

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.

Information Supplied By	
Name	James B. Alcorn
Title	Policy Advisor
Office/Agency Name	Virginia State Board of Elections
Address 1	200 N. 9 th Street, Suite 101
Address 2	
City	Richmond
State	VA
Zip Code	23219
Email Address	james.alcorn@sbe.virginia.gov
Telephone (area Code and number)	804-864-8944
Fax Number (area code and number)	804-371-0194

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.]

"Overvote" means a ballot on which a voter casts a vote for a greater number of candidates or positions than the number for which he was lawfully entitled to vote and no vote shall be counted with respect to that office or issue.

See Va. Code § [24.2-802\(I\)](#)

[End definition (a) above this line.]

b. Under-vote

[Begin definition (b) below this line.]

"Undervote" means a ballot on which a voter casts a vote for a lesser number of candidates or positions than the number for which he was lawfully entitled to vote.

See Va. Code § [24.2-802\(I\)](#)

[End definition (b) above this line.]

c. Blank ballot

[Begin definition (c) below this line.]

Not defined by statute.

[End definition (c) above this line.]

d. Void/Spoiled ballot

[Begin definition (d) below this line.]

See Va. Code § [24.2-663](#). When ballot void.

If a ballot is found to have been voted for a greater number of names for any one office than the number of persons required to fill the office, or if the title of the office is erased, the ballot shall be considered void as to all the names designated to fill such office, but no further. No ballot shall be void for having been voted for fewer names than authorized.

If any person votes, either in person or absentee, more than one time in an election, all ballots received from such person shall be void and, if possible, not counted. If one such

ballot has already been cast, any additional ballots received from such person shall be void and not counted.

Also,

See [§ 24.2-648](#). Write-in votes on voting equipment.

Write-in votes may be cast on voting equipment for any person whose name does not appear on the ballot as a candidate for the office being voted, subject to this section and the provisions of [§ 24.2-644](#) not in conflict with this section.

Each write-in vote shall be entered in the receptacle or area designated on the device for the office being elected. A write-in vote shall be cast in its appropriate place, in accordance with the instructions for that equipment, or it shall be void and not counted.

See [§ 24.2-707](#). How ballots marked and returned by mail; cast in person; cast on voting equipment.

On receipt of a mailed absentee ballot, the voter shall, in the presence of a witness, (i) open the sealed envelope marked "ballot within" and (ii) mark and refold the ballot, as provided in §§ [24.2-644](#) and [24.2-646](#) without assistance and without making known how he marked the ballot, except as provided by [§ 24.2-704](#).

After the voter has marked his absentee ballot, he shall (a) enclose the ballot in the envelope provided for that purpose, (b) seal the envelope, (c) fill in and sign the statement printed on the back of the envelope in the presence of a witness, who shall sign the same envelope, (d) enclose the ballot envelope and any required assistance form within the envelope directed to the electoral board, and (e) seal that envelope and mail it to the office of the electoral board or deliver it personally to the electoral board or the general registrar. For purposes of this chapter, "mail" shall include delivery by a commercial delivery service, but shall not include delivery by a personal courier service or another individual except as provided by §§ [24.2-703.2](#) and [24.2-705](#).

An applicant who makes his application to vote in person at a time when the printed ballots for the election are available shall follow the same procedure set forth above except that he may complete the procedure in person in the office of the general registrar or secretary of the electoral board, or at another location or locations in the county or city approved by the electoral board, before a registrar or a member of the electoral board, or, if a ballot is cast at that time, before the officers of election appointed by the electoral board. Any such location shall be in a public building owned or leased by the city, the county, or a town within the county, with adequate facilities for the protection of all records concerning the absentee voters, the absentee ballots, both voted and unvoted, and any voting equipment in use at the location. Such location may be in a facility owned or leased by the Commonwealth and used as a location for Department of Motor Vehicles

facilities and for an office of the general registrar. Such location shall be deemed the equivalent of the office of the general registrar or secretary of the electoral board for the purpose of completing the application for an absentee ballot in person pursuant to §§ [24.2-701](#) and [24.2-706](#). On the request of the applicant, made no later than 5:00 p.m. on the seventh day prior to the election in which the applicant offers to vote, the general registrar or the secretary may send the items set forth in subdivisions 1 through 4 of §[24.2-706](#) to the applicant by mail, obtaining a certificate of mailing.

Failure to follow the procedures set forth above shall render the applicant's ballot void.

See § [24.2-709](#). Ballot to be returned in manner prescribed by law.

Any [absentee] ballot returned to the office of the electoral board or general registrar in any manner except as prescribed by law, shall be void. Absentee ballots shall be returned to the electoral board or general registrar before the closing of the polls. The board member or registrar receiving the ballot shall mark on each envelope the date, time, and manner of delivery. For all ballots returned by the general registrar to the electoral board, the board shall give to the general registrar a receipt showing the time and date of the return

[End definition (d) above this line.]

e. Provisional/Challenged ballot

[Begin definition (e) below this line.]

The Code of Virginia does not have a specific definition for a Provisional Ballot. Instead, Va. Code §§ [24.2-653](#), [24.2-653.1](#), and [24.2-706](#), set the procedures for casting a Provisional Ballot.

[End definition (e) above this line.]

f. Absentee

[Begin definition (f) below this line.]

The Code of Virginia does not have a specific definition for an absentee ballot. Instead the requirements for absentee voting are set by Title 24.2, Chapter 7. Of specific interest might be Va. Code § [24.2-707](#). How ballots marked and returned by mail; cast in person; cast on voting equipment.

[End definition (f) above this line.]

g. Early voting

[Begin definition (g) below this line.]

Virginia has excuse-only, in-person, absentee voting. We distinguish this from early voting which is no-excuse, in-person, absentee voting.

[End definition (g) above this line.]

h. Active Voter

[Begin definition (h) below this line.]

All voters in Virginia are active voters unless otherwise stated. A voter can change their status to an active voter by Va. Code § [24.2-428.2](#). Return of registered voter to active status.

[End definition (h) above this line.]

i. Inactive Voter

[Begin definition (i) below this line.]

Voters in Virginia are placed on inactive status according to Va. Code § [24.2-428](#). Regular periodic review of registration records; notice to voters identified as having moved; placement on inactive status for failure to respond to not

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E. The general registrar shall correct his registration records from the information obtained from the return card. If the information indicates that the registered voter has moved to another general registrar's jurisdiction within the Commonwealth, the general registrar shall transfer the registration record, along with the return card, to the appropriate general registrar who shall treat the request for a change of address as a request for transfer and shall send a voter registration card as confirmation of the transfer to the voter pursuant to § [24.2-424](#). If the general registrar does not receive the return card provided for in subsection C of this section within thirty days after it is sent to the voter, the registered voter's name shall be placed on inactive status. A registered voter's failure to receive the notice shall not affect the validity of the inactivation.

Virginia voters can also be placed on inactive status according to Va. Code § [24.2-428.1](#). Other procedures for assigning registered voters to inactive status.

In addition to the voter list maintenance program provided for in § [24.2-428](#), the general registrar and the registered voter shall follow the confirmation notification procedures set forth in subsections C through E of § [24.2-428](#) if a voter provides an address on a candidate or referendum petition that differs from the address for the voter on the voter registration system or if any of the following documents sent to the registered voter are returned by the Postal Service as undeliverable:

1. An acknowledgment of registration;
2. An acknowledgment of transfer to a new address;
3. An absentee ballot or application for an absentee ballot sent or provided in accordance with Chapter 7 (§ [24.2-700](#) et seq.);

4. Notification to a voter after a precinct reassignment;
5. Notification of a change of address sent to a voter in accordance with subsection B of § [24.2-428](#); or
6. Any official voter registration or election mail.

