

U.S. ELECTION ASSISTANCE COMMISSION



2010 Election Administration & Voting Survey

Washington

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 Changed Since 2008

2008 Response:

[Begin definition (a) below this line.]

~~Not defined in statute.~~ See "Statewide Standards on What Is A Vote."
<http://www.secstate.wa.gov/assets/elections/2008StatewideStandardsonWhatisaVote.pdf>

~~(Also: Washington Administrative Code [WAC] 434-261-086 Statewide standards on what is a vote. -~~

~~) (g) Overvotes. Races or issues that have more target areas marked than are allowed are overvotes. No votes for that race or issue shall be counted. An exception is write-in votes for a candidate already printed on the ballot, as provided in (i) of this subsection.~~

WAC 434-261-005 Definitions. -

~~(6) "Overvote" is votes cast for more than the permissible number of selections allowed in a race or measure. An overvoted race or measure does not count in the final tally of that race or measure. Example of an **overvote** would be voting for two candidates in a single race with the instruction, "vote for one."~~

WAC 434-250-040 Instructions to voters. -

~~(b) Notice that, unless specifically allowed by law, more than one vote for an office or ballot measure will be an **overvote** and no votes for that office or ballot measure will be counted;~~

[End definition (a) above this line.]

b. Under-vote

No Change Since 2008 Changed Since 2008

2008 Response:

[Begin definition (b) below this line.]

~~Not defined in statute.~~

WAC 434-261-005 Definitions. -

~~(7) "**Undervote**" is no selections made for a race or measure.~~

See “Statewide Standards on What Is A Vote.”
<http://www.secstate.wa.gov/assets/elections/2008StatewideStandardsonWhatIsAVote.pdf>

[End definition (b) above this line.]

c. Blank ballot

No Change Since 2008 Changed Since 2008

2008 Response:

[Begin definition (c) below this line.]

Not defined in statute.

[End definition (c) above this line.]

d. Void/Spoiled ballot

No Change Since 2008 Changed Since 2008

2008 Response:

[Begin definition (d) below this line.]

~~Not defined in statute.~~

WAC 434-253-120 Spoiled ballot procedures. –

If the voter spoils his or her ballot by mismarking it or otherwise damaging the ballot in such a way that it cannot be accurately tabulated to reflect the voter's intent, the voter shall return the **spoiled ballot** to the precinct election officer. The precinct election officer shall then render the **spoiled ballot** unusable, make an appropriate notation on the poll book or list, and issue the voter a new ballot or ballot card. Spoiled ballots shall be clearly identified as such, and returned to the county auditor in a manner which permits the segregation of such ballots from other ballots. Precinct election officers shall ensure that an adequate audit trail exists for all spoiled ballots.

[End definition (d) above this line.]

e. Provisional/Challenged ballot

No Change Since 2008 Changed Since 2008

2008 Response:

[Begin definition (e) below this line.]

RCW29A.04.008(5) "Provisional ballot" means a ballot issued at the polling place on election day by the precinct election board to a voter who would otherwise be denied an opportunity to vote a regular ballot, for any reason authorized by the Help America Vote Act, including but not limited to the following:

- (a) The voter's name does not appear in the poll book;
- (b) There is an indication in the poll book that the voter has requested an absentee ballot, but the voter wishes to vote at the polling place;
- (c) There is a question on the part of the voter concerning the issues or candidates on which the voter is qualified to vote;
- (d) Any other reason allowed by law;

[End definition (e) above this line.]

f. Absentee

No Change Since 2008 Changed Since 2008

2008 Response:

[Begin definition (f) below this line.]

RCW 29A.40.010 Any registered voter of the state or any out-of-state voter, overseas voter, or service voter may vote by absentee ballot in any general election, special election, or primary in the manner provided in this chapter. Out-of-state voters, overseas voters, and service voters are authorized to cast the same ballots, including those for special elections, as a registered voter of the state would receive under this chapter.

[End definition (f) above this line.]

g. Early voting

No Change Since 2008 Changed Since 2008

2008 Response:

[Begin definition (g) below this line.]

