

U.S. ELECTION ASSISTANCE COMMISSION



2010 Election Administration & Voting Survey

Arkansas

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 EAC to better understand the quantitative data relating to the 2010 general election that we are collecting from all U.S. states and territories.

EAC understands 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). Prior to beginning the Statutory Overview, please ensure that "track changes" is turned on; this will provide a record of all changes that are made including insertions, deletions, and formatting changes. To turn on track changes hold down "Control" and "Shift" and "E" at the same time. For additional assistance in working with "track changes" please contact your Technical Assistance point of contact at ICF International.

We have provided you with your answers to the 2008 Statutory Overview. If there has not been a change in your State's laws or legal citation in the response to a question, please mark No Change Since 2008 with an "X" as shown below:

X No Change Since 2008

If the response has changed since 2008, please mark Changed Since 2008 with an "X" and modify the answer as needed using track changes. If you need to replace the entire answer, please delete the 2008 response and record your 2010 response between the red bracketed text lines, as described below.

X Changed Since 2008

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 statutory reference 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, or executive decision, please specify.

Please keep 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

 No Change Since 2008 X Changed Since 2008

2008 Response:

[Begin definition (a) below this line.]

7-5-603 (2)(B)

If a ballot is found to contain marks for more than the maximum allowable number of candidates in any one (1) contest, the contest shall be considered overvoted, and it shall be the responsibility of the poll workers to determine the voter's intent;

[End definition (a) above this line.]

b. Under-vote

 X No Change Since 2008 Changed Since 2008

2008 Response:

[Begin definition (b) below this line.]

No vote is recorded for a contest

[End definition (b) above this line.]

c. Blank ballot

 X No Change Since 2008 Changed Since 2008

2008 Response:

[Begin definition (c) below this line.]

There is no statutory or regulatory definition of blank ballot. It is an unvoted ballot.

[End definition (c) above this line.]

d. Void/Spoiled ballot

___ No Change Since 2008 ___X___ Changed Since 2008

2008 Response:

[Begin definition (d) below this line.]

7-5-602 (d)(1) Ballots — Number — Official — Marking device — Spoiled

A voter who shall by accident or mistake mar or spoil any ballot so that he or she cannot conveniently or clearly vote on the ballot may return it to the poll workers and receive another ballot, not to exceed three (3) ballots in total.

[End definition (d) above this line.]

e. Provisional/Challenged ballot

___X___ No Change Since 2008 _____ Changed Since 2008

2008 Response:

[Begin definition (e) below this line.]

7-5-306. Procedure when voter's name is not on the precinct voter registration list.

(a) If the voter's name is not on the precinct voter registration list, the election official shall permit the voter to vote only under the following conditions:

(1) The voter identifies himself or herself by stating his or her name and date of birth and is verified by the county clerk as a registered voter within the county and, if the county is divided into more than one (1) congressional district, within the same congressional district; (2) The voter gives and affirms his or her current residence and the election official verifies with the county clerk that the voter's residence is within the precinct; (3) The voter completes an updated voter registration application form; and (4) The voter signs the precinct voter registration list.

(b) If the voter is not listed on the precinct voter registration list and the election official is unable to verify the voter's registration with the county clerk and the voter contends that he or she is a registered voter in the precinct in which he or she desires to vote and that he or she is eligible to vote, then the voter shall be permitted to cast a provisional ballot.

7-5-312. Challenge of voter's ballot by poll watchers, candidates, or designees.

(b) Each candidate, group, or party may have, at any given time during the election, including early voting:

(1) One (1) authorized representative present at any one (1) time at each location within a polling site where voters identify themselves to election officials, so as to observe and ascertain the identity of those persons presenting themselves to vote for the purpose of challenging any voter who appears for the purpose of casting a ballot;

[End definition (e) above this line.]

f. Absentee

X No Change Since 2008 Changed Since 2008

2008 Response:

[Begin definition (f) below this line.]

7-5-411. Methods of voting absentee.

(a) Absentee voting may be accomplished in one (1) of the following methods and in no other manner:

(1)(A) By delivery of the ballot by mail that must be received in the office of the county clerk of the county of residence of the voter not later than 7:30 p.m. on election day.

(B)(i) However, except as provided in subdivision (a)(1)(B)(ii) of this section, by ballots applied for not later than thirty (30) days before the election by qualified electors outside the United States on election day that are signed, dated, postmarked, and mailed by the voters no later than the day of the election and received by the county clerk no later than 5:00 p.m. ten

(10) calendar days after the date of the election.

