

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 | Brenda Bayes |
| Title | Deputy Director |
| Office/Agency Name | State of Oregon Elections Division |
| Address 1 | 255 Capitol St NE Ste 501 |
| Address 2 | |
| City | Salem |
| State | OR |
| Zip Code | 97310 |
| Email Address | Brenda.j.bayes@state.or.us |
| Telephone (area Code and number) | 503-986-1518 |
| Fax Number (area code and number) | 503-373-7414 |

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.]

When the voter has indicated more than one choice (or more than the allowed number of choices ORS 254.145(8)) for any race or measure.

[End definition (a) above this line.]

b. Under-vote

[Begin definition (b) below this line.]

When the voter has not made a choice for a race or measure.

[End definition (b) above this line.]

c. Blank ballot

[Begin definition (c) below this line.]

This is not a term that is defined or commonly used.

[End definition (c) above this line.]

d. Void/Spoiled ballot

[Begin definition (d) below this line.]

A void or spoiled ballot is one that cannot be counted because it is ruined in some way by the voter. It may arrive at the elections office with the ballot return envelope and secrecy envelope unsealed, or the signature on the return envelope is not the signature of the voter to whom the ballot was issued. The County Elections Official can issue a replacement ballot for a spoiled ballot but replacement ballots must be voted and returned prior to 8pm on Election day. OAR 165-007-0030 (Oregon Vote By Mail Procedures Manual).

[End definition (d) above this line.]

e. Provisional/Challenged ballot

[Begin definition (e) below this line.]

Provisional ballot: A ballot that is issued when the eligibility of the voter has not yet been determined or when the County Elections Official issues a ballot to a voter who resides in another Oregon county. OAR 165-007-0030.

Challenged ballot: Ballot that is held for further research because there is a question as to the voter's eligibility or because the signatures on the return identification ballot envelope and the registration card do not match. OAR 165-007-0030.

[End definition (e) above this line.]

f. Absentee

[Begin definition (f) below this line.]

Absent elector means a person to whom the county clerk has issued a ballot prior to the date that ballots are mailed to electors as provided in ORS 254.470 (2)(a) or (b). ORS 253.005.

Long Term Absent Elector means a resident of this state absent from the place of residence and (1) Serving in the Armed Forces of the United States or who has been discharged from the Armed Forces of the United States for not more than 30 days; (2) Serving in the Merchant Marine of the United States or who has been discharged from the Merchant Marine of the United States for not more than 30 days; or (3) Temporarily living outside the territorial limits of the United States and the District of Columbia. ORS 253.510 Long term absent elector also includes persons: serving in or discharged 30 days or less from the United States Armed Forces or United States Merchant Marine; temporarily living outside the territorial limits of the United States and the District of Columbia or the spouse or dependent of a long term absent elector. OAR 165-007-0030.

[End definition (f) above this line.]

g. Early voting

[Begin definition (g) below this line.]

Not defined in Oregon law.

[End definition (g) above this line.]

h. Active Voter

[Begin definition (h) below this line.]

Elector means an individual qualified to vote under section 2, Article II, Oregon Constitution. ORS 247.002. An active voter is a person who is registered to vote and eligible to receive a ballot under ORS 254.470.

[End definition (h) above this line.]

i. Inactive Voter

[Begin definition (i) below this line.]

An elector for whom the county clerk has received evidence that there has been a change in the information required for registration under Oregon statutes or the elector has neither voted nor updated the registration for a period of not less than five years; and (b) the county clerk has mailed a notice by forwardable mail for the elector to state the elector's current residence and mailing address and no response is received within 21 days. ORS 247.013(6) and ORS 247.563(2).

[End definition (i) above this line.]

j. Other terms (please specify) _____

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

None.

[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.]

ORS 247.016: changed the age required to register to vote from 18 to 17. Still must be 18 to vote.

ORS 254.471: Allows the Governor by written proclamation to extend the deadline for returning ballots due to an emergency.

ORS 254.529: Provides for hand counts of randomly selected ballots at General Election to verify that tally machines are processing ballots correctly.

The 2007 Legislative Assembly repealed all laws pertaining to polling place elections. 2007 Oregon Laws, Ch. 154.

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

SECTION B: VOTER REGISTRATION

B1. Is your state's voter registration database system best described as a bottom-up, a top-down, or a hybrid? (Note: A bottom-up system generally uploads information retained at the local level and compiled at regular intervals to form the statewide voter registration list. A top-down system is hosted on a single, central platform/mainframe and is generally maintained by the state with information supplied by local jurisdictions. A hybrid is some combination of both systems described above.)

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

A top-down system.

[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.]

To inactivate an elector the county clerk must have (1) received evidence that there has been a change in the information required for registration under Oregon statutes or the elector has neither voted nor updated the registration for a period of not less than five years; and (2) the county clerk has mailed a notice by forwardable mail for the elector to state the elector's current residence and mailing address and no response is received within 21 days. ORS 247.013(6) and ORS 247.563(2). For an elector to become active again and eligible to receive a ballot, the elector must update the registration information, normally by completing a new voter registration card. There is no different process for UOCAVA voters.

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

B3. Please describe your state's process for removing voters from the voter registration rolls (not merely moving them from active to inactive). Please include information regarding notices and confirmations. Are these procedures the same for UOCAVA voters?

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

A county clerk may cancel the registration of an elector: (a) At the request of the elector; (b) Upon the death of the elector; (c) If the county clerk receives written evidence that the elector has registered to vote in another county in this state or in another state; or (d) If the elector has not responded to a notice described in ORS 247.563 and has not voted or updated a registration during the period beginning on the date the notice is sent and ending on the day after the date of the second regular general election that occurs after the date the notice was sent. ORS 247.555.