~~Not defined in statute.~~

RCW 29A.04.611 Rules by secretary of state. –

The secretary of state as chief election officer shall make reasonable rules in accordance with chapter 34.05 RCW not inconsistent with the federal and state election laws to effectuate any provision of this title and to facilitate the execution of its provisions in an orderly, timely, and uniform manner relating to any federal, state, county, city, town, and district elections. To that end the secretary shall assist local election officers by devising uniform forms and procedures.

(48) Standards and procedures for the proper conduct of voting during the **early voting** period to provide accessibility for the blind or visually impaired;

RCW 29A.46.020 "Disability access voting period." -

"Disability access voting period" means the period of time starting twenty days before an election until the day of the election.

[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.]

RCW 29A.08.615 Registered voters are divided into two categories, "active" and "inactive." All registered voters are classified as active, unless assigned to inactive status by the county auditor.

[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.]

RCW 29A.08.620 (1) A county auditor shall assign a registered voter to inactive status and shall send the voter a confirmation notice if any of the following documents are returned by the postal service as undeliverable:

- (a) An acknowledgement of registration;
- (b) An acknowledgement of transfer to a new address;
- (c) A vote-by-mail ballot, absentee ballot, or application for a ballot;
- (d) Notification to a voter after precinct reassignment;
- (e) Notification to serve on jury duty; or

(f) Any other document other than a confirmation notice, required by statute, to be mailed by the county auditor to the voter.

(2) A county auditor shall also assign a registered voter to inactive status and shall send the voter a confirmation notice:

(a) Whenever change of address information received from the department of licensing under RCW [29A.08.350](#), or by any other agency designated to provide voter registration services under RCW [29A.08.310](#), indicates that the voter has moved to an address outside the state; or

(b) If the auditor receives postal change of address information under RCW [29A.08.605](#), indicating that the voter has moved out of the state.

[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.]

BALLOT.

RCW 29A.04.008(1) "Ballot" means, as the context implies, either:

(a) The issues and offices to be voted upon in a jurisdiction or portion of a jurisdiction at a particular primary, general election, or special election;

(b) A facsimile of the contents of a particular ballot whether printed on a paper ballot or ballot card or as part of a voting machine or voting device;

(c) A physical or electronic record of the choices of an individual voter in a particular primary, general election, or special election; or

(d) The physical document on which the voter's choices are to be recorded;

[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.

No Change Since 2008 Changed Since 2008

2008 Response:

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

- ~~1. Move of state primary from September to August in 2007 (RCW 29A.04.311).~~
 - ~~2. Ballots mailed to UOCAVA voters 30 days prior (RCW 29A.40.070(2)).~~
 - ~~3. 37 of 39 counties are all vote by mail jurisdictions (RCW 29A.48.010). King County plans to adopt all vote by mail in 2009. Pierce County has not yet adopted all vote by mail.~~
 - ~~4. Implementation of the "Top 2" Primary in 2008 (RCW 29A.52.112).~~
 - ~~5. Online Voter Registration in 2008 (RCW 29A.08.123).~~
 - ~~6. Statewide Standards on "What Is a Vote?" (WAC 434-261-086).~~
- 38 of 39 counties all vote by mail. (Pierce County is still poll and absentee, with absentee comprising 85% of turnout.)

[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.)

No Change Since 2008 Changed Since 2008

2008 Response:

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

Hybrid. 39 counties each have one of ~~four types~~ three of voter registration systems that communicate with the state VRDB.

[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?

No Change Since 2008 Changed Since 2008

2008 Response:

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

Within seconds.

[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?

No Change Since 2008 Changed Since 2008

2008 Response:

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

See definition of "Inactive Voter" above (RCW 29A.08.620)

RCW 29A.08.630. The county auditor shall return an inactive voter to active voter status if, during the period beginning on the date the voter was assigned to inactive status and ending on the day of the second general election for federal office that

occurs after the date that the voter was sent a confirmation notice, the voter: Notifies the auditor of a change of address within the county; responds to a confirmation notice with information that the voter continues to reside at the registration address; votes or attempts to vote in a primary or a special or general election and resides within the county; or signs any petition authorized by statute for which the signatures are required by law to be verified by the county auditor or secretary of state. If the inactive voter fails to provide such a notice or take such an action within that period, the auditor shall cancel the person's voter registration.