(ii) The absentee ballots of uniformed services personnel serving in active status shall be counted if received by the county clerk no later than 5:00 p.m. ten (10) calendar days after the date of the election and if the absentee ballots were executed no later than the date of the election.

(C) Each absentee ballot shall be mailed separately by the voter and shall not be included with any other absentee ballot in a bulk mailing, except that an administrative head of a long-term care or residential care facility licensed by the State of Arkansas or hospital may mail the absentee ballots of the residents and patients by bulk mail. Absentee ballots in any bulk mailing not otherwise permitted in this subsection shall not be counted;

(2) By delivery of the ballot to the county clerk of the county of residence of the voter not later than 7:30 p.m. on election day by the designated bearer, administrator, or the authorized agent of the absentee voter who is medically unable to vote at the regular polling site, upon proper verification of the signature of the voter by the county clerk and validation of the identity of the authorized agent; or

(3) The voter may deliver the ballot to the county clerk of the county of his or her residence not later than the close of regular business hours on the day before the election.

(b) Any person to whom an absentee ballot is delivered according to the precinct voter registration list but who elects to vote by early voting or to vote at his or her polling site on election day shall be permitted to cast a provisional ballot.

[End definition (f) above this line.]

g. Early voting

 X No Change Since 2008 Changed Since 2008

2008 Response:

[Begin definition (g) below this line.]

7-5-418. Early voting.

(a)(1)(A) Except as provided in subdivision (a)(1)(B) of this section, early voting shall be

available to any qualified elector who applies to the county clerk's designated early voting location, beginning fifteen (15) days before a preferential primary or general election between the hours of 8:00 a.m. and 6:00 p.m. Monday through Friday and 10:00 a.m. and 4:00 p.m. Saturday and ending at 5:00 p.m. on the Monday before the election.

(B) Early voting shall not be available on state or county holidays.

(2) However, on all other elections, including presidential preferential primary, general primary, and general runoff elections, early voting shall be available to any qualified elector who applies to the county clerk during regular office hours, beginning seven (7) days before the election and ending on the day before the election day at the time the county clerk's office regularly closes.

(b)(1)(A) The county board of election commissioners may decide to hold early voting at additional polling sites outside the offices of the county clerk on any of the days and times provided for in subsection (a) of this section, if it so chooses.

(B) The county board shall determine by unanimous vote the location of additional polling sites for early voting.

(2) The county board shall appoint the election officials for the additional early voting polling site or sites in the same manner as election officials are appointed for election day.

(3)(A) The county board shall notify the county clerk of its decision to hold early voting at additional polling sites outside the office of the county clerk within ten (10) days of the decision.

(B)(i) If the county board decides to hold early voting at additional polling sites outside the office of the county clerk, the county clerk may choose not to hold early voting within the office of the county clerk. The county clerk shall notify the county board within ten (10) days of the receipt of notice from the county board regarding early voting at additional polling sites.

(ii) If the county clerk decides not to hold early voting within the office of the county clerk as provided in subdivision (b)(3)(B)(i) of this section, the county board shall hold early voting at one (1) or more conveniently located polling sites on the days and times provided in subsection (a) of this section.

(4) The early voting election official shall record the date on all pages of the early voting roster or early voting request form and keep a daily record of the number of early ballots cast.

(5) All voted ballots and unvoted ballots and all related election materials at each additional early voting polling site shall be stored in a secure location in the county courthouse or in a secure location as determined by the county board of election commissioners immediately after the close of the additional polling sites each day that early voting is conducted there.

(c) Before a person is permitted to cast an early vote, the county clerk or election official shall:

(1) Request the voter to identify himself or herself by stating his or her name, date of birth, and address in order to verify his or her registration;

(2) If the voter's name or address is not the same as that in the county voter registration record files, request the voter to complete an updated voter registration application form;

(3) Request the voter to sign an early voting roster or early voting request form that identifies his or her name, address, date of birth, and the date on the roster or form; and

(4) Enter the voter's precinct number on the early voting roster or early voting request form.

(d) If the voter is not listed in the county voter registration record files and the county clerk is unable to verify the voter's registration and if the voter contends that he or she is

eligible to vote, then the voter may vote a provisional ballot that shall be counted only upon verification of the voter's registration status.

(e) The county clerk or county board shall furnish voting locations that adequately allow the early voter to personally and secretly execute his or her ballot.

(f) Upon casting his or her ballot, the voter shall then deposit the ballot in the appropriate box in the same manner as for votes cast on the day of the election.