[End definition (i) above this line.]

- j. Other terms (please specify) _____

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

Virginia's other definitions can all be found in Va. Code § [24.2-101](#). The following may be of interest:

"Candidate" means a person who seeks or campaigns for an office of the Commonwealth or one of its governmental units in a general, primary, or special election and who is qualified to have his name placed on the ballot for the office. "Candidate" shall include a person who seeks the nomination of a political party or who, by reason of receiving the nomination of a political party for election to an office, is referred to as its nominee. For the purposes of Chapters 8 (§ [24.2-800](#) et seq.), 9.3 (§ [24.2-945](#) et seq.), and 9.5 (§ [24.2-955](#) et seq.), "candidate" shall include any write-in candidate. However, no write-in candidate who has received less than 15 percent of the votes cast for the office shall be eligible to initiate an election contest pursuant to Article 2 (§ [24.2-803](#) et seq.) of Chapter 8. For the purposes of Chapters 9.3 (§ [24.2-945](#) et seq.) and 9.5 (§ [24.2-955](#) et seq.), "candidate" shall include any person who raises or spends funds in order to seek or campaign for an office of the Commonwealth, excluding federal offices, or one of its governmental units in a party nomination process or general, primary, or special election; and such person shall be considered a candidate until a final report is filed pursuant to Article 3 (§ [24.2-947](#) et seq.) of Chapter 9.3.

"Central absentee voter precinct" means a precinct established by a county or city pursuant to § [24.2-712](#) for the processing of absentee ballots for the county or city or any combination of precincts within the county or city.

"Constitutional office" or "constitutional officer" means a county or city office or officer referred to in Article VII, Section 4 of the Constitution of Virginia: clerk of the circuit court, attorney for the Commonwealth, sheriff, commissioner of the revenue, and treasurer.

"Election" means a general, primary, or special election.

"Election district" means the territory designated by proper authority or by law which is represented by an official elected by the people, including the Commonwealth, a

congressional district, a General Assembly district, or a district for the election of an official of a county, city, town, or other governmental unit.

"Electoral board" or "local electoral board" means a board appointed pursuant to § [24.2-106](#) to administer elections for a county or city. The electoral board of the county in which a town or the greater part of a town is located shall administer the town's elections.

"General election" means an election held in the Commonwealth on the Tuesday after the first Monday in November or on the first Tuesday in May for the purpose of filling offices regularly scheduled by law to be filled at those times.

"Officer of election" means a person appointed by an electoral board pursuant to § [24.2-115](#) to serve at a polling place for any election.

"Party" or "political party" means an organization of citizens of the Commonwealth which, at either of the two preceding statewide general elections, received at least 10 percent of the total vote cast for any statewide office filled in that election. The organization shall have a state central committee and an office of elected state chairman which have been continually in existence for the six months preceding the filing of a nominee for any office.

"Person with a disability" means a person with a disability as defined by the Virginians with Disabilities Act (§ [51.5-1](#) et seq.).

"Polling place" means the one place provided for each precinct at which the qualified voters who are residents of the precinct may vote.

"Precinct" means the territory designated by the governing body of a county, city, or town to be served by one polling place.

"Primary" or "primary election" means an election held for the purpose of selecting a candidate to be the nominee of a political party for election to office.

"Qualified voter" means a person who is entitled to vote pursuant to the Constitution of Virginia and who is (i) 18 years of age on or before the day of the election or qualified pursuant to § [24.2-403](#) or subsection D of § [24.2-544](#), (ii) a resident of the Commonwealth and of the precinct in which he offers to vote, and (iii) registered to vote. No person who has been convicted of a felony shall be a qualified voter unless his civil rights have been restored by the Governor or other appropriate authority. No person adjudicated incapacitated shall be a qualified voter unless his capacity has been reestablished as provided by law.

"Qualified voter in a town" means a person who is a resident within the corporate boundaries of the town in which he offers to vote, duly registered in the county of his residence, and otherwise a qualified voter.

"Referendum" means any election held pursuant to law to submit a question to the voters for approval or rejection.

"Registered voter" means any person who is maintained on the Virginia voter registration system. All registered voters shall be maintained on the Virginia voter registration system with active status unless assigned to inactive status by a general registrar in accordance with Chapter 4 (§ [24.2-400](#) et seq.). For purposes of applying the precinct size requirements of §[24.2-307](#), calculating election machine requirements pursuant to Article 3 (§ [24.2-625](#) et seq.) of Chapter 6, mailing notices of local election district, precinct or polling place changes as required by subdivision 13 of § [24.2-114](#) and § [24.2-306](#), and determining the number of signatures required for candidate and voter petitions, "registered voter" shall include only persons maintained on the Virginia voter registration system with active status.

"Registration records" means all official records concerning the registration of qualified voters and shall include all records, lists, applications, and files, whether maintained in books, on cards, on automated data bases, or by any other legally permitted record-keeping method.

"Residence" or "resident," for all purposes of qualification to register and vote, means and requires both domicile and a place of abode. In determining domicile, consideration may be given to a person's expressed intent, conduct, and all attendant circumstances including, but not limited to, financial independence, business pursuits, employment, income sources, residence for income tax purposes, marital status, residence of parents, spouse and children, if any, leasehold, sites of personal and real property owned by the person, motor vehicle and other personal property registration, and other factors reasonably necessary to determine the qualification of a person to register or vote.

"Special election" means any election that is held pursuant to law to fill a vacancy in office or to hold a referendum

[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.]

Virginia had had over 200 bills which impacted elections during our legislative session. The three of most interest to the EAC this past year include:

- 1) Close of Books: HB 1197 shortened the close of books for voter registration thus allowing people more time before an election to add or change their voter registration.
- 2) Voting Equipment audits: SB292 provides for a random audit of optical scan tabulators after each election to take place within 24 hours after initial vote counts are completed and before the election results are certified. The State Board of Elections will establish procedures for the audits, hand counts, and evaluating discrepancies between hand counts and tabulator tallies. The bill also requires that recount officials select a random sample of at least five percent of the optical scan tabulators used in the election being recounted and that the paper ballots counted by those tabulators be recounted by hand. If the hand count detects machine errors, then the recount officials may designate additional machines to hand count.
- 3) Email absentee ballots: HB798 and SB508 Provides that voters covered by the Uniformed and Overseas Citizens Absentee Voting Act who reside or are stationed outside the continental borders of the United States may receive their blank absentee ballots by electronic transmission. Present law allows these voters to request absentee ballots by electronic transmission. This bill covers the second step of sending the ballot to these overseas voters. The voted ballots will have to be returned by mail.

[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.]

n/a.

[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.]

The process is the same for all voters.

§ 24.2-428. Regular periodic review of registration records; notice to voters identified as having moved; placement on inactive status for failure to respond to notice.

A. The State Board shall establish a voter list maintenance program using the change of address information supplied by the United States Postal Service through its licensees or by other reliable sources to identify voters whose addresses may have changed. Any such program shall be regular and periodic and shall be conducted at least annually. The program shall be completed not later than ninety days prior to the date of a federal primary or federal general election.

B. If it appears from information provided by the Postal Service or by other reliable sources that a voter has moved to a different address in the same county or city in which the voter is currently registered, the State Board of Elections shall provide to the general registrar the information necessary to change the registration records to show the new address, and the State Board of Elections or the general registrar shall send to the new address of the voter by forwardable mail, a notice of the change, along with a postage prepaid, pre-addressed return card by which the voter may verify or correct the address information.