The process is no different 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?

No Change Since 2008 **Changed Since 2008**

2008 Response:

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

RCW 29A.08.630. The county auditor shall return an inactive voter to active voter status if, during the period beginning on the date the voter was assigned to inactive status and ending on the day of the second general election for federal office that occurs after the date that the voter was sent a confirmation notice, the voter: Notifies the auditor of a change of address within the county; responds to a confirmation notice with information that the voter continues to reside at the registration address; votes or attempts to vote in a primary or a special or general election and resides within the county; or signs any petition authorized by statute for which the signatures are required by law to be verified by the county auditor or secretary of state. If the inactive voter fails to provide such a notice or take such an action within that period, the auditor shall cancel the person's voter registration.

RCW 29A.08.635. Confirmation notices must be on a form prescribed by, or approved by, the secretary of state and must request that the voter confirm that he or she continues to reside at the address of record and desires to continue to use that address for voting purposes. The notice must inform the voter that if the voter does not respond to the notice and does not vote in either of the next two federal elections, his or her voter registration will be canceled.

RCW 29A.08.640. If the response to the confirmation notice provides the county auditor with the information indicating that the voter has moved within the county, the

auditor shall transfer the voter's registration. If the response indicates a move out of a county, but within the state, the auditor shall place the registration in inactive status for transfer pending acceptance by the county indicated by the new address. The auditor shall immediately notify the auditor of the county with the new address. If the response indicates that the voter has left the state, the auditor shall cancel the voter's registration on the official state voter registration list.

RCW 29A.08.510. In addition to case-by-case maintenance under RCW [29A.08.620](#) and [29A.08.630](#) and the general program of maintenance of voter registration lists under RCW [29A.08.605](#), deceased voters will be canceled from voter registration lists as follows:

(1) Periodically, the registrar of vital statistics of the state shall prepare a list of persons who resided in each county, for whom a death certificate was transmitted to the registrar and was not included on a previous list, and shall supply the list to the secretary of state.

The secretary of state shall compare this list with the registration records and cancel the registrations of deceased voters within at least forty-five days before the next primary or election.

(2) In addition, each county auditor may also use newspaper obituary articles as a source of information in order to cancel a voter's registration from the official state voter registration list. The auditor must verify the identity of the voter by matching the voter's date of birth or an address. The auditor shall record the date and source of the obituary in the cancellation records.

(3) In addition, any registered voter may sign a statement, subject to the penalties of perjury, to the effect that to his or her personal knowledge or belief another registered voter is deceased. This statement may be filed with the county auditor or the secretary of state. Upon the receipt of such signed statement, the county auditor or the secretary of state shall cancel the registration records concerned from the official state voter registration list.

RCW 29A.08.515 Upon receiving official notice that a court has imposed a guardianship for an incapacitated person and has determined that the person is incompetent for the purpose of rationally exercising the right to vote, under chapter [11.88](#) RCW, if the incapacitated person is a registered voter in the county, the county auditor shall cancel the incapacitated person's voter registration.

RCW 29A.08.520 (1) Upon receiving official notice of a person's conviction of a felony in either state or federal court, if the convicted person is a registered voter in the county, the county auditor shall cancel the defendant's voter registration. Additionally, the secretary of state in conjunction with the department of corrections, the Washington state patrol, the office of the administrator for the courts, and other appropriate state agencies shall arrange for a quarterly comparison of a list of known

felons with the statewide voter registration list. If a person is found on a felon list and the statewide voter registration list, the secretary of state or county auditor shall confirm the match through a date of birth comparison and suspend the voter registration from the official state voter registration list. The canceling authority shall send to the person at his or her last known voter registration address a notice of the proposed cancellation and an explanation of the requirements for restoring the right to vote once all terms of sentencing have been completed. If the person does not respond within thirty days, the registration must be canceled.

[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.

