

Section B

U.S. ELECTION ASSISTANCE COMMISSION



2008 Election Administration & Voting Survey

Statutory Overview

In order to better understand state laws governing federal elections, the U.S. Election Assistance Commission, as part of its biennial Election Administration and Voting Survey, is collecting information on state election laws and procedures. These answers will help us to better understand the quantitative data relating to the 2008 general election that we are collecting from all U.S. states and territories.

We understand that responding to this Statutory Overview may require significant staff time on the part of your office. Please be assured that we have attempted to minimize the burden, and we appreciate your cooperation in this very important project.

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DIRECTIONS AND EXAMPLE

Please provide your state's legal citation for the responses to these questions (where applicable).

Please answer each question to the best of your ability. If terms are ambiguous or not relevant, please explain why. If a question is not applicable to your state, please explain why. If a definition or term lacks legal standing but is widely understood in practice, please explain. If election procedures vary at the local level within your state, please explain to the best of your ability.

If state laws are currently enjoined or otherwise blocked from enforcement by a state or federal court, please specify.

Please put your responses between the red, bracketed text lines. This will help us extract your answers into our central database.

Example:

A1. How does your state define the following terms related to votes and ballots? Please provide your state's legal citation defining these terms, where applicable.

- a. Over-vote

[Begin definition (a) below this line.]

Your answer goes here. You may enter the text directly, or cut and paste from another word processing program.

There is no limit to the length of your response.

[End definition (a) above this line.]

SECTION A: GENERAL

A1. How does your state define the following terms related to votes and ballots? Please provide your state's legal citation defining these terms, where applicable.

a. Over-vote

[Begin definition (a) below this line.]

Though the term "over-vote" is not explicitly defined in the Pennsylvania Election Code (Election Code), it is understood to refer to the act of voting for more candidates than one is entitled to vote for in a specific office. The Election Code does require that electronic voting systems prevent voters from over-voting. See 25 P.S. §§ 3031.7(7) and 3031.7(16)(iv).

[End definition (a) above this line.]

b. Under-vote

[Begin definition (b) below this line.]

This term is also not explicitly defined in the Election Code, but it is generally understood to refer to the act of failing to vote for all offices and/or for all candidates within a given office. To ensure that each voter is notified when he or she is about to cast an under-vote, the Secretary of the Commonwealth's voting system examination process verifies that each voting system approved for use in the Commonwealth includes functionality that will identify prior to a voter recording his or her vote the offices which the voter has under-voted.

[End definition (b) above this line.]

c. Blank ballot

[Begin definition (c) below this line.]

The term "Blank Ballot" is not defined in the Election Code.

[End definition (c) above this line.]

d. Void/Spoiled ballot

[Begin definition (d) below this line.]

A spoiled ballot is defined as a ballot on which a voter has made a mistake. At any time prior to casting the ballot, a voter who spoils his or her ballot may return it and secure another ballot. Such returned ballots are marked "spoiled" and are placed in a separate envelope marked "Spoiled Ballots." See 25 P.S. § 3031.12(b)(5).

[End definition (d) above this line.]

e. Provisional/Challenged ballot

[Begin definition (e) below this line.]

The term “provisional ballot” means a ballot issued to an individual who claims to be properly registered and eligible to vote at the election district but whose name does not appear on the district register (poll book). See 25 P.S. §§ 3050(a.4)(1) and 3050(a.4)(12).

[End definition (e) above this line.]

f. Absentee

[Begin definition (f) below this line.]