C. If it appears from information provided by the Postal Service or by other reliable sources that a voter has moved to a different address not in the same county or city, the State Board of Elections or the general registrar shall send to the last known address of the voter by forwardable mail, a notice on a form prescribed by the State Board, along with a postage prepaid and pre-addressed return card on which the voter may state his current address.

D. The registered voter shall complete and sign the return card subject to felony penalties for making false statements pursuant to § [24.2-1016](#).

E. The general registrar shall correct his registration records from the information obtained from the return card. If the information indicates that the registered voter has moved to another general registrar's jurisdiction within the Commonwealth, the general registrar shall transfer the registration record, along with the return card, to the appropriate general registrar who shall treat the request for a change of address as a request for transfer and shall send a voter registration card as confirmation of the transfer to the voter pursuant to § [24.2-424](#). If the general registrar does not receive the return card provided for in subsection C of this section within thirty days after it is sent to the voter, the registered voter's name shall be placed on inactive status. A registered voter's failure to receive the notice shall not affect the validity of the inactivation.

[§ 24.2-428.1](#). Other procedures for assigning registered voters to inactive status.

In addition to the voter list maintenance program provided for in § [24.2-428](#), the general registrar and the registered voter shall follow the confirmation notification procedures set forth in subsections C through E of § [24.2-428](#) if a voter provides an address on a candidate or referendum petition that differs from the address for the voter on the voter registration system or if any of the following documents sent to the registered voter are returned by the Postal Service as undeliverable:

1. An acknowledgment of registration;
2. An acknowledgment of transfer to a new address;
3. An absentee ballot or application for an absentee ballot sent or provided in accordance with Chapter 7 (§ [24.2-700](#) et seq.);
4. Notification to a voter after a precinct reassignment;
5. Notification of a change of address sent to a voter in accordance with subsection B of § [24.2-428](#); or
6. Any official voter registration or election mail.

[§ 24.2-428.2](#). Return of registered voter to active status.

A registered voter shall be returned to active status from inactive status if, during the period beginning on the date the voter was assigned to inactive status and ending on the day of the second general election for federal office thereafter, the voter:

1. Notifies the general registrar of a change of address within the county or city;
2. Responds to a confirmation notice with information that the voter continues to reside at the registration address;
3. Votes or attempts to vote in a primary or a special or general election and, if necessary, corrects the registration record; or
4. Transfers his registration to another county or city within the Commonwealth, pursuant to § [24.2-424](#) or subsection E of §[24.2-428](#).

If the registered voter fails to take such action on or before the day of the second general election for federal office after the voter was placed on inactive status, the general registrar shall cancel the person's voter registration.

The general registrar shall post at the courthouse or have published in a newspaper of general circulation in his county or city a list of names of persons whose registration has been cancelled pursuant to this section. He shall deliver or mail, obtaining a certificate of mailing, a certified copy of the list to the chairman of each political party in his county or city.

[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.]

The state utilizes VERIS (our statewide, computerized, voter registration and election management system) to add, change and cancel voter registrations. The State Board of Elections receives data from numerous sources and it is matched against the voter registration data. Possible matches are then communicated to local registrars who have the capability and authority to add, change and cancel voter registrations.

The data sources used for matches include: death records from the Virginia Department of Health (See Va Code § [24.2-408](#)); felony records from the Virginia State Police (See Va. Code § [24.2-409](#)); felony records from the United States Attorneys (See Va Code § [24.2-409.1](#)); lists of persons declared mentally incompetent from (See Va Code § [24.2-410](#)); and lists of persons who indicate they are a non-citizen at the Department of Motor Vehicles (See Va Code § [24.2-410.1](#)).

The procedures for adding, changing or cancelling voter registrations can be found online at:

http://www2.sbe.virginia.gov/easd/Election_Processing/VERIS/Step%20by%20steps/Add-Update%20Voter%20-%2020021407.pdf and

http://www2.sbe.virginia.gov/easd/Election_Processing/VERIS/Step%20by%20steps/PROH-1%20%20Prohibited%20List%20Maintenance%2020013107.pdf.

VERIS uses a confidence factor to determine and communicate possible matches. VERIS determines the Confidence Factor in two steps:

Step 1. Match: Determine which records to consider for calculating a Confidence Factor

Step 2. Calculate: Calculate the Confidence Factor for the matches that were found

Step 1: Match. For you to have any confidence in a match there is a minimum amount of information that must be the same. VERIS assumes that for two records to be considered a potential match, one of the following sets of information must be the same:

1. Full SSN, or
2. First Name and Last Name, or
3. Last Name and DOB

Step 2: Calculate Once VERIS identifies a possible match, the system calculates the Confidence Factor. VERIS assigns points any time the information in a field is the same for both records. While the total number of points available is more than 100, VERIS displays the Confidence Factor as a percentage between 0 and 100. If the calculated number exceeds 100, VERIS displays a Confidence Factor of 100%.

Field	Points Assigned for Match
Full SSN	40
Last 4 of SSN	10
DOB	25
Last Name	15
First Name	10
Middle Name	5
Suffix	5
Zip Code (first 5)	5
Residence Address	10

More details about the confidence factor are available here:

http://www2.sbe.virginia.gov/easd/Election_Processing/VERIS/Confidence%20Factor%20Calculation%20Method%20-%20Annual%20Training.doc.

The legal requirements for cancellation are found in Va Code § 24.2-427.

§ 24.2-427. Cancellation of registration by voter or for persons known to be deceased or disqualified to vote.

A. Any registered voter may cancel his registration and have his name removed from the central registration records by signing an authorization for cancellation and mailing or otherwise submitting the signed authorization to the general registrar. When submitted by any means other than when notarized or in person, such cancellation must be made at least twenty-nine days prior to an election in order to be valid in that election. The general registrar shall acknowledge receipt of the authorization and advise the voter in person or by first-class mail that his registration has been canceled within ten days of receipt of such authorization.

B. The general registrar shall cancel the registration of (i) all persons known by him to be deceased or disqualified to vote by reason of a felony conviction or adjudication of incapacity; (ii) all persons known by him not to be United States citizens by reason of reports from the Department of Motor Vehicles pursuant to § [24.2-410.1](#) and in accordance with the requirements of subsection B1; (iii) all persons for whom a notice has been received, signed by the voter or from the registration official of another jurisdiction, that the voter has moved from the Commonwealth; and (iv) all persons for whom a notice has been received, signed by the voter or from the registration official of another jurisdiction, that the voter has registered to vote outside the Commonwealth, subsequent to his registration in Virginia. The notice received in clauses (iii) and (iv) shall be considered as a written request from the voter to have his registration cancelled. A voter's registration may be cancelled at any time during the year in which the general registrar discovers that the person is no longer entitled to be registered. The general registrar shall mail notice of any cancellation to the person whose registration is cancelled.

B1. The general registrar shall mail notice promptly to all persons known by him not to be United States citizens by reason of a report from the Department of Motor Vehicles pursuant to § [24.2-410.1](#) prior to cancelling their registrations. The notice shall inform the person of the report from the Department of Motor Vehicles and allow the person to submit his sworn statement that he is a United States citizen within 14 days of the date that the notice was mailed. The general registrar shall cancel the registrations of such persons who do not respond within 14 days to the notice that they have been reported not to be United States citizens.