(g) Except as provided in this section, early voting shall be conducted in the same manner as voting on election day. Conduct that is prohibited or restricted on election day shall be subject to the same prohibitions and restrictions on the days on which early voting is conducted.

[End definition (g) above this line.]

h. Active Voter

 X No Change Since 2008 Changed Since 2008

2008 Response:

[Begin definition (h) below this line.]

A qualified elector who has registered to vote.

[End definition (h) above this line.]

i. Inactive Voter

 X No Change Since 2008 Changed Since 2008

2008 Response:

[Begin definition (i) below this line.]

A qualified voter who has not voted in the past 2 federal elections and/or has not responded to the odd-year confirmation mailings from the local registrar.

[End definition (i) above this line.]

j. Other terms (please specify) _____

 No Change Since 2008 Changed Since 2008

2008 Response:

[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. “Significant” does not include routine or technical changes (such as changes to election district boundaries or polling place changes). However, EAC 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.

__X__ **No Change Since 2008** **Changed Since 2008**

2008 Response:

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

Not Applicable

MOVE Act compliance as indicted at the end of survey

[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.)

☒ **X** **No Change Since 2008** ☐ **Changed Since 2008**

2008 Response:

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

Top Down

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

If your state uses a bottom-up or hybrid system, how often do local jurisdictions transmit registration information to the state list?

☒ **X** **No Change Since 2008** ☐ **Changed Since 2008**

2008 Response:

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

[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?

☒ **X** **No Change Since 2008** ☐ **Changed Since 2008**

2008 Response:

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

Amendment 51 § 10. Transfer and change of status.

The permanent registrar shall conduct a uniform, nondiscriminatory address confirmation program during each odd-numbered year to ensure that voter registration lists are accurate and current. The address confirmation program shall be completed not later than ninety (90) days prior to a primary or general election for federal office. Based on change of address data received from the United States Postal Service or its licensees, or other unconfirmed data indicating that a registered voter no longer resides at his or her registered address, the permanent registrar

shall send a forwardable address confirmation notice, including a postage-paid and preaddressed return card, to enable the voter to verify or correct the address information.

(1) If change of address data indicate that the voter has moved to a new residence address in the same county and, if the county is divided into more than one (1) congressional district, the same congressional district, the address confirmation notice shall contain the following statement:

“We have received notification that you have moved to a new address in _____ County (or in the _____ Congressional District). We will reregister you at your new address unless, within ten (10) days, you notify us that your change of address is not a change of your permanent residence. You may notify us by returning the attached postage-paid postcard or by calling (_____) _____. If this is not a permanent change of residence and if you do not notify us within ten (10) days you may be required to update your residence address in order to vote at future elections.”

(2) If the change of address data indicates that the voter has moved to a new address in another county or, if a county is divided into more than one (1) congressional district, to a new address in the same county but in a new congressional district, the notice shall include the following statement:

“We have received notification that you have moved to a new address not in _____ County (or not in the _____ Congressional District). If you no longer live in _____ County (or in the _____ Congressional District), you must transfer your registration to your new residence address in order to vote in the next election. If you are still an Arkansas resident, you may obtain a form to transfer your registration by calling your county clerk’s office or the Secretary of State. If your change of address is not a change of your permanent residence, you must return the attached postage-paid postcard. If you do not return this card and continue to reside in _____ County (and in the _____ Congressional District), you may be required to provide identification and update your residence address in order to vote at future elections, and if you do not vote at any election in the period between the date of this notice and the second federal general election after the date of this notice, your voter registration will be cancelled and you will have to reregister in order to vote. If the change of address is permanent, please return the attached postage-paid postcard which will assist us in keeping our voter registration records accurate.”

(e) The county clerk may send out an address confirmation to any voter when he or she receives unconfirmed information that the voter no longer resides at the address on the voter registration records. The county clerk shall follow the same confirmation procedure as set forth in subsection (d).

(f) Based on change of address information received pursuant to subsections (a) and (d) of this section, the permanent registrar shall:

- (1) Update and correct the voter’s registration if the information indicates that the voter has moved to a new address within the same county and the same congressional district;
- (2) Designate the voter as inactive if the information indicates the voter has moved to a new address in another county or to a new address in another congressional district in the same county or if the address confirmation notices have been returned as undeliverable; or
- (3) Cancel the voter registration in the county from which the voter has moved if the voter verifies in writing that he or she has moved to a residence address in another county. [As amended by Acts 1977, No. 882, § 1; 1991, No. 581, § 1; 1995, No. 947, § 6; 1995, No. 964, § 6; 1999, No. 1108, § 1; 2007, No. 560, § 1.]

