precinct.

[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.]

UOCAVA ballots are counted in the same manner as other ballots, with the exception that if a full regular absentee ballot is received from a UOCAVA

voter after a federal or state write-in ballot is received from that voter, the full regular absentee ballot is counted, not the write-in ballot.

As required by 42 U.S.C. 1973ff-1(c), each county election board submits a report to the Indiana Election Division setting forth the combined number of absentee ballots transmitted by the county election board to absent uniformed and overseas voters for the election and returned by these voters and cast in the election.

[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.]

State law does not require a reason for voting absentee if a voter casts an absentee ballot in person at the county election board office.

Indiana Code 3-11-10-24 requires a reason for voting absentee if a voter requests an absentee by mail.

Indiana Code 3-11-10-25 requires a reason for voting absentee if a voter requests to cast before an absentee ballot board that visits the voter's place of confinement, residence of a voter with disabilities, or a private residence.

[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.]

Indiana law permits any voter to cast an absentee ballot in person at the county election office. Some people refer to this procedure as “early voting”, although the term is not used in Indiana law. Like all absentee ballots, if an “early voter” is subsequently disqualified before election day (due to death, for example), the absentee ballot of that voter is not counted.

These absentee ballots are counted and reported in the same manner as other types of absentee ballots (see paragraph C1).

[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.]

When an individual is challenged as not eligible to vote (Indiana Code 3-11.7-2-1(a)(1) or (a)(2)).

When an individual seeks to vote in an election as the result of a court order (or other order) extending the time established by state law for closing the polls (Indiana Code 3-11.7-2-1(a)(3))

When an individual is unable or declines to present required proof of identification (Indiana Code 3-11.7-5-2.5)

When an individual has registered to vote by mail, has not previously voted in a general election (or special federal election) in Indiana, and has not presented the additional documentation required by 42 U.S.C. 15483 (Indiana Code 3-11.7-2-1(b))

[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.]

To be counted, a provisional ballot must have been cast by a qualified voter *of the precinct* in which the ballot was cast. The county election board determines whether a provisional ballot has been cast by a voter who meets this requirement.

The process for counting provisional ballots is set forth in Indiana Code 3-11.7-5 (see below):

IC 3-11.7-5

Chapter 5. Counting Provisional Ballots

IC 3-11.7-5-1. Requirements and deadlines for counting ballots

Sec. 1. (a) After the close of the polls, provisional ballots shall be counted as provided in this chapter.

(b) Notwithstanding IC 3-5-4-1.5 and any legal holiday observed under IC 1-1-9, all provisional ballots must be counted by not later than noon ten (10) days following the election.

IC 3-11.7-5-1.5. Provisional ballot; counting when ballot made invalid by mistake or inadvertence of election officer; when election board may determine not to count; effect of affidavit evidence

Sec. 1.5. (a) Subsection (c) applies to a provisional ballot that the county election board determines, by a majority vote of its members and in accordance with this title:

- (1) has been marked and cast by a voter in compliance with this title; but
- (2) may not otherwise be counted solely as the result of the act or failure to act of an election officer.

(b) Subsection (c) does not apply to either of the following:

(1) A provisional ballot cast by an individual who seeks to vote in an election as the result of a court or other order extending the time established for closing the polls under IC 3-11-8-8 if the county election board determines or is directed under a court or other order that all provisional ballots issued after regular poll closing hours are not to be counted.

(2) A provisional ballot that is required to be rejected by a county election board under section 2(b) of this chapter as the result of information or lack of information provided by a voter registration agency.

(c) The sealed envelope containing a provisional ballot described in subsection (a) shall nevertheless be opened under section 4 of this chapter and the provisional ballot counted unless evidence of fraud, tampering, or misconduct affecting the integrity of the

ballot is demonstrated. The act or failure to act by an election officer is not by itself evidence of fraud, tampering, or misconduct affecting the integrity of the ballot.

(d) Notwithstanding subsection (c), if the county election board, by a majority vote of its members, determines that there is evidence presented to the board demonstrating that the individual who cast the provisional ballot was ineligible to cast a regular ballot in that precinct, or evidence has been presented to the board demonstrating any other reason set forth in HAVA or this title not to count a provisional ballot, the provisional ballot may not be counted.