Though the general term “Absentee” is not defined by the Election Code, the definition of the term “Qualified Absentee Elector” includes the following:

A person who is or may be in the military service of the United States;

A spouse or dependent residing with or accompanying a person in the military service of the United States and who expects on Election Day to be absent from the municipality;

A member of the Merchant Marine and his/her spouse and dependents residing with or accompanying the Merchant Marine, who expect on Election Day to be absent from the municipality;

A member of a religious or welfare group attached to and serving with the armed forces and his/her spouse and dependents residing with or accompanying him or her, who expect on Election Day to be absent the municipality;

An individual who, because of the elector's duties, occupation or business (including leaves of absence for teaching, vacations and sabbatical leaves), expects on Election Day to be absent from the municipality;

A qualified war veteran elector, who is bedridden or hospitalized due to illness or physical disability, if the elector is absent from the municipality;

A person, who because of illness or physical disability, is unable to attend his/her polling place or to operate a voting machine and obtain assistance by distinct and audible statements;

A spouse or dependent accompanying a person employed by the Commonwealth or the federal government, in the event that the employee's duties, occupation or business on Election Day require him/her to be absent;

A county employee who expects that his Election Day duties relating to the conduct of the election will prevent the employee from voting; and

A person who will not attend a polling place on Election Day because of the observance of a religious holiday.

See 25 P.S. § 2602(w).

[End definition (f) above this line.]

g. Early voting

[Begin definition (g) below this line.]

Early voting is not authorized in the Commonwealth of Pennsylvania

[End definition (g) above this line.]

h. Active Voter

[Begin definition (h) below this line.]

Though the term is not explicitly defined in the Commonwealth's voter registration law, it is understood that it references a voter whose registration record remains active by virtue of the fact that the voter has not requested cancellation of his or her record, has not moved out of state, or has not failed to respond to one of the list maintenance notices required by the Commonwealth's voter registration law. See section B3 of this survey for information regarding list maintenance notices.

[End definition (h) above this line.]

i. Inactive Voter

[Begin definition (i) below this line.]

A voter in "inactive" status is a voter who has failed to respond to one of the list maintenance notices described in the following paragraph. The voter's record will remain in "inactive" status until the voter updates his or her registration record or through two general elections for federal office, at which point the county may cancel the voter's registration record.

[End definition (i) above this line.]

j. Other terms (please specify) _____

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

[End TERM(s) and definition(s) above this line.]

A2. Please provide the legal citation for any **significant** changes to election laws or procedures that have been enacted or adopted since the previous Federal election. By "significant," we do not mean routine or technical changes (such as changes to election

district boundaries or polling place changes). However, we would like to learn about any new identification requirements for voters or registrants; changes in eligibility for voting or registering; adoption of alternative voting methods; and other changes that you believe represent a significant change in the way your state runs its elections.

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

There have been no substantive statutory changes since the last federal election.

[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.]

Not applicable.

[End response to above clarification question to B1 above this line.]

B2. Please describe the process used in your state to move voters from the active list to the inactive list, and from the inactive list to the active list. Is a different process used for UOCAVA voters?

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

A voter's record is moved from "active" status to "inactive" status if the voter has failed to respond to one of the list maintenance notices described in Section B3. The voter's record will remain in "inactive" status until the voter updates his or her registration record or through two general elections for federal office.

If an "inactive" voter updates his or her record, the voter's record will be placed in "active" status. If an "inactive" voter does not update his or her record or otherwise respond to the list maintenance notice, the voter's record will be cancelled on the day after the date of the second general election for federal office that occurs after the date of the notice.

Pennsylvania's registration laws are not entirely relevant to certain UOCAVA voters. UOCAVA voters in military service are entitled to vote by absentee ballot, irrespective of whether such military voters are registered and enrolled at the time of application for an absentee ballot. An overseas civilian who no longer resides in the Commonwealth, though not qualified to register or vote for state offices, is entitled under UOCAVA to vote for federal offices from the voter's last known residence address.

[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.]

In accordance with the federal NVRA and the Election Code, a voter's registration record cannot be cancelled unless the voter: requests cancellation in writing; has confirmed that the voter moved out of the county; is deceased; or has been in "inactive" status through two general elections for federal office as a result of failure to respond to one of the list maintenance notices described in the following paragraph.

