

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.]

[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.]

An OVER VOTE occurs when a voter makes more than the permitted number of selections in a single race/contest.

[End definition (a) above this line.]

b. Under-vote

[Begin definition (b) below this line.]

- An UNDER VOTE occurs at any time when a voter makes less than that allowed number of selections in a single race/contest or when a voter votes on less than all of the races/contests for which he/she is eligible to vote.

[End definition (b) above this line.]

c. Blank ballot

[Begin definition (c) below this line.]

Wyoming does not use this term.

[End definition (c) above this line.]

d. Void/Spoiled ballot

[Begin definition (d) below this line.]

A paper ballot which an elector has marked by mistake or accident and may receive another ballot by returning the rejected ballot to a judge of election, not more than twice. W.S. 22-13-107

[End definition (d) above this line.]

e. Provisional/Challenged ballot

[Begin definition (e) below this line.]

"Provisional ballot" means a ballot provided to a voter whose right to register or to vote cannot be determined at the polls or verified at the election office, in order to allow the voter to cast a ballot at the polls which shall be counted only if the ballot is determined to be a valid ballot as provided in this Election Code; W.S. 22-1-102(a)(xli)

[End definition (e) above this line.]

f. Absentee

[Begin definition (f) below this line.]

Form of absentee ballot. The absentee ballot shall be in the same form prescribed by law for the official ballot or a reasonable printed reproduction of the prescribed form for electronic ballots. W.S. 22-9-109

[End definition (f) above this line.]

g. Early voting

[Begin definition (g) below this line.]

Wyoming does not have early voting. We do have no excuse absentee voting. W.S. 22-9-102

[End definition (g) above this line.]

h. Active Voter

[Begin definition (h) below this line.]

Active voters: refers to all registered voters **except** those who have been sent but have not responded to a confirmation mailing after not voting in the last general election.

[End definition (h) above this line.]

i. Inactive Voter

[Begin definition (i) below this line.]

Inactive voters: refers to registrants who have been sent but have not responded to a confirmation mailing sent after not voting in the last general election or anyone who has registered in another state.

[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.]

No changes that will affect new identification requirements for voters or registrants; changes in eligibility for voting or registering; adoption of alternative voting methods; or other changes that we believe represent a significant change in the way our state runs its elections

[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.]

A 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.]

Wyoming has laws for moving a voter to an inactive list as follows. A voter would fill out a voter registration card to be moved from inactive to active and provide necessary identification. The process for UOCAVA voters is also outlined by the statute below.

W.S. 22-3-115 Grounds for cancellation of registration.

(a) A registered elector's registration shall be cancelled for any one (1) of the following reasons:

- (i) Failure to vote in any general election;
- (ii) Death;
- (iii) Removal of residence from the county or state more than thirty (30) days prior to an election;
- (iv) Disqualification to vote;
- (v) Receipt of notification that the elector has registered to vote in another jurisdiction;
- (vi) Upon written request of the elector.

(b) A registered elector's registration shall not be cancelled if the elector in any general election requested an absentee ballot which was rejected.

W.S. 22-3-116. Notice of intent to cancel registration.

When the county clerk has information that a registration should be cancelled, he shall mail a notice of intent to cancel to the elector at his address on the registry list stating the

reason for cancellation. The notice shall state that cancellation shall occur within twenty (20) days unless the elector asks that his name remain on the registry list. A copy of the notice of cancellation shall be retained by the county clerk for three (3) years. A notice is not required if the clerk has received a receipt of notification that the elector has registered to vote in another jurisdiction or if the elector requested cancellation in writing.

W.S. 22-3-117. Absentee registration generally; use of federal postcard.

(a) Notwithstanding any other section or provision in this chapter, any citizen of the United States who is a resident of Wyoming may apply for registration by providing the information required by W.S. 22-3-103(a) and acceptable identification to and completing and subscribing, the form of voter registration oath prescribed by W.S. 22-3-103(b) before any person authorized by law to administer oaths. Each county clerk shall furnish the voter registration oath forms. The applicant shall mail or return the completed voter registration oath form to the county clerk in the county in which the applicant resides. In order to vote in the next election, the application must be received in the county clerk's office before the close of registration for that election or be accompanied by an absentee ballot request for elections where a voter may register at the polls.

(b) Under the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. 1973ff (2002) the following persons shall be allowed to simultaneously register and make application for an absentee ballot through the use of the Federal Postcard Application (FPCA), provided those persons are residents of this state or in the case of overseas citizens, they were last domiciled in Wyoming immediately prior to their departure from the United States and are not registered to vote in any other jurisdiction:

- (i) Members of the uniformed services and their spouses and dependents residing with them;
- (ii) Overseas citizens and their spouses and dependents residing with them;
- (iii) Citizens temporarily residing outside of the United States, and their spouses and dependents residing with them; and
- (iv) Any other person to whom federal law requires this privilege be extended.

(c) Registration through the Federal Postcard Application constitutes temporary registration for the purpose of voting in one (1) election or through as many as the next two (2) federal election cycles, including the primary and general and special federal elections, and the registration of such a registrant shall be maintained as provided in W.S. 22-3-102(d). The Federal Postcard Application shall be accepted if completed and signed by the applicant under penalty of perjury.

(d) If any person specified in subsection (b) of this section desires permanent registration, that person shall provide the information required by W.S. 22-3-103(a) and subscribe to the voter registration oath prescribed by W.S. 22-3-103(b). The oath shall be self-administered under penalty of perjury and notwithstanding W.S. 22-3-104 does not require the signature of an oath-taking official.

[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.]