(e) This subsection applies to a provisional ballot cast by a voter after the voter was challenged solely because the voter was unable or declined to provide proof of identification and not for any other reason. If the voter later complies with the requirements of this title for proof of identification, the provisional ballot cast by the voter shall be counted in accordance with sections 2 and 2.5 of this chapter.

(f) This subsection applies to a provisional ballot cast by a voter after the voter was challenged for any reason except the voter's inability or declination to provide proof of identification. If the only evidence before the county election board on the question of counting of the provisional ballot cast by the voter is:

- (1) the affidavit of the voter who cast the provisional ballot; and
- (2) the affidavit of a challenger challenging the voter who cast the provisional ballot;

the provisional ballot shall be counted.

IC 3-11.7-5-2. Criteria for determining validity of ballots

Sec. 2. (a) Except as provided in section 5 of this chapter, if the county election board determines that all the following apply, a provisional ballot is valid and shall be counted under this chapter:

- (1) The affidavit executed by the provisional voter under IC 3-11.7-2-1 is properly executed.
- (2) The provisional voter is a qualified voter of the precinct and has provided proof of identification, if required, under IC 3-10-1, IC 3-11-8, or IC 3-11-10-26.
- (3) Based on all the information available to the county election board, including:
 - (A) information provided by the provisional voter;
 - (B) information contained in the county's voter registration records; and
 - (C) information contained in the statewide voter registration file;

the provisional voter registered to vote at a registration agency under this article on a date within the registration period.

(b) If the provisional voter has provided information regarding the registration agency where the provisional voter registered to vote, the board shall promptly make an inquiry to the agency regarding the alleged registration. The agency shall respond to the board not later than noon of the first Friday after the election, indicating whether the agency's records contain any information regarding the registration. If the agency does not respond to the board's inquiry, or if the agency responds that the agency has no record of the alleged registration, the board shall reject the provisional ballot. The board shall endorse the ballot with the word "Rejected" and document on the ballot the inquiry and response, if any, by the agency.

(c) Except as provided in section 5 of this chapter, a provisional ballot cast by a voter described in IC 3-11.7-2-1(b) is valid and shall be counted if the county election board determines under this article that the voter filed the documentation required under IC 3-7-33-4.5 and 42 U.S.C. 15483 with the county voter registration office not later than the closing of the polls on election day.

IC 3-11.7-5-2.5. Determining validity of provisional ballot

Sec. 2.5. (a) A voter who:

- (1) was challenged under IC 3-10-1, IC 3-11-8, or IC 3-11-10-26 as a result of the voter's inability or declination to provide proof of identification; and
- (2) cast a provisional ballot;

may personally appear before the circuit court clerk or the county election board not later than the deadline specified by section 1 of this chapter for the county election board to determine whether to count a provisional ballot.

(b) Except as provided in subsection (c) or (e), if the voter:

- (1) provides proof of identification to the circuit court clerk or county election board; and
- (2) executes an affidavit before the clerk or board, in the form prescribed by the commission, affirming under the penalties of perjury that the voter is the same individual who:
 - (A) personally appeared before the precinct election board; and
 - (B) cast the provisional ballot on election day;

the county election board shall find that the voter's provisional ballot is valid and direct that the provisional ballot be opened under section 4 of this chapter and processed in accordance with this chapter.

(c) If the voter executes an affidavit before the circuit court clerk or county

election board, in the form prescribed by the commission, affirming under the penalties of perjury that:

- (1) the voter is the same individual who:
 - (A) personally appeared before the precinct election board; and
 - (B) cast the provisional ballot on election day; and
- (2) the voter:
 - (A) is:
 - (i) indigent; and
 - (ii) unable to obtain proof of identification without the payment of a fee; or
 - (B) has a religious objection to being photographed;

the county election board shall determine whether the voter has been challenged for any reason other than the voter's inability or declination to present proof of identification to the precinct election board.

(d) If the county election board determines that the voter described in subsection (c) has been challenged solely for the inability or declination of the voter to provide proof of identification, the county election board shall:

- (1) find that the voter's provisional ballot is valid; and
- (2) direct that the provisional ballot be:
 - (A) opened under section 4 of this chapter; and
 - (B) processed in accordance with this chapter.