Each county registration commission is required to conduct list maintenance at least once per year no later than 90 days prior to the November election. The primary list maintenance tools are The National Change of Address (NCOA) program, the Confirmation Mailing and the "Five Year Notice" program. The "Five Year Notice" program must be conducted in conjunction with either the NCOA or Confirmation Mailing program.

The procedures are different for certain UOCAVA voters due to the special registration rules for military voters, which are described in section B2.

[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.]

Yes. The Commonwealth's voter registration database is designed to share information with the Department of Transportation for the purpose of verifying driver's license numbers provided on registration applications and for the purpose of receiving data from the Department of Transportation regarding new applicants and applicants whose address or name has changed.

[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.]

The Department of State uses the services of a vendor to perform a match of the voter registration records contained in the statewide registration database for the Commonwealth's 67 counties with change of address records provided by the U.S. Postal Service (USPS) as part of the National Change of Address (NCOA) program. The information is then incorporated into the SURE system and forwarded to the county voter registration commissions for processing. See 25 Pa.C.S. § 1901(b)(1).

The mechanics of the NCOA process incorporated in the state registry have worked well in recent years. The data provided from the NCOA match is provided to the counties in batches, which enables the counties to more efficiently process notifications for voters whose address appears to have changed. However, the Department of State has received complaints from many counties relative to the accuracy of data contained in the NCOA lists. For example, some individuals show up on the NCOA list inadvertently because another registered voter within the same household has moved.

[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.]

The Commonwealth Court of Pennsylvania ruled on December 26, 2000 that the Pennsylvania law prohibiting convicted felons from registering to vote for five years after their release from prison is unconstitutional. Consequently, if completing an older

version of the Voter Registration Mail Application (VRMA) form, a convicted felon who has been released from prison may make application to register to vote by striking through the felony conviction line at Section 9(2) on the VRMA and signing his or her name.

Convicted felons who are incarcerated on the date of a primary or general election are not eligible to vote, regardless of whether they are registered. However, pre-trial detainees and misdemeanants are eligible to register to vote and/or to vote by absentee ballot if they otherwise qualify to vote under law.

[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.]

Currently, the Commonwealth's voting website (www.votespa.com) enables individuals to complete a registration form online. However, the registration form must be printed, the registration declaration on the form must be signed and the form must be returned to the county registration office in order for the registration to be approved. See 25 Pa.C.S. § 1324(a).

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

SECTION C: ELECTION ADMINISTRATION

C1. Please describe how all votes cast at a place other than the voter's precinct of registration are tabulated (for example, please include descriptions of such votes as absentee ballots, mail-in ballots, votes cast at vote centers, provisional ballots, early voting locations, etc.).

- a. Are the votes counted centrally or at the precincts?

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

Votes may be counted either at the precinct or centrally, depending upon the type of voting system used by the county. See 25 P.S. §§ 3031.7(16) and (17).

[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.]

If votes are tabulated centrally, the county board of elections must, no later than 5:00 PM on the second day following the election, post in the precinct the results from the precinct. See 25 P.S. § 3031.13(i).

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

- c. Are the absentee, mail, etc., votes reported separately for each precinct, or are they added to the in-precinct results and reported as just a single number?

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

Absentee vote totals are canvassed separately from other votes. Though the vote totals from absentee ballots are included in the aggregate precinct totals, a record of only the absentee vote totals is maintained. See 25 P.S. § 3146.8(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.]

UOCAVA ballots are counted and reported in the same manner as other absentee ballots, if they are received no later than the deadline for the return of absentee ballots from domestic civilian absentee voters.

Any UOCAVA ballots received after the domestic civilian absentee deadline but before the deadline for the return of absentee ballots from military and overseas voters (7th day after the election) are canvassed at the county on the 8th day after the election, provided that the ballots have been postmarked no later than the day prior to the election. See 25 P.S. § 3146.8(g).

[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.]

A reason is required for voting absentee. See 25 P.S. § 3146.1.

[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.]

The Election Code does not authorize in-person early voting.

[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.]