C. The general registrar may cancel the registration of any person for whom a notice has been submitted to the Department of Motor Vehicles in accordance with the Driver License Compact set out in Article 18 (§ [46.2-483](#) et seq.) of Chapter 3 of Title 46.2 and forwarded to the general registrar, that the voter has moved from the Commonwealth; provided that the registrar shall mail notice of such cancellation to the person at both his new address, as reported to the Department of Motor Vehicles, and the address at which he had most recently been registered in Virginia. No general registrar may cancel registrations under this authority while the registration records are closed pursuant to § [24.2-416](#). No registrar may cancel the registration under this authority of any person

entitled to register under the provisions of subsection A of § [24.2-420.1](#), and shall reinstate the registration of any otherwise qualified voter covered by subsection A of § [24.2-420.1](#) who applies to vote within four years of the date of cancellation.

[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 data sources used for matches include: death records from the Virginia Department of Health (See Va Code § [24.2-408](#)); felony records from the Virginia State Police (See Va. Code § [24.2-409](#)); felony records from the United States Attorneys (See Va Code § [24.2-409.1](#)); lists of persons declared mentally incompetent from (See Va Code § [24.2-410](#)); and lists of persons who indicate they are a non-citizen at the Department of Motor Vehicles (See Va Code § [24.2-410.1](#)).

In addition, we receive deaths from the Social Security Administration, lists of streets from the United States Postal Service (via Semaphore, a third party vendor), and verify social security numbers for certain voters through the Virginia Department of Motor Vehicles.

The Code of Virginia was recently changed to allow us to share our voter lists with other states for the purpose of database matching.

§ 24.2-405. Persons who may obtain lists of registered voters.

A. The State Board shall furnish, at a reasonable price, lists of registered voters for their districts to (i) courts of the Commonwealth and the United States for jury selection purposes, (ii) candidates for election or political party nomination to further their candidacy, (iii) political party committees or officials thereof for political purposes only, (iv) political action committees that have filed a current statement of organization with the State Board pursuant to § [24.2-949.2](#), or with the Federal Elections Commission pursuant to federal law, for political purposes only, (v) incumbent officeholders to report to their constituents, and (vi) nonprofit organizations that promote voter participation and registration for that purpose only. The lists shall be furnished to no one else and used for no other purpose. However, the State Board is authorized to furnish information from the voter registration system to general registrars for their official use and to the Department of Motor Vehicles and other appropriate state agencies for maintenance of the voter registration system, and to the Chief Election Officers of other states for maintenance of voter registration systems.

B. The State Board shall furnish, at a reasonable price, lists of the addresses of registered voters for their localities to local government census liaisons and their staffs for the sole purpose of providing address information to the United States Bureau of the Census. The State Board shall also furnish, at a reasonable price, such lists to the Clerk of the Senate and the Clerk of the House of Delegates for the sole purpose of maintaining a database of constituent addresses for the General Assembly. The information authorized under this subsection shall be furnished to no other person and used for no other purpose. No list

furnished under this subsection shall contain the name of any registered voter. For the purpose of this subsection, the term "census liaison" shall have the meaning provided in 13 U.S.C. § 16.

C. In no event shall any list furnished under this section contain the social security number, or any part thereof, of any registered voter except a list furnished to a court of the Commonwealth or of the United States for jury selection purposes, or to the Chief Election Officer of another state permitted to use social security numbers, or any parts thereof, that provides for the use of such numbers on applications for voter registration in accordance with federal law, for maintenance of voter registration systems.

D. Any list furnished under subsection A of this section shall contain the post office box address in lieu of the residence street address for any active or retired law-enforcement officer, as defined in § [9.1-101](#) and in 5 U.S.C. § 8331(20) but excluding officers whose duties relate to detention as defined in paragraphs (A) through (D) of § 8331(20), who has furnished at the time of registration or subsequently, in addition to his street address, a post office box address located in the Commonwealth for use on such lists.

E. Any list furnished under subsection A of this section shall contain the post office box address in lieu of the residence street address for any party granted a protective order issued by or under the authority of any court of competent jurisdiction, including but not limited to courts of the Commonwealth of Virginia, who has furnished at the time of registration or subsequently, in addition to his street address, a post office box address located in the Commonwealth for use on such lists.

F. Any list furnished under subsection A shall contain the post office box address in lieu of the residence street address for any party who has furnished at the time of registration or subsequently, (i) in addition to his street address, a post office box address located in the Commonwealth for use on such lists and (ii) a signed written statement by the party that he is in fear for his personal safety from another person who has threatened or stalked him accompanied by evidence that he has filed a complaint with a magistrate or law-enforcement official against such other person. The statement furnished pursuant to clause (ii) of this subsection shall be subject to felony penalties for false statements pursuant to § [24.2-1016](#).

§ 24.2-406. Persons who may obtain lists of persons voting at primaries and elections.

A. The State Board shall furnish to candidates, elected officials, or political party chairmen and to no one else, on request and at a reasonable price, lists for their districts of persons who voted at any primary, special, or general election held in the four preceding years. Such lists shall be used only for campaign and political purposes and for reporting to constituents.

B. The State Board shall furnish to the Chief Election Officer of another state, on request and at a reasonable price, lists of persons who voted at any primary, special, or general election held for the four preceding years. Such lists shall be used only for the purpose of

maintenance of voter registration systems and shall be transmitted in accordance with security policies approved by the State Board of Elections.

C. In no event shall any list furnished under this section contain the social security number, or any part thereof, of any registered voter, except for a list furnished to the Chief Election Officer of another state permitted to use social security numbers, or any parts thereof, that provides for the use of such numbers on applications for voter registration in accordance with federal law, for maintenance of voter registration systems.

D. Any list furnished under this section shall contain the post office box address in lieu of the residence street address for any active or retired law-enforcement officer, as defined in § [9.1-101](#) and in 5 U.S.C. § 8331(20) but excluding officers whose duties relate to detention as defined in paragraphs (A) through (D) of § 8331(20), who has furnished at the time of registration or subsequently, in addition to his street address, a post office box address located in the Commonwealth for use on such lists.

E. Any list furnished under this section shall contain the post office box address in lieu of the residence street address for any party granted a protective order issued by or under the authority of any court of competent jurisdiction, including but not limited to courts of the Commonwealth of Virginia, who has furnished at the time of registration or subsequently, in addition to his street address, a post office box address located in the Commonwealth for use on such lists.

F. Any list furnished under this section shall contain the post office box address in lieu of the residence street address for any party who has furnished at the time of registration or subsequently (i) in addition to his street address, a post office box address located in the Commonwealth for use on such lists and (ii) a signed written statement by the party that he is in fear for his personal safety from another person who has threatened or stalked him accompanied by evidence that he has filed a complaint with a magistrate or law-enforcement official against such other person. The statement furnished pursuant to clause (ii) of this section shall be subject to felony penalties for false statements pursuant to § [24.2-1016](#).

[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.]

Va. Code § [24.2-428](#). Regular periodic review of registration records; notice to voters identified as having moved; placement on inactive status for failure to respond to notice.

A. The State Board shall establish a voter list maintenance program using the change of address information supplied by the United States Postal Service through its licensees or by other reliable sources to identify voters whose addresses may have changed. Any such program shall be regular and periodic and shall be conducted at least annually. The

program shall be completed not later than ninety days prior to the date of a federal primary or federal general election.

B. If it appears from information provided by the Postal Service or by other reliable sources that a voter has moved to a different address in the same county or city in which the voter is currently registered, the State Board of Elections shall provide to the general registrar the information necessary to change the registration records to show the new address, and the State Board of Elections or the general registrar shall send to the new address of the voter by forwardable mail, a notice of the change, along with a postage prepaid, pre-addressed return card by which the voter may verify or correct the address information.