(e) If the county election board determines that a voter described in subsection (b) or (c) has been challenged for a cause other than the voter's inability or declination to provide proof of identification, the board shall:

- (1) note on the envelope containing the provisional ballot that the voter has complied with the proof of identification requirement; and
- (2) proceed to determine the validity of the remaining challenges set forth in the challenge affidavit before ruling on the validity of the voter's provisional ballot.

(f) If a voter described by subsection (a) fails by the deadline for counting provisional ballots referenced in subsection (a) to:

- (1) appear before the county election board; and
- (2) execute an affidavit in the manner prescribed by subsection (b) or (c);

the county election board shall find that the voter's provisional ballot is invalid.

IC 3-11.7-5-3. Consequence for ballots not satisfying criteria

Sec. 3. (a) If the board determines that the affidavit executed by the provisional voter has not been properly executed, that the provisional voter is not a qualified voter of the precinct, that the voter failed to provide proof of identification when required under IC 3-10-1, IC 3-11-8, or IC 3-11-10-26, or that the provisional voter did not register to vote at a registration agency under this article on a date within the registration period, the board shall make the following findings:

- (1) The provisional ballot is invalid.
- (2) The provisional ballot may not be counted.
- (3) The provisional ballot envelope containing the ballots cast by the provisional voter may not be opened.

(b) If the county election board determines that a provisional ballot is invalid, a notation shall be made on the provisional ballot envelope: "Provisional ballot determined invalid".

IC 3-11.7-5-4. Valid ballots; opening and marking

Sec. 4. If the board determines that a provisional ballot is valid under section 2 of this chapter, the provisional ballot envelope shall be opened. The outside of each provisional ballot shall also be marked to identify the precinct and the date of the election of the ballots.

IC 3-11.7-5-5. Ballots rejected; absence of poll clerks' initials

Sec. 5. (a) If any ballot cast by a provisional voter does not contain the initials of the poll clerks, the ballot shall, without being unfolded to disclose how the ballot is marked, be endorsed with the word "Rejected".

(b) All rejected provisional ballots shall be enclosed and securely sealed in an envelope on which is written "Rejected provisional ballots.".

IC 3-11.7-5-7. Counting ballots by laying on table

Sec. 7. The provisional ballots shall be counted by laying each ballot upon a table in the order in which the ballots were opened.

IC 3-11.7-5-8. Reading names of candidates; ballot questions

Sec. 8. (a) During the counting of the ballots, one (1) counter shall read the name of the candidates and ballot questions voted for from the ballots.

(b) A:

- (1) member of the county election board who is not a member of the same political party as the counter; or
- (2) representative designated by the member;

shall view the ballots as the names and ballot questions are read.

IC 3-11.7-5-9. Protest counting of ballots

Sec. 9. During the counting of the ballots:

- (1) the counter counting the ballots;
- (2) a member of the county election board; or
- (3) a representative designated by the member;

may protest the counting of any ballot or any part of a ballot.

IC 3-11.7-5-10. Referral of protested ballot to county election board

Sec. 10. If the counters cannot agree whether to count a ballot following a protest under section 9 of this chapter, the question shall be referred to the county election board for a decision.

IC 3-11.7-5-11. Counters signing protested ballots

Sec. 11. Following a decision by the counters or the county election board, the counters shall sign each protested ballot.

IC 3-11.7-5-12. Noting whether protested ballot counted

Sec. 12. If a ballot or any part of a ballot is protested and the protest is resolved, the counter immediately shall write on the back of the protested ballot the word "counted" or "not counted", as appropriate.

IC 3-11.7-5-13. Separate counting of ballots from other precincts

Sec. 13. A counter may not count provisional ballots for a precinct under this chapter while counting provisional ballots for any other precinct.

IC 3-11.7-5-14. Counting of ballots by more than one set of counters

Sec. 14. (a) This section applies if at least two (2) sets of counters in a county are counting provisional ballots under this chapter.

(b) A set of counters may count provisional ballots from a precinct while another set of counters is counting provisional ballots from another precinct in the county if each set of counters counts the ballots in compliance with section 8 of this chapter.

IC 3-11.7-5-15. Counting write-in ballots

Sec. 15. (a) This section applies to the counting of write-in provisional ballots.