Wyoming does not remove voters from the registration files. They will be marked as inactive. This is the same 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.]

Wyoming verifies data with the department of transportation, the division of criminal investigation, the department of health, and the state board of parole.

W.S. 22-3-102 Qualifications; temporary registration. (e) The secretary of state is authorized to provide for the verification of certain voter registration data in accordance with the following:

(i) The secretary of state and the director of the department of transportation shall enter into an agreement to match voter registration data with information maintained by the department regarding driver's licenses, in order to verify the information provided on applications for voter registration;

(ii) The secretary of state and the attorney general shall enter into an agreement to compare data in the voter registration system with information maintained by the division of criminal investigation regarding state felony convictions in order to deny voter registration to, and remove from voter registration lists, individuals who are not qualified electors;

(iii) The secretary of state and the director of the department of health shall enter into an agreement to match information in the voter registration system with death records in the office of vital records services within the department of health in order to remove names of deceased individuals from voter registration lists;

(iv) The secretary of state and the state board of parole shall enter into an agreement to match information in the voter registration system with records regarding restoration of voting rights maintained by the state board of parole in order to verify voter qualifications .

[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.]

Wyoming has not used this.

[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.]

W.S. 22-3-102 Qualifications; temporary registration.

(v) He has not been convicted of a felony, or if convicted has had his civil or voting rights restored.

Voting rights are not automatically restored. The individual must produce documentation of his status when registering.

[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.]

No. Wyoming has the voter registration form available online. The form must be printed, signed, and mailed to the appropriate county election official by the voter to be registered.

[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.]

Votes are counted at the precincts.

[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.]

[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 votes are added to the precinct totals and reported as a single number.

[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 votes are counted as other absentee ballots are counted

[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.]

Wyoming allows no excuse absentee voting. W.S. 22-9-102

[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. No excuse absentee voting is available 40 days prior to Election Day.

[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.]

Wyoming is exempt from provisional voting under HAVA because we have Election Day Registration. However we do provide provisional ballots for the following reasons.

W.S. 22-15-104 Grounds for challenge.

- a) A person offering to vote may be challenged for the following reasons:
 - (i) Not a qualified elector;
 - (ii) Not entitled to vote in the precinct;
 - (iii) Name does not appear on poll list and the person cannot meet the requirements to register at the polls;
 - (iv) Not the person he represents himself to be;
 - (v) Has already voted.

W.S. 22-15-105. Challenged person may vote; generally.

(a) If a person offering to vote is challenged, and the challenge is not resolved in accordance with W.S. 22-15-106, an election judge shall offer the voter a ballot clearly marked "provisional" and which cannot be automatically tabulated.

(b) A person challenged on any ground may vote by provisional ballot, if he subscribes this oath in writing before a judge of election:

"I do solemnly swear (or affirm) that I am the person I represent myself to be and that I am a qualified elector entitled to vote in this precinct at this election and that this is the only ballot I have or will vote in this election."

Signature of voter

.....

Signature of judge

Precinct and District No.

(c) The oath required by this section shall be printed on the provisional ballot envelope.

(d) A challenged voter may present information and documentation of his eligibility to register at the election or to vote to the county clerk until the close of business on the day following the election. Any information presented shall be considered by the canvassing board in determining the voter's eligibility to register at the election or to vote and whether to open and count his provisional ballot. The provisional ballot shall be counted only after the voter has, by presenting documentation required under this code to the county clerk, established he had previously registered and is a qualified elector or he was eligible to register at the election and is a qualified elector.

W.S. 22-15-106. Where name not on poll list.

A person challenged on the ground that his name does not appear on the poll list may vote if a judge of election obtains verification from the county clerk that the person is entitled to vote in that election within that county.

[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 voter must vote in their precincts or at an absentee polling location before election day to be counted. See the citation W.S. 22-15-105 above.

[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.]

NA

[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.]

W.S. 22-8-113 Training schools; generally and payment for attending.

Not later than four (4) days before the primary and general election, the county clerk under the direction of the secretary of state shall conduct a training school for judges of election and members of counting boards to provide instruction in the performance of their duties. The training school, which is also open to the public, shall be held at the times and places announced by the county clerk, and the secretary of state shall prescribe the minimum curriculum for the school. Additional schools may be held at the discretion of the county clerk. Unless training is otherwise provided to the satisfaction of the county clerk, all judges of election and members of counting boards are obligated to attend at least one (1) such school. All judges and members of the counting board shall be paid not

less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00) as determined by the board of county commissioners for attending a school.

[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.]

The automatic tabulating equipment provides this information.

[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.]

A current valid photo identification or a copy of a current utility bill, bank statement, paycheck, government check or other government document which shows his name and address.

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

b. casting an in-person ballot;

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

Identification is necessary only when a person has registered by mail and he is voting in his first federal election in Wyoming.

[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.]

When a person is voting by mail in his first Wyoming election for federal office after having registered by mail, he must provide a copy of his current, valid, photo ID with his absentee ballot.

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

d. casting a ballot under UOCAVA;

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

When a person is voting by mail in his first Wyoming election for federal office after having registered by mail, he must provide a copy of his current, valid, photo ID with his absentee ballot.

[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.]

[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.]

Poll watchers from each party are allowed at the polling area if the County Clerk has previously been notified of the name of the poll watcher and the polling area. A Poll watcher means a person certified by the county chairman of a political party to observe voter turn out and registration. A "poll watcher" is not an election official;

[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.]

It remains the same.

[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.]

Since the passage of HAVA, Wyoming has not had any complaint that fell under HAVA, Section 402.

[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.