C. If it appears from information provided by the Postal Service or by other reliable sources that a voter has moved to a different address not in the same county or city, the State Board of Elections or the general registrar shall send to the last known address of the voter by forwardable mail, a notice on a form prescribed by the State Board, along with a postage prepaid and pre-addressed return card on which the voter may state his current address.

D. The registered voter shall complete and sign the return card subject to felony penalties for making false statements pursuant to § [24.2-1016](#).

E. The general registrar shall correct his registration records from the information obtained from the return card. If the information indicates that the registered voter has moved to another general registrar's jurisdiction within the Commonwealth, the general registrar shall transfer the registration record, along with the return card, to the appropriate general registrar who shall treat the request for a change of address as a request for transfer and shall send a voter registration card as confirmation of the transfer to the voter pursuant to § [24.2-424](#). If the general registrar does not receive the return card provided for in subsection C of this section within thirty days after it is sent to the voter, the registered voter's name shall be placed on inactive status. A registered voter's failure to receive the notice shall not affect the validity of the inactivation.

[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.]

According to the Constitution and Code of Virginia, convicted felons in Virginia lose their right to vote. (See Va. Const. Art. II, § 1; Va. Code § [24.2-427](#).)

Voting rights are not automatically restored in Virginia. A convicted felon may apply for a restoration of their rights through the Sec. of the Commonwealth. Under Article V, Section 12, of the Virginia Constitution and §§ [53.1-229](#) through [53.1-231](#) of the Code of Virginia, all clemency authority is vested solely in the Governor. Clemency is not guaranteed and if a petition is denied, the petitioner has no right of appeal.

An individual may be asked to produce documentation of his/her status when registering to vote. (*See* Opinion of the Office of Attorney General [2006-048](#).)

[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.]

Virginia has online applications for voter registration and absentee which can be completed online. The voter registration form must be printed, signed and mailed by the voter. The absentee form may be submitted electronically. (See Va. Code § [24.2-701](#).)

§ 24.2-701. Application for absentee ballot.

A. The State Board shall furnish each general registrar with a sufficient number of applications for official absentee ballots. The registrars shall furnish applications to persons requesting them.

The State Board shall implement a system that enables eligible persons to request and receive an absentee ballot application electronically through the Internet. Electronic absentee ballot applications shall be in a form approved by the State Board.

...

B. Applications for absentee ballots shall be completed in the following manner:

...

2. Any other application may be made by mail, electronic or telephonic transmission to a facsimile device if one is available to the office of the general registrar or the office of the State Board if a device is not available locally, or other means. The application shall be on a form furnished by the registrar or, if made under subdivision 2 of § [24.2-700](#), may be on a Federal Post Card Application prescribed pursuant to 42 U.S.C. § 1973ff (b) (2). The Federal Post Card Application may be accepted the later of (i) 12 months before an election, or (ii) the day following any election held in the twelfth month prior to the election in which the applicant is applying to vote. The application shall be made to the appropriate registrar no later than 5:00 p.m. on the seventh day prior to the election in which the applicant offers to vote.

[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.]

Localities have both options. (Compare Va. Code § [24.2-710](#) with Va. Code § [24.2-712](#).)

§ 24.2-710. Further duties of electoral board and general registrar; absentee voter applicant lists.

Before the polls close on the day of the election, the electoral board shall deliver the absentee ballot containers to, and obtain a receipt from, the officers of election at each appropriate precinct. Any ballot returned to the electoral board or general registrar prior to the closing of the polls, but after the ballot container has been delivered, shall be delivered in an appropriate container to the officers of election at each appropriate precinct. The containers shall be sealed prior to delivery to the officers and shall contain the sealed absentee ballots, the accompanying return envelopes, and a copy of the absentee voter applicant list for each precinct.

If the county or city uses a central absentee voter precinct pursuant to § [24.2-712](#), the lists and containers shall be delivered, as provided in this section, to the officers of election for the absentee precinct. ...

§ 24.2-712. Central absentee voter precincts; counting ballots.

A. Notwithstanding any other provision of law, the governing body of each county or city may establish one or more central absentee voter precincts in the courthouse or other public buildings for the purpose of receiving, counting, and recording absentee ballots cast in the county or city. The decision to establish any absentee voter precinct shall be made by the governing body by ordinance; the ordinance shall state for which elections the precinct shall be used. The decision to abolish any absentee voter precinct shall be made by the governing body by ordinance. Immediate notification of either decision shall be sent to the State Board and the electoral board. ...

[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.]

No, they are reported in a separate "central absentee precinct" (CAP).

[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.]

Localities have both options. (*Compare* Va. Code § [24.2-710](#) with Va. Code § [24.2-712](#).) See answer to question C1(a).

[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.]

They are treated the same as any other absentee ballot for counting and reporting purposes.

[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.]

Outside of federal requirements, Virginia requires a reason to vote absentee. (*See* Va. Code § [24.2-700](#).)

§ 24.2-700. Persons entitled to vote by absentee ballot.

The following registered voters may vote by absentee ballot in accordance with the provisions of this chapter in any election in which they are qualified to vote:

1. Any person who, in the regular and orderly course of his business, profession, or occupation or while on personal business or vacation, will be absent from the county or city in which he is entitled to vote;
2. Any person who is (i) a member of a uniformed service of the United States, as defined in 42 U.S.C. § 1973ff-6 (7), on active duty, or (ii) a member of the merchant marine of the United States, or (iii) who temporarily resides outside of the United States, or (iv) the spouse or dependent residing with any person listed in (i), (ii), or (iii), and who will be absent on the day of the election from the county or city in which he is entitled to vote;
3. Any student attending a school or institution of learning, or his spouse, who will be absent on the day of election from the county or city in which he is entitled to vote;

4. Any duly registered person with a disability, as defined in § [24.2-101](#), who is unable to go in person to the polls on the day of election because of his disability, illness, or pregnancy;
5. Any person who is confined while awaiting trial or for having been convicted of a misdemeanor, provided that the trial or release date is scheduled on or after the third day preceding the election. Any person who is awaiting trial and is a resident of the county or city where he is confined shall, on his request, be taken to the polls to vote on election day if his trial date is postponed and he did not have an opportunity to vote absentee;
6. Any person who is a member of an electoral board, registrar, officer of election, or custodian of voting equipment;
7. Any duly registered person who is unable to go in person to the polls on the day of the election because he is primarily and personally responsible for the care of an ill or disabled family member who is confined at home;
8. Any duly registered person who is unable to go in person to the polls on the day of the election because of an obligation occasioned by his religion; or
9. Any person who, in the regular and orderly course of his business, profession, or occupation, will be at his place of work and commuting to and from his home to his place of work for eleven or more hours of the thirteen hours that the polls are open pursuant to § [24.2-603](#).

[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.]

Virginia allows excuse-only, in-person, absentee voting.

In-person absentee voting can start as soon as ballots are ready which changes upon the election type.

§ [24.2-612](#). List of offices and candidates filed with State Board and checked for accuracy; when ballots printed; number required.

... The electoral board shall make printed ballots available for absentee voting at least (i) 45 days prior to any November general election or special election held at the same time; (ii) 30 days prior to any other general, special, or primary election; or (iii) in the case of a special election, if time is insufficient to meet the applicable deadline established herein, then as soon after the deadline as possible. ...

In-person absentee voting must begin by a certain date depending upon the election type.

§ [24.2-701](#). Application for absentee ballot.

... For the purposes of this chapter, the general registrar's office shall be open a minimum of eight hours between the hours of 8:00 a.m. and 5:00 p.m. on the first and second Saturday immediately preceding all general elections, except May general elections held in towns, and on the Saturday immediately preceding any primary election, May general election held in a town, or special election. ...