(b) If a voter writes an abbreviation, a misspelling, or other minor variation instead of the correct name of a candidate or political party, that vote shall be counted if the intent of the voter can be determined.

(c) If a voter casts a ballot under this section for President or Vice President of the United States and writes in the name of a candidate or political party that has not certified a list of electors under IC 3-10-4-5, the vote for President or Vice President of the United States is void. The remaining votes on the ballot may be counted.

(d) IC 3-12-1-7 applies to write-in provisional ballots.

IC 3-11.7-5-16. Certificate of provisional vote count

Sec. 16. When all the votes have been counted, the counters shall prepare a certificate stating the number of votes that each candidate received for each office and the number of votes cast on each public question.

IC 3-11.7-5-17. Entry and memorandum of vote count

Sec. 17. The number of votes that each candidate and public question received shall be written in words and numbers. The counters shall prepare a memorandum of the total votes cast for each candidate and on each public question and ensure that each member of the county election board receives a copy of the memorandum.

IC 3-11.7-5-18. Delivery of certificates and tally papers to county election board

Sec. 18. The counters shall deliver the certificates prepared under section 16 of this chapter and the tally papers to the county election board immediately upon the tabulation of the vote in each precinct.

IC 3-11.7-5-19. Securing ballots, certificates, and tally papers; delivery

Sec. 19. As soon as the ballots have been counted, the counters shall do the following in the presence of the county election board:

- (1) Place in a strong paper envelope or bag the following:
 - (A) All provisional ballots, voted and spoiled.
 - (B) All provisional ballots:

- (i) determined invalid under section 3 of this chapter; or
 - (ii) rejected under section 5 of this chapter.
 - (C) All protested and uncounted provisional ballots.
 - (D) All provisional ballot envelopes.
 - (E) All executed affidavits relating to the provisional ballots.
 - (F) The tally papers.
- (2) Securely seal the envelope or bag.
 - (3) Have both counters initial the envelope or bag.
 - (4) Plainly mark on the outside of the envelope or bag in ink the precinct in which the provisional ballots were cast.
 - (5) Deliver the envelope or bag to the circuit court clerk.
 - (6) Notify the circuit court clerk of the number of ballots placed in the envelope or bag.

IC 3-11.7-5-20. Oath of ballot counters

Sec. 20. Upon delivery of the envelope or bag to the circuit court clerk, each counter shall take and subscribe an oath before the clerk stating that the counter:

- (1) securely kept the ballots and papers in the envelope or bag;
- (2) did not permit any person to open the envelope or bag or to otherwise touch or tamper with the ballots; and
- (3) has no knowledge of any other person opening the envelope or bag.

IC 3-11.7-5-21. Filing ballot counters' oaths

Sec. 21. The circuit court clerk shall file the oath taken under section 20 of this chapter with the clerk's other election documents.

IC 3-11.7-5-22. Secure storage of ballots and papers

Sec. 22. The circuit court clerk shall place the envelope or bag in a receptacle provided by the county executive with two (2) different locks.

IC 3-11.7-5-23. Locks on stored ballots and papers

Sec. 23. The circuit court clerk shall do the following:

- (1) Lock the receptacle provided under section 22 of this chapter.
- (2) Retain one (1) key to one (1) lock of the receptacle.
- (3) Give one (1) key to the other lock of the receptacle to the member of the county election board who is not a member of the same political party as the clerk.

IC 3-11.7-5-24.

Time for storage of ballots and papers

Sec. 24. The circuit court clerk shall preserve the receptacle containing the envelope or bag in the clerk's office for the period required under IC 3-10-1-31 or IC 3-10-1-31.1.

IC 3-11.7-5-25. Time for retention of ballots and papers when election contested

Sec. 25. If the election is contested, the clerk shall preserve the receptacle containing the envelope or bag as long as the contest is undetermined. During that period, the clerk shall keep the receptacle securely locked, subject only to an order of the court trying a contest.

IC 3-11.7-5-26. Destruction of stored ballots and papers

Sec. 26. When permitted under IC 3-10-1-31 or IC 3-10-1-31.1, the clerk and a county election board member of the opposite political party shall remove the envelope or bag from the receptacle and destroy the envelope or bag.