No Change Since 2008 **Changed Since 2008**

2008 Response:

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

WAC 434-324-040 (2) If the applicant provided a Washington driver's license number or state identification card number, the applicant's identity is verified with the department of licensing. If the applicant provided the last four digits of his or her Social Security number, the applicant's identity is verified with the Social Security Administration through the department of licensing.

[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 it at the state level. Having a predominantly vote by mail system forces us – and at the same time enables us - to keep addresses clean. King and Pierce Counties may use it.

RCW 29A.08.605 In addition to the case-by-case maintenance required under RCW [29A.08.620](#) and [29A.08.630](#) and the canceling of registrations under RCW

29A.08.510, the secretary of state and the county auditor shall cooperatively establish a general program of voter registration list maintenance. This program must be a thorough review that is applied uniformly throughout the county and must be nondiscriminatory in its application. Any program established must be completed at least once every two years and not later than ninety days before the date of a primary or general election for federal office. This obligation may be fulfilled in one of the following ways:

(1) The secretary of state may enter into one or more contracts with the United States postal service, or its licensee, which permit the use of postal service change-of-address information. If the change of address information is received from the United States postal service that indicates that a voter has changed his or her residence address within the state, the auditor shall transfer the registration of that voter and send a confirmation notice informing the voter of the transfer to the new address;

(2) A direct, nonforwardable, nonprofit or first-class mailing to every registered voter bearing the postal endorsement "Return Service Requested." If address correction information for a voter is received by the county auditor after this mailing, the auditor shall place that voter on inactive status and shall send to the voter a confirmation notice;

(3) Any other method approved by the secretary of state.

[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 cancellation info above (RCW 29A.08.520).

~~No voting between conviction and restoration of rights. Rights must be restored, and documented on court documents, in order to register again. Restoration documentation must be scanned at the county level, retained, and also provided to the state (WAC 434-324-106(5)).~~

In 2009, the felony laws were amended to only include individuals incarcerated, or under the supervision of the Department of Corrections. Once a felon is no longer incarcerated or under the supervision of the DOC, they are free to register to vote.

RCW 29A.08.520 Felony conviction — Provisional and permanent restoration of voting rights (as amended by 2009 c 325). –

For a felony conviction in a Washington state court, the right to vote is provisionally restored as long as the person is not under the authority of the department of corrections. For a felony conviction in a federal court or any state court other than a Washington state court, the right to vote is restored as long as the person is no longer incarcerated.

RCW 29A.08.520 Felony conviction — Restoration of voting rights (as amended by 2009 c 369).

[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.]

Second state in the nation (behind Arizona) to allow submission of voter registration information over the Internet. RCW 29A.08.123. We also have our registration forms posted online for printing and mailing. Voters can also confirm that they are registered, or submit a same-county address change, using an interactive program on the Secretary of State's website called "MyVote."

[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.]

~~3837~~ of our 39 counties are entirely vote by mail and tabulate ballots centrally. Pierce County retains poll sites and tabulates the poll site ballots on precinct tabulators at the poll sites. ~~but will tabulate centrally in the upcoming general election because they are conducting Ranked Choice Voting for countywide offices and the poll site tabulators are not currently able to handle the tabulation. King County has poll site tabulation, and central count for absentee ballots (which generally comprise about 70% of their turnout). They are transitioning to all vote by mail in 2009.~~

All counties have at least one electronic voting unit for accessible voting.

RCW 29A.60.030 Except as provided by rule under *RCW [29A.04.610](#), on the day of the primary or election, the tabulation of ballots at the polling place or at the counting center shall proceed without interruption or adjournment until all of the ballots cast at the polls at that primary or election have been tabulated.

RCW 29A.60.060 After the close of the polls, counties employing poll-site ballot counting devices may telephonically or electronically transmit the accumulated tally for each device to a central reporting location. Before making a telephonic or electronic transmission the precinct election officer must create a printed record of the results of the election for that poll site. During the canvassing period the results transmitted telephonically or electronically must be considered unofficial until a complete reconciliation of the results has been performed. This reconciliation may be accomplished by a direct loading of the results from the memory pack into the central accumulator, or a comparison of the report produced at the poll site on election night with the results received by the central accumulating device.