These ballots are reported the same as any other absentee ballot. Localities have the option of reporting centrally or by precinct. (*Compare* Va. Code § [24.2-710](#) with Va. Code § [24.2-712](#).)

[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.]

Virginia has four reasons by which a provisional ballot may be used:

1. Voter is voting after the normal poll closing time due to a court order extending the time established by state law for closing the polls. (Va. Code § [24.2-653\(C\)](#))

2. Voter requested an absentee ballot but did not receive it or lost the ballot. (Va. Code §§ [24.2-653.1](#) and [24.2-708](#).)
3. Voter is subject to HAVA identification requirements but did not show a HAVA ID. (Va Code §§ [24.2-653](#) and [24.2-701\(B\)](#).)
4. Voter's name mistakenly was omitted from pollbook. (Va. Code § [24.2-653](#).) This includes persons who submitted a voter registration application at an NVRA agency but whose application was lost before being processed by the general registrar.

[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.]

No, these provisional ballots are rejected.

According to our General Registrar and Electoral Board handbook:

Statutes and Policies for Determining Qualification of Provisional Ballots

- The electoral board must open one precinct at a time, the #1A envelope and, if used, the #1B envelope marked “provisional votes” and proceed to determine the qualifications, one by one, without opening the green envelopes, of each person who cast a ballot in a green provisional ballot envelope. The first qualification is that the person be registered to vote. Second, the person must have voted in his or her legally assigned precinct.
- The general registrar will provide any information that he or she has available to determine if the voter casting a provisional ballot was legally registered to vote in the precinct in which the voter cast the provisional ballot.
- Any evidence presented by the voter or SBE that indicates a person submitted an application at DMV or other NVRA agency **prior to the close of books**, who submitted a completed application on election day, and the registrar determined the voter was qualified from this application must have the provisional ballot counted by the electoral board. (§ 24.2-653(B)). In this scenario, the officer of election will have asked the voter for the date and location of the DMV or other NVRA agency at which the voter submitted a voter registration application. The general registrar working in conjunction with the SBE and the DMV will determine if there are any records pertaining to the registration. If there are records from DMV or other NVRA agency, there are two scenarios which could have occurred:
 - The DMV audit shows that the voter indicated a “no” when asked if he or she would like to register to vote or update registration information. In this case, if there are no other records available from the registrar or the SBE, the voter did not register to vote and the provisional ballot should not be counted unless some other exception applies. For example, a voter

who recently moved within the same locality and congressional district may be instructed to return to a former precinct and vote a provisional ballot if not listed on the pollbook there. (§ 24.2-401). In this scenario, the general registrar must still confirm the voter was a registered voter of the old precinct in order for the electoral board to count the provisional ballot.

- The voter either has an acknowledgment form from DMV or the DMV audit shows the voter indicated a "yes" when asked to register or update registration information **before the close of books**. Also, an NVRA agency may indicate the voter submitted an application through the agency. In the absence of any records from the general registrar or SBE concerning this registration application, the only records available indicate the voter made his or her best effort to register to vote or update his registration record and the administrative system in place failed to deliver the information to the registrar in a timely manner.
- Pursuant to § 24.2-653, the general registrar must use the registration application completed when casting the provisional ballot to determine that applicant's eligibility to register and if qualified, the registrar must register the voter retroactively to be effective as of the date the voter submitted the timely application at DMV or other NVRA agency before the close of books. In other words, the application is back dated to match the proof of timely submission.
- If the general registrar determines the voter was qualified from the application completed at the polls, and the voter or SBE indicate the voter had submitted an application prior to the close of books, the electoral board must count the voter's provisional ballot. (§ 24.2-653).
- A provisional ballot completed at the polls and signed satisfies the ID requirements of HAVA and Virginia Election Law and allows counting the following ballots if the Electoral Board determines the voter is otherwise qualified:
 - An in-person voter with an "H" beside their name on the pollbook failed to produce a copy of an acceptable ID on the HAVA list,
 - An absentee ballot voter with an "H" beside their name on the pollbook failed to mail a copy of an acceptable ID on the HAVA list.42 U.S.C. § 15482 (a) (4); Virginia Election Law §§ 24.2-643, 24.2-643, 24.2-701(B), and 24.2-706(4).
- If any such information is provided to illustrate the voter's registration status and the ballot was offered in the correct precinct, the provisional ballot is accepted. If not, the provisional ballot is not counted.

[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.]

Virginia's law was recently changed to allow post-election audits.

§ [24.2-671.1](#). Pilot programs for audits of optical scan tabulators.

A. The State Board shall be authorized to provide for pilot programs in one or more localities with respect to an election in which the margin between the top two candidates for each office on the ballot exceeds 10 percent, with the consent of the electoral board of the locality, to conduct a post-election audit of one or more optical scan tabulators in one or more precincts, notwithstanding any other provision of law to the contrary. The purposes of the pilot programs shall be to study the accuracy of optical scan tabulators; to evaluate the time, cost, and accuracy of audits; and to determine proper procedures for conducting audits. A pilot program may audit any combination of randomly selected or specific tabulators.

B. No audit conducted as part of a pilot program shall commence until after the election has been certified and the period to initiate a recount has expired without the initiation of a recount. An audit conducted as part of a pilot program shall have no effect on the election results.

C. All audits shall be performed in accordance with the procedures prescribed by the State Board under the supervision of the local electoral board. The procedures established by the State Board shall include its procedures for conducting hand counts of ballots. Candidates and political parties may have representatives observe the audits.

D. At the conclusion of each audit, the local electoral board shall announce publicly the results of the audit of the machines in its jurisdiction. The announcement shall include a comparison of the audited election results and the initial tally for each machine audited, and an analysis of any detected discrepancies.

[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.]

Virginia law does not set any requirements for the content of poll worker training; it does set requirements for the timing of any training.

§ [24.2-115](#). Appointment, qualifications, and term of officers of election.

The electoral board shall instruct each chief officer and assistant in his duties not less than three nor more than 30 days before each election. Each electoral board may instruct each officer of election in his duties at an appropriate time or times before each November general election.

[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.]

Over-votes and under-votes statistics are not tracked at the state level.

[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.]

Identification is not required for 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.]

See Va. Code § 24.2-643.

§ 24.2-643. Qualified voter permitted to vote; procedures at polling place; voter identification.

A. After the polls are open, each qualified voter at a precinct shall be permitted to vote. The officers of election shall ascertain that a person offering to vote is a qualified voter before admitting him to the voting booth and furnishing an official ballot to him.

B. An officer of election shall ask the voter for his full name and current residence address and repeat, in a voice audible to party and candidate representatives present, the full name and address stated by the voter. The officer shall ask the voter to present any one of the following forms of identification: his Commonwealth of Virginia voter registration card, his social security card, his valid Virginia driver's license, or any other identification card issued by a government agency of the Commonwealth, one of its political subdivisions, or the United States; or any valid employee identification card containing a photograph of the voter and issued by an employer of the voter in the ordinary course of the employer's business.

If the voter's name is found on the pollbook, if he presents one of the forms of identification listed above, if he is qualified to vote in the election, and if no objection is made, an officer shall enter, opposite the voter's name on the pollbook, the first or next consecutive number from the voter count form provided by the State Board, or shall enter that the voter has voted if the pollbook is in electronic form; an officer shall provide the voter with the official ballot; and another officer shall admit him to the voting booth.