Procedures are the same 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?

 X **No Change Since 2008** **Changed Since 2008**

2008 Response:

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

Amendment 51§ 11. Cancellation of registration.

(a) It shall be the duty of the permanent registrar to cancel the registration of voters:

(1) Who have failed to respond to address confirmation mailings described in section 10 of this amendment and have not voted or appeared to vote in an election during the period beginning on the date of the notice and ending on the day after the date of the second general election for federal office that occurs after the date of the address confirmation notice;

(2) Who have changed their residence to an address outside the county;

(3) Who have died;

(4) Who have been convicted of felonies and have not discharged their sentence or been pardoned;

(5) Who are not lawfully qualified or registered electors of this state, or of the county; or

(6) Who have been adjudged mentally incompetent by a court of competent jurisdiction.

(b) It shall be the duty of the permanent registrar of each county upon the registration of a person who has been registered previously in another county or state to notify promptly the permanent registrar of such other county or state of the new registration.

(c)(1) It shall be the duty of the State Registrar of Vital Records to notify promptly the Secretary of State of the death of all residents of this state.

(2)(A) The Secretary of State shall compile a listing of the deceased residents of this state and shall promptly provide this listing to the permanent registrar of each county.

(B) The deceased voter registration shall be cancelled by the permanent registrar.

(d)(1) It shall be the duty of the circuit clerk of each county upon the conviction of any person of a felony to notify promptly the permanent registrar of the county of residence of such convicted felon.

(2)(A) It is the duty of any convicted felon who desires to register to vote to provide the county clerk with proof from the appropriate state or local agency, or office that the felon has been discharged from probation or parole, has paid all probation or parole fees, or has satisfied all terms of imprisonment, and paid all applicable court costs, fines, or restitution.

(B) Proof that the felon has been discharged from probation or parole, paid all probation or parole fees, or satisfied all terms of imprisonment, and paid all applicable court costs, fines, or restitution shall be provided to the felon after completion of the probation, parole, or sentence by the Department of Correction, the Department of Community Correction, the appropriate probation office or the circuit clerk as applicable.

(C) The circuit clerk, or any other entity responsible for collection, shall provide proof to the Department of Correction, the Department of Community Correction, or the appropriate probation office that the felon has paid all applicable court costs, fines, or restitution.

(D) Upon compliance with subdivision (d)(2)(A) of this section, the felon shall be deemed eligible to vote.

(e) Within ten (10) days following the receipt or possession of information requiring any cancellation of registration, other than under section 11(a)(1) of this amendment, the permanent

registrar shall cancel the registration, note the date of the cancellation, the reason for the cancellation, and the person cancelling the registration.

(f)(1) The permanent registrar shall, thirty (30) days before cancellation, notify all persons whose registration records are to be cancelled in accordance with section 11(a)(1) of this amendment. The notice may be either by publication or by first class mail. The notice by mail shall be as follows:

“NOTICE OF IMPENDING CANCELLATION OF VOTER REGISTRATION.

According to our records you have not responded to our address confirmation notice and you have not voted in any election during the period beginning on the date of the notice and ending on the day after the date of the second general election for federal office after the date of the first notice. This may indicate that you no longer live at the residence address printed on the postcard. If your permanent residence address is still the same as the printed address on this postcard YOU MUST CONFIRM YOUR RESIDENCE ADDRESS in order to remain on the voter registration list. If you do not return the attached postcard within thirty (30) days after the date postmarked on this card YOUR REGISTRATION WILL BE CANCELLED and you will have to re-register to vote.” (2) When, in response to the notice, a qualified voter requests the permanent registrar not to cancel the voter registration, the voter registration shall not be cancelled under section 11(a)(1) of this amendment.

(g) The permanent registrar is authorized, and may be directed by the county board of registration, to determine by mail check, house to house canvass, or any other reasonable means at any time within the whole or any part of the county whether active record registration files contain the names of any persons not qualified by law to vote. Further, upon application based upon affidavits of one (1) or more qualified voters by the prosecuting attorney for the county, the circuit judge of the county, for good cause shown, may order the permanent registrar to make sure determination or to cancel the registration of such unqualified persons.

Procedures are the same for UOCAVA voters

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

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

 X No Change Since 2008 Changed Since 2008

2008 Response:

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

Our database has a link to a database called Agency Central. DMV records are uploaded to the Agency Central database every two weeks. Vital Records and Felon Records are uploaded to the Agency Central database every month. Each time a new registrant is added their information is checked against the Agency Central database tables which have the DMV, Vital Records and Felon Records. A window appears that lets the user either match or no-match the new registrant to any matches with the Agency Central database tables.