[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.]

~~“Redirected?”~~ All votes centrally tabulated are tabulated to the appropriate precinct. We can produce all election results by precinct.

[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.]

For the vote-by-mail counties, the votes are reported by precinct. For the ~~two-one~~ poll site counties, the results ~~can be~~ reported by precinct for the poll site ballots, and separately by precinct for the absentee ballots, and then a combined total by precinct.

[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.]

Processed just like other vote by mail ballots, except that UOCAVA ballots can be received up to county certification day and still be counted. Counties report UOCAVA ballot statistics within the capabilities of their election management systems.

[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.)

No Change Since 2008

Changed Since 2008

2008 Response:

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

Washington allows no excuse absentee voting. ~~387~~ of the 39 counties currently conduct all elections by mail.

[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?

No Change Since 2008

Changed Since 2008

2008 Response:

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

~~In Washington, approximately 90% of the ballots will be cast absentee.~~

~~There is no early voting in the normal use of the term.~~

Yes. Counties must make at least one accessible voting machine-unit (AVU) available in the county for the disability access voting period – 20 days before the election through Election Day. Any voter can come in person to the auditor’s office and vote on an AVU.

"Disability access voting period" means the period of time starting twenty days before an election until the day of the election. (RCW 29A.46.20)

The ballots are counted at a central location. These votes are reported with other results, and are not necessarily segregated, although we ask each county to report how many votes were cast on AVUs during the election. (less than 1%)

[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?

No Change Since 2008

Changed Since 2008

2008 Response:

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

| Yes, 387 counties except ~~King &~~ Pierce.

[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.]

See definition for PROVISIONAL BALLOT above.

Also:

RCW 29A.08.625 (2) A voter whose registration has been properly canceled under this chapter shall vote a provisional ballot. The voter shall mark the provisional ballot in secrecy, the ballot placed in a security envelope, the security envelope placed in a provisional ballot envelope, and the reasons for the use of the provisional ballot noted.

RCW 29A.44.090 A registered voter shall not be allowed to vote in the precinct in which he or she is registered at any election or primary for which that voter has cast an absentee ballot. A registered voter who has requested an absentee ballot for a primary or special or general election but chooses to vote at the voter's precinct polling place in that primary or election shall cast a provisional ballot. The canvassing board shall not count the ballot if it finds that the voter has also voted by absentee ballot in that primary or election.

RCW 29A.44.205 Any person desiring to vote at any primary or election is required to provide identification to the election officer before signing the poll book. The identification required in this section can be satisfied by providing a valid photo identification, such as a driver's license or state identification card, student identification card, or tribal identification card, a voter's voter identification issued by a county elections officer, or a copy of a current utility bill, bank statement, paycheck, or government check or other government document. Any individual who desires to vote in person but cannot provide identification as required by this section shall be issued a provisional ballot.

RCW 29A.44.265 (1) An individual who votes in an election for federal office as a result of a federal or state court order or any other order extending the time for closing the polls, may vote in that election only by casting a provisional ballot. As to

court orders extending the time for closing the polls, this section does not apply to any voters who were present in the polling place at the statutory closing time and as a result are permitted to vote under RCW [29A.44.070](#). This section does not, by itself, authorize any court to order that any individual be permitted to vote or to extend the time for closing the polls, but this section is intended to comply with 42 U.S.C. Sec. 15482(c) with regard to federal elections.

[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.]

Yes. Ballots are forwarded among counties to the proper jurisdictions and votes are counted in the races for which the voter is eligible to vote.

[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.]

RCW 29A.60.185 Prior to certification of the election as required by RCW [29A.60.190](#), the county auditor shall conduct an audit of results of votes cast on the direct recording electronic voting devices used in the county. This audit must be conducted by randomly selecting by lot up to four percent of the direct recording electronic voting devices or one direct recording electronic voting device, whichever is greater, and, for each device, comparing the results recorded electronically with the results recorded on paper. For purposes of this audit, the results recorded on paper must be tabulated as follows: On one-fourth of the devices selected for audit, the paper records must be tabulated manually; on the remaining devices, the paper records may be tabulated by a mechanical device determined by the secretary of state to be capable of accurately reading the votes cast and printed thereon and qualified for use in the state under applicable state and federal laws. Three races or issues, randomly selected by lot, must be audited on each device. This audit procedure must be subject to observation by political party representatives if representatives have been appointed and are present at the time of the audit.