Each voter whose name has been marked on the pollbooks as present to vote and entitled to a ballot shall remain in the presence of the officers of election in the polling place until he has voted. If a line of voters who have been marked on the pollbooks as present to vote forms to await entry to the voting booths, the line shall not be permitted to extend outside of the room containing the voting booths and shall remain under observation by the officers of election.

Except as provided in subsection E of this section, if a voter is entitled to vote except that he is unable to present one of the forms of identification listed above, he shall be allowed to vote after signing a statement, subject to felony penalties for false statements pursuant to § [24.2-1016](#), that he is the named registered voter who he claims to be. A voter who requires assistance in voting by reason of physical disability or inability to read or write, and who requests assistance pursuant to §[24.2-649](#), may be assisted in preparation of this statement in accordance with that section. The provisions of § [24.2-649](#) regarding voters who are unable to sign shall be followed when assisting a voter in completing this statement.

A voter may be accompanied into the voting booth by his child age 15 or younger.

C. If the current residence address stated by the voter is different from the address shown on the pollbook, the officer of election shall furnish the voter with a change of address form prescribed by the State Board. Upon its completion, the voter shall sign the prescribed form, subject to felony penalties for making false statements pursuant to § [24.2-1016](#), which the officer of election shall then place in an envelope provided for such forms for transmission to the general registrar who shall then transfer or cancel the registration of such voter pursuant to Chapter 4 (§ [24.2-400](#) et seq.) of this title.

D. At the time the voter is asked his full name and current residence address, the officer of election shall ask any voter for whom the pollbook indicates that an identification number other than a social security number is recorded on the Virginia voter registration system if he presently has a social security number. If the voter is able to provide his social security number, he shall be furnished with a voter registration form prescribed by the State Board to update his registration information. Upon its completion, the form shall be placed by the officer of election in an envelope provided for such forms for transmission to the general registrar. Any social security numbers so provided shall be entered by the general registrar in the voter's record on the voter registration system.

E. For federal elections held after January 1, 2004, this subsection shall apply in the case of any voter who is required by subparagraph (b) of 42 U.S.C.S. § 15483 of the Help America Vote Act of 2002 to show identification the first time the voter votes in a federal election in the state. At such election, such voter shall present: (i) a current and valid photo identification; or (ii) a copy of a current utility bill, bank statement, government check, paycheck or other document that shows the name and address of the voter. Such individual who desires to vote in person but who does not show one of the forms of identification specified in this paragraph shall be offered a provisional ballot under the provisions of § [24.2-653](#). Neither the identification requirements of subsection B of this

section, nor the identification requirements of subsection A of §[24.2-653](#), shall apply to such voter at that election. The State Board of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to subsection B of § [24.2-653](#) and this section.

[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.]

See Va. Code § 24.2-701.

§ 24.2-701. Application for absentee ballot.

A. The State Board shall furnish each general registrar with a sufficient number of applications for official absentee ballots. The registrars shall furnish applications to persons requesting them.

The State Board shall implement a system that enables eligible persons to request and receive an absentee ballot application electronically through the Internet. Electronic absentee ballot applications shall be in a form approved by the State Board.

Except as provided in § [24.2-703](#), a separate application shall be completed for each election in which the applicant offers to vote. An application for an absentee ballot may be accepted the later of (i) 12 months before an election, or (ii) the day following any election held in the twelfth month prior to the election in which the applicant is applying to vote.

Any application received before the ballots are printed shall be held and processed as soon as the printed ballots for the election are available.

For the purposes of this chapter, the general registrar's office shall be open a minimum of eight hours between the hours of 8:00 a.m. and 5:00 p.m. on the first and second Saturday immediately preceding all general elections, except May general elections held in towns, and on the Saturday immediately preceding any primary election, May general election held in a town, or special election.

Unless the applicant is disabled, all applications for absentee ballots shall be signed by the applicant who shall state, subject to felony penalties for making false statements pursuant to § [24.2-1016](#), that to the best of his knowledge and belief the facts contained in the application are true and correct and that he has not and will not vote in the election at any other place in Virginia or in any other state. If the applicant is unable to sign the application, a person assisting the applicant will note this fact on the applicant signature line and provide his signature, name, and address.

B. Applications for absentee ballots shall be completed in the following manner:

1. An application completed in person shall be made not less than three days prior to the election in which the applicant offers to vote and completed only in the office of the general registrar. The applicant shall sign the application in the presence of a registrar or a member of the electoral board. The applicant shall provide one of the forms of identification specified in subsection B of § 24.2-643, or if he is unable to present one of the forms of identification listed in that section, he shall sign a statement, subject to felony penalties for making false statements pursuant to § 24.2-1016, that he is the named registered voter who he claims to be. An applicant who requires assistance in voting by reason of disability or inability to read or write may request assistance pursuant to § 24.2-649 and be assisted in preparation of this statement in accordance with that section. The provisions of § 24.2-649 regarding persons who are unable to sign shall be followed when assisting an applicant in completing this statement.

For federal elections held after January 1, 2004, this paragraph shall apply in the case of any voter who is required by subparagraph (b) of 42 U.S.C.S. § 15483 of the Help America Vote Act of 2002 to show identification the first time that voter votes in a federal election in the state. After completing an application for an absentee ballot in person, such voter shall present: (i) a current and valid photo identification; or (ii) a copy of a current utility bill, bank statement, government check, paycheck or other document that shows the name and address of the voter. Such individual who desires to vote in person but who does not show one of the forms of identification specified in this paragraph shall be offered a provisional ballot under the provisions of § 24.2-653. Neither the identification requirements of subsection B of § 24.2-643, nor the identification requirements of subsection A of § 24.2-653, shall apply to such voter at that election. The State Board of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to subsection B of § 24.2-653 and this section.

2. Any other application may be made by mail, electronic or telephonic transmission to a facsimile device if one is available to the office of the general registrar or the office of the State Board if a device is not available locally, or other means. The application shall be on a form furnished by the registrar or, if made under subdivision 2 of § 24.2-700, may be on a Federal Post Card Application prescribed pursuant to 42 U.S.C. § 1973ff (b) (2). The Federal Post Card Application may be accepted the later of (i) 12 months before an election, or (ii) the day following any election held in the twelfth month prior to the election in which the applicant is applying to vote. The application shall be made to the appropriate registrar no later than 5:00 p.m. on the seventh day prior to the election in which the applicant offers to vote.

C. Applications for absentee ballots shall contain the following information:

1. The applicant's printed name, the last four digits of the applicant's social security number, and the reason the applicant will be absent or cannot vote at his polling place on the day of the election;

2. A statement that he is registered in the county or city in which he offers to vote and his residence address in such county or city. Any person temporarily residing outside the United States shall provide the last date of residency at his Virginia residence address, if that residence is no longer available to him. Any person who makes application under subdivision 2 of §[24.2-700](#) who is not a registered voter may file the applications to register and for a ballot simultaneously;

3. The complete address to which the ballot is to be sent directly to the applicant, unless the application is made in person at a time when the printed ballots for the election are available and the applicant chooses to vote in person at the time of completing his application. The address given shall be (i) the address of the applicant on file in the registration records; (ii) the address at which he will be located while absent from his county or city; or (iii) the address at which he will be located while temporarily confined due to a disability or illness. No ballot shall be sent to, or in care of, any other person; and

4. In the case of a person, or the spouse or dependent of a person, who is on active service as a member of the armed forces of the United States or a member of the merchant marine of the United States, the branch of service to which he or the spouse belongs, and his or the spouse's rank, grade, or rate, and service identification number; or

5. In the case of a student, or the spouse of a student, who is attending a school or institution of learning, the name and address of the school or institution of learning; or