IC 3-11.7-5-27. Contract with state educational institution for disposal of ballots

Sec. 27. A county election board may contract with a state educational institution to dispose of the ballots. The contract must provide that:

- (1) the ballots will be used by the state educational institution to conduct election research; and
- (2) the state educational institution may not receive any ballots under this section until the period for retention under IC 3-10-1-31 or IC 3-10-1-31.1 has expired.

IC 3-11.7-5-28. News media certificate of provisional ballot totals

Sec. 28. Immediately upon completion of the vote count, the counters shall make and sign a certificate for the news media showing the total number of provisional ballot votes received by each candidate and on each public question in the precinct.

IC 3-11.7-5-29. Delivery of news media certificate

Sec. 29. The counters shall deliver the certificate to the circuit court clerk as soon as the certificate is completed. The circuit court clerk shall deliver the certificate made for the news media to any person designated to receive the certificate by the editors of the newspapers published in the county or by the managers of the radio and television stations operating in the county immediately upon the completion of the certificate, but not before the closing of the polls.

[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.]

Indiana law provides for recounts upon the request of a candidate or political party chairman involved in any election. Post-election auditing is the core function of a recount. Indiana law also permits a county election board to correct errors in tabulation if the errors are discovered before the final date and hour for filing for a recount (Indiana Code 3-12-5-14).

[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.]

State law (Indiana Code 3-6-6-40) requires that the poll worker in charge of each polling place (the inspector) attend training conducted by each county election board. Under this law, a county election board can require other poll workers to attend this training.

The training must include information relating to the voting systems used in the county and relating to making polling places and voting systems accessible to elderly voters and voters with a disability.

State law (Indiana Code 3-6-6.5) also created a state certified election worker program, which provides for required course content and recertification after four years. Participation in the state certified election worker program is encouraged, but not required by law.

[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.]

State law does not require counties to report the number of "over-votes" or "under-votes" cast at an election for any specific office or for all offices or public questions.

[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.]

None, other than the additional documentation required by HAVA for individuals who submit an application to register to vote by mail and who have not previously voted in a general election in Indiana (or a special election for federal office in Indiana). However, if the additional documentation is not presented with the voter registration application, the application is still processed.

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

b. casting an in-person ballot;

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

Generally speaking, a person voting in person at the polls must present proof of identification that: (1) shows the name of the individual to whom the document was issued, and the voter's name conforms to the name in the individual's voter registration record; (2) shows a photograph of the individual to whom the document was issued; (3) includes an expiration date, and the document is not expired or expired after the date of the most recent federal general election; and (4) was issued by the United States or the State of Indiana.

For additional specific information regarding exemptions, procedures, and requirements, see www.in.gov/sos/photoid/

The voter is also required to sign the precinct list of voters (the poll list).

[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.]

For absentee voters casting their ballot by mail: None

For absentee voters casting their ballot before an absentee board in the office of the circuit court clerk: The same identification required for casting an in-person ballot at the polls.

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

d. casting a ballot under UOCAVA;

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

No additional identification is required for a voter casting an absentee ballot under UOCAVA.

[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.]

NA

[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.]

Indiana law (Indiana Code 3-11-8-15) lists the individuals who are permitted to be in the polls during an election. Under the definition of "election observer" used in this question, the following individuals would be "election observers" who could be authorized to enter the polls: (1) the Secretary of State (unless that person is a candidate for office); (2) political party county chairman or vice-chairman; (3) watchers, pollbook holders, and challengers; (4) minor children accompanying a voter; and (5) an individual authorized to assist a voter under federal and state law.

All election observers in a polling place are required to possess and present credentials. The Secretary of State has designated deputy secretaries to enter polls as election observers. The Indiana Election Division issues credentials to media watchers who wish to have election observers in multiple counties. County election boards issue credentials to political party chairmen, vice-chairmen. County chairmen of political parties, and in some cases independent candidates, may issue credentials to watchers, challengers, and pollbook holders. County election boards also issue credentials to media watchers who will be observing only within that county.

[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.]

The Section 402 grievance procedures were codified at Indiana Code 3-6-4.5. These statutes have not been amended since their enactment in 2003.

[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.]

NA

[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.