There is a process that handles sending VR records to DMV for SSA verification on a no-match from Agency Central. The process is defined in Agency Central to select all registrants with a SSN status of pending and submit the file to the DMV office.

The DMV office checks the file for matches with the statewide DMV records. If no match is found, then the record is sent to the National SSA office for a match on First Name, Last Name and Last four of their SSN. The results of either of these searches are returned to the SOS database and applied to each record.

[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 NCOA?

☒ **No Change Since 2008** ☐ **Changed Since 2008**

2008 Response:

[Begin response to above question (B5) below this line.]

We do not use NCOA. Past administrations tried using it and did not have success and it is cost prohibitive.

[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?)

☒ **No Change Since 2008** ☐ **Changed Since 2008**

2008 Response:

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

See B3.

[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.).

☒ **No Change Since 2008** ☐ **Changed Since 2008**

2008 Response:

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

Links to the Arkansas Voter Registration Application can be found at www.votenaturally.org. Voters download and fill out the registration and mail it in with the proper requirements.

[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?

☒ **No Change Since 2008** ☐ **Changed Since 2008**

2008 Response:

[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?

☒ **No Change Since 2008** ☐ **Changed Since 2008**

2008 Response:

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

Yes

[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?

☒ **No Change Since 2008** ☐ **Changed Since 2008**

2008 Response:

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

Absentee ballots are reported either way. It is up to the county which reporting option to use.

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

d. How are UOCAVA ballots counted and reported?

☒ **No Change Since 2008** ☐ **Changed Since 2008**

2008 Response:

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

UOCAVA ballots are treated just like absentee ballots and are counted and reported as such.

[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.)

 X No Change Since 2008 Changed Since 2008

2008 Response:

[Begin response to above question (C2) below this line.]

7-5-402. Voter qualification.

The following persons, if possessing the qualifications of electors, may cast an absentee ballot in any election:

- (1) Any person who will be unavoidably absent from his voting place on the day of the election; and
- (2) Any person who will be unable to attend the polls on election day because of illness or physical disability.

[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?

 X No Change Since 2008 Changed Since 2008

2008 Response:

[Begin response to above question (C3) below this line.]

Arkansas allows for in person early voting. Early voting is defined in A1. (g). When early voting is used, ballots are counted at a central location at the close of polls. The votes are reported in an early voting group.

[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?

 X No Change Since 2008 Changed Since 2008

2008 Response:

[Begin response to above question (C4) below this line.]

No jurisdictions in Arkansas use as vote-by-mail system to replace at-the-precinct voting.

[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.

 X No Change Since 2008 Changed Since 2008

2008 Response:

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

7-5-305. Requirements.

(ii) A first-time voter who registers by mail without providing identification when registering and desires to vote in person but who does not meet the identification requirements of subdivision (a)(8)(A) of this section may cast a provisional ballot.

7-5-306. Procedure when voter's name is not on the precinct voter registration list.

(b) If the voter is not listed on the precinct voter registration list and the election official is unable to verify the voter's registration with the county clerk and the voter contends that he or she is a registered voter in the precinct in which he or she desires to vote and that he or she is eligible to vote, then the voter shall be permitted to cast a provisional ballot.

7-5-308. Provisional ballot procedure.

(d)(1) Any person who votes in an election as a result of a federal or state court order or any other order extending the time established for closing the polls may only vote in that election by casting a provisional ballot.

7-5-312. Challenge of voter's ballot by poll watchers, candidates, or designees.

Poll watchers may:

- (1) Observe the election officials;
- (2) Stand close enough to the precinct voter registration lists so as to hear the voter's name and observe the voter's signature;
- (3) Compile lists of persons voting;
- (4) Challenge ballots upon notification to an election official before the voter signs the precinct voter registration list and upon completing a "Challenged Ballot Form";

Reasons for Voting Provisional as provided on the Provisional Voter Envelope:

Poll Watcher Challenge

Not on Precinct Voter Registration List

First-time Voter Flagged to Show ID (No ID)

Previously Sent Absentee Ballot

Court-ordered Voting Extension

Other

7-5-416(b)(f)(iii)

(iii) If a first-time voter fails to provide the required identification with the ballot or at the time of mailing the voter registration application, then the absentee application, absentee ballot envelope, and voter's statement shall be placed in an envelope marked "provisional" and the ballot shall be considered a provisional ballot;

[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.