ORS 247.563 requires that whenever it appears to the county clerk that an elector needs to update the elector's registration or that the elector has changed residence address to another county, the county clerk shall mail a notice to the elector. (2) The notice shall be sent by forwardable mail and shall include a postage prepaid, preaddressed return card on which the elector may state the elector's current residence and mailing address. The notice shall advise the elector that: (a) The elector should return the card promptly; (b) If the card is not returned by the 21st calendar day immediately preceding an election, the elector may be required to complete a new registration card in order to vote in an election; and (c) The elector's registration will be canceled if the elector neither votes nor updates the registration before two general elections have been held. (3) When the county clerk mails a notice under this section, the registration of the elector shall be considered inactive until the elector updates the registration, the registration is canceled or the clerk determines that the registration should be considered active. (4) This section does not apply when the county clerk receives written evidence from the elector or another county clerk indicating a change of residence or mailing address or from the United States Postal Service indicating a change of residence address and the registration of the elector is automatically updated by the county clerk under any provision of this chapter. There is no different process for UOCAVA voters.

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

B4. Can your state's voter registration database (or equivalent) share information electronically with your state's drivers license agency (for example, to match records or trace changes in address)? Can your voter registration database be similarly linked with databases in any other state or federal agencies? Please describe these links, including any use of database matching to verify voter registration applications.

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

Yes. It is a one-way link to DMV and the Social Security Administration. DMV data is uploaded once per week, so that the counties may verify the drivers' license number provided by the elector. The link to the Social Security Administration is a real-time link.

[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 2008 Special Legislative Assembly passed SB 1098 that directed the Secretary of State to subscribe to a USPS change of address service to verify the accuracy of addresses for electors contained in the centralized voter registration system. If there are differences between USPS and the voter registration system, the Secretary provides the information to each affected county and the county clerk will update the registration of the electors. We have only recently begun providing this information to County Elections Officials and have not received comprehensive feedback as of yet.

[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.]

Felons who are not in the physical custody of the Department of Corrections (can be on parole or probation) or as of January 1, 2009 in the physical custody of a county jail, are eligible to cast a ballot. Rights are automatically restored upon release from custody. Felons in the custody of a federal institution in this state may not register or vote. ORS 137.281.

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

B7. Does your state currently use the Internet in any way to facilitate voter registration? If yes, please describe how your state allows voters to use the Internet in the registration process (e.g., entire registration completed online; completed online but then must be printed, signed, and mailed by voter, etc.).

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

Yes. The individual may complete the voter registration form online but it then must be printed, signed, and mailed by the individual.

[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.]

Centrally.

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

b. If centrally tabulated, are the votes redirected to the appropriate precinct for reporting in the canvass?

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

Oregon votes entirely by mail. Ballots are counted at the county elections offices. Counties have the option of reporting results at the precinct level or by the race/measure as a whole.

[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.]

All ballots are counted using the vote tally equipment. When producing a count there is no way to distinguish between one type of ballot and another. We are able to use our centralized voter registration database to determine if an elector is registered as a long term absent elector and if their ballot was accepted for counting.

[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.]

All ballots are counted using the vote tally equipment. When producing a count there is no way to distinguish between one type of ballot and another. However we track UOCAVA voters through our centralized voter registration database. All ballots are processed and tracked through this database enabling us to determine if a ballot was accepted for counting or for whatever reason was rejected.

[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.]

Oregon votes entirely by mail. ORS 254.470.

[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.]

We do not have early voting as the term is used by most other jurisdictions. If a person will be away from home when ballots will be issued they may contact their County Election Officials to arrange for a ballot to delivered to them so that they may participate in the election. Ballots will not be counted until election day. ORS 254.478.

[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.]

Yes. The entire state is vote by mail.

[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 provisional ballot is issued when the eligibility of the voter has not yet been determined or when the County Elections Official issues a ballot to a voter who resides in another Oregon county. OAR 165-007-0030.

[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 completed provisional ballot is forwarded to the County Elections Official of where the person resides. Once it is determined that the individual is registered to vote only the races and measures for which the person is eligible to vote are 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.]

After each General Election County Elections Officials will conduct a hand count of specified ballots. The hand count must be compared to the tally of votes produced by a vote tally system for the same ballots. The number of ballots that must be hand counted is dependent on the margin of victory between the two candidates in the same race receiving the largest number of votes in the county, as determined by the unofficial tally of ballots. Depending on the margin of victory either 10%, 5% or 3% of all precincts or of ballots in ballot count batches will be hand counted. ORS 254.529.

[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.]

There are no state requirements for poll worker training.

[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.]

Each county records overvote and undervote counts while processing ballots. They report that information to the Elections Division and it is compiled for all state races in a single document.

[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.]

There are no separate state identification requirements when registering to vote. The HAVA requirements are imposed on registrants for voting for federal office.

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

b. casting an in-person ballot;

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

Every ballot must be returned in a signed ballot return identification envelope. The signature on that envelope is compared to the voters' most recent voter registration card on file. There is no ID requirement for voting.

[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.]

Every ballot must be returned in a signed ballot return identification envelope. The signature on that envelope is compared to the voters' most recent voter registration card on file. There is no ID requirement for voting.

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

d. casting a ballot under UOCAVA;

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

Every ballot must be returned in a signed ballot return identification envelope. The signature on that envelope is compared to the voters' most recent voter registration card on file.

[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.

[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.]

Members of the public may observe all ballot processes conducted at the county elections offices. The County Elections Officials will determine the number of observers based on space and staff availability. Oregon has no "polling places" as that term is understood in other states because elections are conducted exclusively by mail.

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

SECTION E: OTHER

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

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

It has not been updated.

[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.