RCW 29A.60.170 (2) In counties in which ballots are not counted at the polling place, the official political party observers, upon mutual agreement, may request that

a precinct be selected at random on receipt of the ballots from the polling place and that a manual count be made of the number of ballots and of the votes cast on any office or issue. The ballots for that precinct must then be counted by the vote tallying system, and this result will be compared to the results of the manual count. This may be done as many as three times during the tabulation of ballots on the day of the primary or election.

(3) In counties using poll-site ballot counting devices, the political party observers, upon mutual agreement, may choose as many as three precincts and request that a manual count be made of the number of ballots and the votes cast on any office or issue. The results of this count will be compared to the count of the precinct made by the poll-site ballot counting device. These selections must be made no later than thirty minutes after the close of the polls. The manual count must be completed within forty-eight hours after the close of the polls. The process must take place at a location designated by the county auditor for that purpose. The political party observers must receive timely notice of the time and location, and have the right to be present. However, the process must proceed as scheduled if the observers are unable to attend.

(4) In counties voting entirely by mail, a random check of the ballot counting equipment may be conducted upon mutual agreement of the political party observers or at the discretion of the county auditor. The random check procedures must be adopted by the county canvassing board prior to the processing of ballots. The random check process shall involve a comparison of a manual count to the machine count and may involve up to either three precincts or six batches depending on the ballot counting procedures in place in the county. The random check will be limited to one office or issue on the ballots in the precincts or batches that are selected for the check. The selection of the precincts or batches to be checked must be selected according to procedures established by the county canvassing board and the check must be completed no later than forty-eight hours after election day.

[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.]

RCW 29A.12.120 (1) Before each state primary or general election at which voting systems are to be used, the county auditor shall instruct all precinct election officers appointed under RCW [29A.44.410](#), counting center personnel, and political party observers designated under RCW [29A.60.170](#) in the proper conduct of their duties. (2) The county auditor may waive instructional requirements for precinct election officers, counting center personnel, and political party observers who have previously received instruction and who have served for a sufficient length of time to

be fully qualified to perform their duties. The county auditor shall keep a record of each person who has received instruction and is qualified to serve at the subsequent primary or 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.

| **No Change Since 2008** **Changed Since 2008**

2008 Response:

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

Our tabulation systems identify and record over-votes and under-votes.

[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;

| **No Change Since 2008** **Changed Since 2008**

2008 Response:

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

RCW 29A.08.010 As used in this chapter: "Information required for voter registration" means the minimum information provided on a voter registration application that is required by the county auditor in order to place a voter registration applicant on the voter registration rolls. This information includes:

- (1) Name;
- (2) Residential address;
- (3) Date of birth;
- (4) Washington state driver's license number or Washington state identification card number, or the last four digits of the applicant's Social Security number if the applicant does not have a Washington state driver's license or Washington state identification card;
- (5) A signature attesting to the truth of the information provided on the application; and
- (6) A check or indication in the box confirming the individual is a United States citizen.

The residential address provided must identify the actual physical residence of the voter in Washington, as defined in RCW [29A.04.151](#), with detail sufficient to allow the voter to be assigned to the proper precinct and to locate the voter to confirm his or her residence for purposes of verifying qualification to vote under Article VI, section 1 of the state Constitution. A residential address may be either a traditional address or a nontraditional address. A traditional address consists of a street number and name, optional apartment number or unit number, and city or town, as assigned by a local government, which serves to identify the parcel or building of residence and the unit if a multiunit residence. A nontraditional address consists of a narrative description of the location of the voter's residence, and may be used when a traditional address has not been assigned to the voter's residence. If the postal service does not deliver mail to the voter's residential address, or the voter prefers to receive mail at a different address, the voter may separately provide the mailing address at which they receive mail. Any mailing address provided shall be used only for mail delivery purposes and not for precinct assignment or confirmation of residence for voter qualification purposes.