☒ **No Change Since 2008** ☐ **Changed Since 2008**

2008 Response:

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

There is no statutory procedure – the vote will not be counted if cast at a polling place that does not serve the precinct where the voter is registered.

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

C7. Please describe your state's laws regarding post-election audits, if any.

☒ **No Change Since 2008** ☐ **Changed Since 2008**

2008 Response:

[Begin response to above question (C7) below this line.]

7-5-529.

(b) Prior to certification of the official election results, the county board of election commissioners shall manually compile countywide totals from the polling location's certified return records and verify that they match the electronically derived totals from the activation pack or device used to collect votes from each machine.

[End response to above question (C7) above this line.]

C8. Please describe any state requirements for poll worker training.

☒ **No Change Since 2008** ☐ **Changed Since 2008**

2008 Response:

[Begin response to above question (C8) below this line.]

7-4-107. Duties of county board of election commissioners — Ballot boxes — Voting booths — Appointment of election officers.

(2) Each polling site shall have a minimum of two (2) election clerks, one (1) election judge, and one (1) election sheriff. For all regularly scheduled elections, at least one (1) election official at each polling site shall have attended election training coordinated by the State Board of Election Commissioners within twelve (12) months prior to the 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.

 X No Change Since 2008 Changed Since 2008

2008 Response:

[Begin response to above question (D1) below this line.]

7-5-504. Machine specifications.

No make of voting machine shall be approved for use unless it is so constructed that:

- (1) It will ensure secrecy to the voter in the act of voting;
- (2) It shall provide facilities for voting for or against as many questions as may be submitted;
- (3) It shall permit the voter to vote separately for the candidate of his or her choice for each office or position to be voted upon and to vote separately on each issue to be decided by election;
- (4) It shall permit the voter to vote for as many persons for an office for whom he or she is lawfully entitled to vote, but no more;
- (5) It shall prevent the voter from voting for the same candidate or question more than one (1) time;
- (6) It shall permit the voter to verify in a private and independent manner the votes selected by the voter on the ballot before the ballot is cast;
- (7) It shall provide the voter with the opportunity in a private and independent manner to change the ballot or correct any error before the ballot is cast;
- (8) It shall include a voter-verified paper audit trail, except as provided under § 7-5-301(b);
- (9) If the voter is legally entitled to select only one (1) candidate for an office but the voter selects more than one (1) candidate for the office, it shall notify the voter before the ballot is cast that he or she has selected more than one (1) candidate for the office on the ballot, notify the voter of the effect of casting multiple votes for the office, and provide the voter with the opportunity to correct the ballot before the ballot is cast;

For processing paper ballots, Arkansas uses optical scan scanners. These scanners read marks on both one and two-sided ballots. In order to meet the requirement to report under-votes and over-votes to the State Board of Election Commissioners, election officials must use custom ballot acceptance criteria. The election definition contains customizable program options that control how the tabulator operates and reports results. One option is to include the grouping of under-votes and over-votes on reports and rejection, acceptance or query the voter when a scanner detects an over-voted ballot.

[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;

 X No Change Since 2008 Changed Since 2008

2008 Response:

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

Amendment 51, section 6

(C)(i) A statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, a current and valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter, must be submitted with the mailed registration form in order to avoid the additional identification requirements upon voting for the first time; or

(ii) When the state acquires the capacity to match the registrant's driver's license number and the registrant's social security number to the registrant's name, the mail-in voter registration application form shall include the following statement in lieu of the statement contained in subdivision (6)(a)(7)(C)(i):

"If your voter registration application form is submitted by mail and you are registering for the first time, in order to avoid the additional identification requirements upon voting for the first time you must submit with the mailed registration form: (a) your driver's license number; (b) the last four digits of your social security number; (c) a current and valid photo identification; or (d) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows your name and address."

(8) If an applicant for voter registration fails to provide any of the information required by this section, the permanent registrar shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for its completion before the next election for federal office.

(H) If the applicant has a current and valid driver's license, the applicant's driver's license number;

(I) If the applicant does not have a current and valid driver's license, the last four (4) digits of the applicant's social security number; and

(J) If the applicant does not have a current and valid driver's license number or social security number, the Secretary of State will assign the applicant a number which will serve to identify the applicant for voter registration purposes, and this number shall be placed on the application.

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

b. casting an in-person ballot;

 X No Change Since 2008 Changed Since 2008

2008 Response:

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

7-5-201. Voter qualification.

(A) Present to the election official a current and valid photo identification or copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter when appearing to vote in person either early or at the polls on election day; or

7-5-305. Requirements.