A voter has the right to vote by provisional ballot if:

The voter's name does not appear on the district register (poll book) and Election Officials cannot determine the voter's registration status;

The voter does not have an approved form of identification the first time he or she appears to vote in the precinct (this is required regardless of whether your name appears on the general register); or

An Election Official asserts that the voter is not eligible to vote. (In a primary election, this includes voters who claim to be registered for a particular political party, but the district register indicates they are registered as a member of another political party.)

See 25 Pa.C.S. § 3050(a.4)(1).

A voter is required to vote by provisional ballot if:

The voter is voting as a result of a federal or state court order; or

The voter is voting as a result of an order extending the time established for closing the polls by state law that is in effect 10 days before an election.

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

C6. Does your state count provisional ballots of voters who are registered in different precincts, or are those ballots automatically rejected? Please describe the process used by local election officials in determining whether to count a provisional ballot.

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

A provisional ballot is counted partially if the county board of elections determines that the provisional voter was qualified to vote in the county, but not within the precinct where the voter appeared to vote. In this situation the ballot is counted only for those offices common to both the voter's correct precinct of residence and the precinct where the voter appeared to vote. See 25 P.S. § 3050(a.4)(7)(i).

[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.]

As part of the computation and canvass of returns, each county board of elections must conduct a statistical recount of a random sample of at least two percent (2%) of the ballots cast or two thousand (2,000) ballots, whichever number is fewer. See 25 P.S. § 3031.17.

[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.]

It is the authority and duty of the various county boards of elections to instruct their respective poll workers. See 25 P.S. § 2642(g). To aid the county board of elections in administering this duty, the Pennsylvania Department of State has developed a voluntary poll worker training program.

[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.]

There is no statutory or regulatory process in place for capturing these counts. The Commonwealth captures these counts administratively by requesting those counts from the various county boards of elections.

[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.]

An applicant must provide on the registration form his or her driver's license number or the last four digits of his or her social security number.

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

b. casting an in-person ballot;

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

A voter who appears to vote in the voter's precinct for the first time must show one of the following acceptable forms of photo or non-photo identification:

Approved forms of photo identification include:

Pennsylvania driver's license or PennDOT ID card;
ID issued by any Commonwealth agency;
ID issued by the U.S. Government;
U.S. passport;
U.S. Armed Forces ID;
Student ID; or
Employee ID

If a voter does not have a photo ID, the voter can use a non-photo identification that includes his or her name and address. Approved forms of non-photo identification include:

Confirmation issued by the County Voter Registration Office;
Non-photo ID issued by the Commonwealth;
Non-photo ID issued by the U.S. Government;
Firearm permit;
Current utility bill;
Current bank statement;

Current paycheck; and
Government check

[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.]

In accordance with the Help America Vote Act, “first-time” voters who registered by mail must provide a form of identification at the time of registration or at the time of voting. If such a voter registered by mail and is voting for the first time in his or her precinct via absentee ballot, the voter must provide a copy of a form of identification at the time of registration, at the time the voter requests the absentee ballot or at the time the voter returns the absentee ballot. Note: The copy of the voter’s identification cannot be inserted in the inner secrecy envelope with the absentee ballot.

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

d. casting a ballot under UOCAVA;

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

Because section 303(b)(3)(C) of HAVA exempts from the identification requirements UOCAVA voters, the Commonwealth does not require UOCAVA voters to provide identification.

[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.]

No.

[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.]

The Election Code provides for the appointment of “overseers” and “watchers.”

Overseers are appointed by the court of common pleas on the petition of five or more registered voters of a precinct setting forth that such appointment is necessary to preserve the integrity of the election process within the precinct. Overseers are given more statutory authority than watchers because their purpose is to secure the purity and fairness of the election. See 25 P.S. § 2685.

Watchers may be appointed by political parties and/or candidates for the purpose of observing the activities at a polling location. See 25 P.S. § 2687.

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

SECTION E: OTHER

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

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

No. The administrative complaint procedures have remained intact since their inception.

[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.]

[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.