6. In the case of any duly registered person with a disability, as defined in § [24.2-101](#), who is unable to go in person to the polls on the day of the election because of his disability, illness, or pregnancy, the nature of the disability, illness, or pregnancy; or

7. In the case of a person who is confined awaiting trial or for having been convicted of a misdemeanor, the name and address of the institution of confinement; or

8. In the case of a person who will be absent on election day for business reasons, the name of his employer or business; or

9. In the case of a person who will be absent on election day for personal business or vacation reasons, the name of the county or city in Virginia or the state or country to which he is traveling; or

10. In the case of a person who is unable to go to the polls on the day of election because he is primarily and personally responsible for the care of an ill or disabled family member who is confined at home, the name of the family member and the nature of his illness or disability; or

11. In the case of a person who is unable to go to the polls on the day of election because of an obligation occasioned by his religion, his religion and the nature of the obligation; or

12. In the case of a person who, in the regular and orderly course of his business, profession, or occupation, will be at his place of work and commuting to and from his home to his place of work for 11 or more hours of the 13 hours that the polls are open pursuant to § [24.2-603](#), the name of his business or employer, address of his place of work, and hours he will be at the workplace and commuting on election day.

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

d. casting a ballot under UOCAVA;

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

UOCAVA voters are exempt from the vote-in-person requirements of Va. Code § 24.2-416.1. Otherwise, they are subject to the same identification requirements as other Virginia voters.

[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.]

None. Though, Virginia requires certain persons who apply to register to vote by mail to vote in person their first time voting. *See* Va. Code § 24.2-416.1.

§ 24.2-416.1. Voter registration by mail.

A. A person may apply to register to vote by mail by completing and returning a mail voter registration application form in the manner and time provided by law.

B. Any person, who applies to register to vote by mail pursuant to this article and who has not previously voted in the county or city in which he registers to vote, shall be required to vote in person, either at the polls on election day or in-person absentee. However, this requirement to vote in person shall not apply to a person so long as he (i) is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. § 1973ff-1 et seq.); (ii) is provided the right to vote otherwise than in person under § 3 (b) (2) (B) (ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. § 1973ee-1 (b) (2) (B) (ii)), including any disabled voter and any voter age 65 or older who is otherwise qualified to vote absentee under § [24.2-700](#); (iii) is entitled to vote otherwise than in person under other federal law; (iv) is a full-time student in an institution of higher learning; or (v) requests to vote an absentee ballot by mail for presidential and vice-presidential elections only, for any reason, as entitled by federal law.

[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.]

See Va. Code § 24.2-604(I)

§ 24.2-604. Prohibited activities at polls; notice of prohibited area; presence of representatives of parties or candidates; simulated elections; penalties; neutral observers; news media.

A. During the times the polls are open and ballots are being counted, it shall be unlawful for any person (i) to loiter or congregate within 40 feet of any entrance of any polling place; (ii) within such distance to give, tender, or exhibit any ballot, ticket, or other campaign material to any person or to solicit or in any manner attempt to influence any person in casting his vote; or (iii) to hinder or delay a qualified voter in entering or leaving a polling place.

B. Prior to opening the polls, the officers of election shall post, in the area within 40 feet of any entrance to the polling place, sufficient notices which state "Prohibited Area" in two-inch type. The notices shall also state the provisions of this section in not less than 24-point type. The officers of election shall post the notices within the prohibited area to be visible to voters and the public.

C. The officers of election shall permit one authorized representative of each political party or independent candidate in a general or special election, or one authorized representative of each candidate in a primary election, to remain in the room in which the election is being conducted. The officers of election shall have discretion to permit up to three authorized representatives of each political party or independent candidate in a general or special election, or up to three authorized representatives of each candidate in a primary election, to remain in the room in which the election is being conducted. If the pollbook is divided into sections, the officers shall permit one such representative for each section, but no more than three representatives of any political party or independent candidate shall be permitted in the room at any one time. Each authorized representative shall be a qualified voter of the county or city within which the polling place is located. Each representative shall present to the officers of election a written statement designating him to be a representative of the party or candidate and signed by the county or city chairman of his political party, the independent candidate, or the primary candidate, as appropriate. Such statement, bearing the chairman's or candidate's original signature, may be photocopied, and such photocopy shall be as valid as if the copy had been signed. No candidate whose name is printed on the ballot shall serve as a representative of a party or candidate for purposes of this section.

D. It shall be unlawful for any authorized representative, voter, or any other person in the room to (i) hinder or delay a qualified voter; (ii) give, tender, or exhibit any ballot, ticket,

or other campaign material to any person; (iii) solicit or in any manner attempt to influence any person in casting his vote; (iv) hinder or delay any officer of election; or (v) otherwise impede the orderly conduct of the election.

E. The officers of election may require any person who is found by a majority of the officers present to be in violation of this section to remain outside of the prohibited area. Any person violating subsection A or D of this section shall be guilty of a Class 1 misdemeanor.

F. This section shall not be construed to prohibit a candidate from entering any polling place on the day of the election to vote, or to visit a polling place for no longer than 10 minutes per polling place per election day, provided that he complies with the restrictions stated in subsections A and D of this section.

G. This section shall not be construed to prohibit a minor from entering a polling place on the day of the election to vote in a simulated election at that polling place, provided that the local electoral board has determined that such polling place can accommodate simulated election activities without interference or substantial delay in the orderly conduct of the official voting process. Persons supervising or working in a simulated election in which minors vote may remain within such polling place. The local electoral board and the chief officer for the polling place shall exercise authority over, but shall have no responsibility for the administration of, simulated election related activities at the polling place.

H. A local electoral board, and its general registrar, may conduct a special election day program for high school students, selected by the electoral board in cooperation with high school authorities, in one or more polling places designated by the electoral board, other than a central absentee voter precinct. The program shall be designed to stimulate the students' interest in elections and registering to vote, provide assistance to the officers of election, and ensure the safe entry and exit of elderly and disabled voters from the polling place. Each student shall take and sign an oath as an election page, serve under the direct supervision of the chief officer of election of his assigned polling place, and observe strict impartiality at all times. Election pages may observe the electoral process and seek information from the chief officer of election, but shall not handle or touch ballots, voting machines, or any other official election materials, or enter any voting booth.

I. A local electoral board may authorize in writing the presence of additional neutral observers as it deems appropriate, except as otherwise prohibited or limited by this section. Such observers shall comply with the restrictions in subsections A and D of this section.

J. The officers of election shall permit representatives of the news media to visit and film or photograph inside the polling place for a reasonable and limited period of time while the polls are open. However, the media (i) shall comply with the restrictions in subsections A and D of this section; (ii) shall not film or photograph any person who specifically asks the media representative at that time that he not be filmed or

photographed; (iii) shall not film or photograph the voter or the ballot in such a way that divulges how any individual voter is voting; and (iv) shall not film or photograph the voter list or any other voter record or material at the precinct in such a way that it divulges the name or other information concerning any individual voter. Any interviews with voters, candidates or other persons, live broadcasts, or taping of reporters' remarks, shall be conducted outside of the polling place and the prohibited area. The officers of election may require any person who is found by a majority of the officers present to be in violation of this subsection to leave the polling place and the prohibited area.

[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.]

Virginia made changes to their HAVA State Plan in 2006 which included a minor change to their formal grievance program. Before 2006, it was administered by the Deputy Secretary of the State Board of Elections. It is now administered by a designee of the Secretary of the State Board of Elections.

See details on page 20 here:

http://www.sbe.virginia.gov/cms/documents/HAVA/Hava_State_Plan_Amendment_2006.pdf.

[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.]

None.

[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.