(a) Before a person is permitted to vote, the election official shall:

- (1) Request the voter to identify himself or herself in order to verify the existence of his or her name on the precinct voter registration list;
- (2) Request the voter, in the presence of the election official, to state his or her address and state or confirm his or her date of birth;
- (3) Determine that the voter's date of birth and address are the same as those on the precinct voter registration list;
- (4) If the date of birth given by the voter is not the same as that on the precinct voter registration list, request the voter to provide identification as the election official deems appropriate;
- (5)(A) If the voter's address is not the same as that on the precinct voter registration list, verify with the county clerk that the address is within the precinct.
(B) If the address is within the precinct, request the voter to complete a voter registration application form for the purpose of updating county voter registration record files.
(C) If the address is not within the precinct:
 - (i) Contact the county clerk's office to determine the proper precinct; and
 - (ii) Instruct the voter to go to the polling site serving that precinct in order for his or her vote to be counted;
- (6) If the voter's name is not the same as that on the precinct voter registration list, request the voter to complete a voter registration application form for purposes of updating county voter registration record files;
- (7) Request the voter, in the presence of the election official, to sign his or her name, including the given name, middle name or initial, if any, and last name in the space provided on the precinct voter registration list. If a person is unable to sign his or her signature or make his or her mark or cross, the election official shall enter the voter's initials and the voter's date of birth in the space for the person's signature on the precinct voter registration list;
- (8)(A) Request the voter for purposes of identification to provide a current and valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.
(B)(i) If a voter is unable to provide this identification, the election official shall indicate on the precinct voter registration list that the voter did not provide identification.
(ii) A first-time voter who registers by mail without providing identification when registering and desires to vote in person but who does not meet the identification requirements of subdivision (a)(8)(A) of this section may cast a provisional ballot.

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

c. casting a mail-in or absentee vote;

 X No Change Since 2008 Changed Since 2008

2008 Response:

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

7-5-201. Voter qualification.

(B) When voting by mail, submit with the ballot a copy of a current and valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

Absentee applicants provide signature, date of birth, name and address as identification on their applications for ballots.

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

d. casting a ballot under UOCAVA;

☒ **No Change Since 2008** ☐ **Changed Since 2008**

2008 Response:

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

Absentee applicants provide signature, date of birth, name and address as identification on their applications for ballots.

[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).

☐ **No Change Since 2008** ☐ **Changed Since 2008**

2008 Response:

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

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

D3. Please describe your state's laws regarding access to the polling place for election observers. Election observers are people allowed inside the polling place who are not poll workers, election officials or voters. If decisions on access to observers are left to local jurisdictions, please explain.

☒ **No Change Since 2008** ☐ **Changed Since 2008**

2008 Response:

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

7-4-101

(6)(A) Appoint certified election monitors to any county upon a signed, written request under oath filed with the board and a determination by the board that appointing a monitor is necessary.

(B) Certified election monitors shall serve as observers for the purpose of reporting to the

board on the conduct of the election.

(C) The board may allow for reasonable compensation for election monitors;

Poll watchers may:

- (1) Observe the election officials;
- (2) Stand close enough to the precinct voter registration lists so as to hear the voter's name and observe the voter's signature;
- (3) Compile lists of persons voting;
- (4) Challenge ballots upon notification to an election official before the voter signs the precinct voter registration list and upon completing a "Challenged Ballot Form";
- (5) Call to the attention of the election sheriff any occurrence believed to be an irregularity or violation of election law. The poll watcher may not discuss the occurrence unless the election sheriff invites the discussion; and
- (6) Be present at the opening, processing, and canvassing of absentee ballots for the purpose of challenging absentee votes in the manner provided by law for personal voting challenges.

Poll watchers may not:

- (1) Be within six feet (6') of any voting machine or booth used by voters to cast their ballot;
- (2) Electioneer inside the polling site or within one hundred feet (100') of the primary exterior entrance used by voters to the building containing the polling site;
- (3) Speak to any voter or in any way attempt to influence a voter inside the polling site or within one hundred feet (100') of the primary exterior entrance used by voters to the building containing the polling site; or
- (4) Disrupt the orderly conduct of the election."

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

SECTION E: OTHER

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

 X No Change Since 2008 Changed Since 2008

2008 Response:

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

No, Arkansas has not revised its administrative complaint procedures since HAVA was first implemented

Here is a link to our policy

http://www.state.ar.us/sbec/pdfs/2010/Help_America_Vote_Act_Administrative_Complaint_Procedure.pdf

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

E2. The Military and Overseas Voter Empowerment Act (MOVE) was signed into law on October 22, 2009. The MOVE Act contains, among other things, provisions regarding States' methods of communication with UOCAVA voters and UOCAVA ballot transmission.