If the individual does not have a driver's license, state identification card, or Social Security number, the registrant must be issued a unique voter registration number in order to be placed on the voter registration rolls. All other information supplied is ancillary and not to be used as grounds for not registering an applicant to vote. Modification of the language of the official Washington state voter registration form by the voter will not be accepted and will cause the rejection of the registrant's application.

RCW 29A.08.113 (1) If a voter who registered by mail indicates on the voter registration form that he or she does not have a Washington state driver's license, Washington state identification card, or Social Security number, he or she must provide one of the following forms of identification the first time he or she votes after registering:

- (a) Valid photo identification;
- (b) A valid enrollment card of a federally recognized Indian tribe in Washington state;
- (c) A copy of a current utility bill;
- (d) A current bank statement;
- (e) A copy of a current government check;
- (f) A copy of a current paycheck; or
- (g) A government document that shows both the name and address of the voter.

(2) If the voter fails to provide one of the above forms of identification prior to or at the time of voting, the ballot must be treated as a provisional ballot regardless of whether the voter is voting at a poll site or by mail. The ballot

may only be counted if the voter's signature on the outside envelope matches the signature in the voter registration records.

(3) The requirements of this section do not apply to an out-of-state, overseas, or service voter who registers to vote by signing the return envelope of the absentee ballot.

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

b. casting an in-person ballot;

| **No Change Since 2008** **Changed Since 2008**

2008 Response:

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

RCW 29A.44.205 Any person desiring to vote at any primary or election is required to provide identification to the election officer before signing the poll book. The identification required in this section can be satisfied by providing a valid photo identification, such as a driver's license or state identification card, student identification card, or tribal identification card, a voter's voter identification issued by a county elections officer, or a copy of a current utility bill, bank statement, paycheck, or government check or other government document. Any individual who desires to vote in person but cannot provide identification as required by this section shall be issued a provisional ballot.

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

c. casting a mail-in or absentee vote;

| **No Change Since 2008** **Changed Since 2008**

2008 Response:

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

Same as voter registration.

[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.]

A signature is the only ID required for UOCAVA voters. RCW 29A.40.091 (excerpt) For out-of-state voters, overseas voters, and service voters, the signed declaration on the return envelope constitutes the equivalent of a voter registration for the election or primary for which the ballot has been issued.

[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).

| X No Change Since 2008 _____ Changed Since 2008

2008 Response:

[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.

| X No Change Since 2008 _____ Changed Since 2008

2008 Response:

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

WAC 434-253-090 All persons designated as poll watchers shall be designated in writing by the political party or committee that they represent. Such designation shall be signed by an officer of the party or committee. The auditor may require that a copy of this designation be filed with his or her office not later than the day prior to the primary or election and shall, whenever possible, ensure that a copy of the designation is provided to each affected polling place inspector. The inspector shall ensure that absolutely no interference with voting takes place.

WAC 434-253-150 At the prescribed closing time, the inspector shall announce aloud that the polls are closed, the doors to the polling place shall be shut, and no further persons shall be allowed to enter to vote. All persons within the polling place

at the time closing is announced shall be permitted to complete the process of voting. The doors to the polling place shall remain unlocked until the election officials depart at the completion of their work, so that the work of accounting for the ballots and other voting material may be observed by interested parties.

[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?

No Change Since 2008 **Changed Since 2008**

2008 Response:

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

These sections of our procedures were changed since the last federal election.

434-263-040

Processing of complaint.

- (1) The secretary may process the complaint in any of the following ways:
 - (a) The secretary may dismiss the complaint, and issue a final determination, if it:
 - (i) Does not comply with WAC [434-263-020](#);
 - (ii) Does not, on its face, allege a violation of Title III; or
 - (iii) Alleges a claim for which relief cannot be granted, or for which a remedy is not available;
 - (b) The secretary may, with the agreement of the parties, resolve the matter informally, and issue a determination without formal proceedings;
 - (c) The secretary may resolve the matter informally by agreeing to implement a remedy or corrective action; or
 - (d) The secretary may schedule the matter for a brief adjudicative proceeding. The secretary shall do so if the complaint is not dismissed pursuant to (a) of this subsection and a party so requests.
- (2) The secretary must respond within thirty days of the filing of the complaint to acknowledge receipt and explain how the complaint will be processed consistent with subsection (1) of this section.
- (3) The secretary may consolidate complaints if they relate to the same actions or events, or if they raise common questions of law or fact.