Please describe your State's processes and procedures for implementing MOVE (including any changes in your State's laws or regulations) as they relate to:

- Protecting the security and integrity of the voter registration and ballot application process, the privacy and personal information of the voter, and absentee ballots. (Sect. 577, 578)
- Designating a means of electronic communication for all voting-related materials to UOCAVA voters. (Sect. 577)
- Establishing a ballot tracking mechanism to allow voters to determine whether their ballots were received by the appropriate election official. (Sect. 580(d))

Also, please describe your State's plans to capture data related to the number of registration applications, ballot applications, and blank ballots transmitted to UOCAVA voters via mail and electronic means (Internet, email, fax) *and* the number of registration applications, ballot applications, and completed ballots returned by UOCAVA voters via mail and electronic means (Internet, email, fax).

This question was not asked in 2008. Please provide your answer below.

[Begin response to above question (E2) below this line.]

Voter Registration Applications and Absentee Ballot Applications

The www.sos.arkansas.gov/military webpage provides UOCAVA voters information about registering to vote and applying for an absentee ballot. UOCAVA voters may request a voter registration application or an absentee ballot application through this site. In addition, UOCAVA voters may choose their delivery option, electronic or by mail.

Information regarding absentee ballot applications that have been transmitted to voters will be

sent to county clerks for entry into the voter registration system. (see the Report Example for

County Clerk document in appendix 1.1 & 1.2)

The MOVE Act enhancements to the military page will be live on September 9, 2010.

III. Ballot Preparation: 45 Day Deadline

For County Board of Election Commissioners

Must provide paper ballots, electronic ballots, special runoff paper ballots and special runoff electronic ballots to the county clerk ***no later than 45 days*** prior to Election Day (***Saturday***, September 18, 2010).

For County Clerks

IV. Ballot Transmission

Email submission of the absentee ballot will be used to meet the electronic ballot delivery requirements of MOVE. County clerks should follow the processes outlined below.

Before the Absentee Ballot Request is received:

Step 1:

Receive email from ARSOS notifying you that an individual has requested an absentee ballot application and that ARSOS has processed this request. Also, a periodic report will follow for verification. (see the Absentee Ballot Request Email Notification for County Clerk document in

appendix 1.1 & 1.2)

Step 2:

Enter Absentee Ballot Application information for the voter into the Absentee Maintenance windows of the PPEE system (see the Processing UOCAVA Voters in PPEE document in appendix

1.3)

Step 3:

Await the return of the application

After Absentee Ballot Application is received by the clerk:

Step 4:

Receive Absentee Ballot Application
Federal Post Card Application (FPCA)
State Application

Step 5: Verify application**Step 6:**

Enter application information into Power Profile (see the Processing UOCAVA Voters in PPEE document in appendix 1.3)

Step 7:

Transmit Absentee Ballot

Transmission type depends on the preferred transmission method indicated by the voter on the absentee ballot application

Mail: Process the absentee ballot request and mail along with all other materials

Electronic: Email DRE screen shot proofs (PDF) or Paper Ballot proofs (PDF) that the CBEC has approved along with all other materials (see sample email attachment 1.4) Remember to include the PDF of the Special Runoff Ballot

In addition to using electronic ballots for meeting the requirements of the MOVE Act, county clerks may also upload ballots to Voter View in order to provide easy access to sample ballots to voters in your county.

V. Returned and Voted Ballots

Normal procedures should be followed when verifying a voted ballot and recording it in Power Profile. (See the Processing UOCAVA Voters in PPEE document in appendix 1.3)

VI. Electronic Means of Communication

The @arkansasclerks.com email address and any alternative county clerk email addresses that have been provided will be made available to the FVAP and to voters that request applications via the Secretary of State's website.

[http://www.sos.arkansas.gov/elections/elections pdfs/county clerks.pdf](http://www.sos.arkansas.gov/elections/elections%20pdfs/county%20clerks.pdf)

[End response to above question (E2) above this line.]

E3. 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.

 X No Change Since 2008 Changed Since 2008

2008 Response:

[Begin response to above question (E3) below this line.]

[End response to above question (E3) 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 5/31/2013). 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 – 2010 Election Administration and Voting Survey, 1201 New York Avenue, Suite 300, Washington, DC 20005.