[Statutory Authority: RCW 29A.04.611. 08-05-120, § 434-263-040, filed 2/19/08, effective 3/21/08. Statutory Authority: RCW 29A.04.610. 04-16-037, § 434-263-040, filed 7/27/04, effective 8/27/04.]

434-263-050

Brief adjudicative proceeding.

- (1) The secretary shall designate a person to act as a presiding officer of a brief adjudicative hearing. A presiding officer may be:
 - (a) The assistant or deputy secretary;
 - (b) The director of elections;

- (c) An assistant director of the elections division;
- (d) Any county auditor; or
- (e) An administrative law judge.

The presiding officer shall not be from an office named in the complaint.

(2) Before issuing a determination on the complaint, the presiding officer shall give each party an opportunity to explain the party's view of the matter, including an opportunity to be informed of the secretary's view of the matter if applicable. A determination may be based upon written submissions and documents, unless a party or the presiding officer requests a hearing on the record within ten days after the filing of the complaint.

(3) The presiding officer may schedule a hearing on the record:

- (a) In person at a convenient location;
- (b) By conference telephone call; or
- (c) By such other method that permits the parties to hear and participate in the proceeding simultaneously.

Witnesses at a hearing shall be sworn upon oath. A party who requests a hearing but fails to make himself or herself available for hearing within the time available for initial determination shall be deemed to have waived the hearing.

(4) The presiding officer may permit or solicit the submission of written materials or oral presentations by persons who are not parties if the presiding officer determines that such submissions would be helpful in evaluating the complaint.

(5) The secretary shall establish and maintain the record of the proceedings as required by RCW 34.05.494. If a hearing on the record is conducted, the record shall include a transcript or audio recording of the hearing.

[Statutory Authority: RCW 29A.04.611, 08-05-120, § 434-263-050, filed 2/19/08, effective 3/21/08. Statutory Authority: RCW 29A.04.610, 04-16-037, § 434-263-050, filed 7/27/04, effective 8/27/04.]

434-263-060

Initial determination and remedies.

(1) The presiding officer shall render a written initial decision within seventy days after the complaint is filed, unless the complainant consents to a longer period. The determination shall include a statement as to whether, based upon a preponderance of the evidence, a violation of Title III has been established with regard to an election. If the presiding officer determines that a violation has occurred, the determination shall specify the appropriate remedy, if one exists. If the presiding officer determines that no violation has been established, the complaint shall be dismissed.

(2) The remedy awarded under this section shall be directed to the improvement of processes or procedures governed by Title III and must be consistent with state law. Remedies may include written findings that a violation of Title III has occurred and strategies for insuring that the violation does not occur again, as well as any other remedy available to the secretary under law. The remedy may not include any award of monetary damages, costs, penalties or attorney fees, and may not include the invalidation of any vote or ballot, or the invalidation, cancellation, or delay of any primary or election. Remedies addressing the validity of any primary or election or of any ballot or vote may be obtained only as otherwise provided by law.

(3) The initial determination shall include a summary of the process for obtaining an administrative review and shall include notice that judicial review may be available.

[Statutory Authority: RCW 29A.04.611. 08-05-120, § 434-263-060, filed 2/19/08, effective 3/21/08. Statutory Authority: RCW 29A.04.610. 04-16-037, § 434-263-060, filed 7/27/04, effective 8/27/04.]

434-263-080

Alternative dispute resolution.

(1) If a final determination is not rendered within ninety days after the filing of the complaint, or within such additional time to which the complainant may consent, then the complaint shall be transferred to a board of arbitration, which must resolve the complaint within sixty additional days, which may not be extended. The board of arbitration shall be composed of three members, designated by the secretary, at least two of whom must be county auditors or election managers. No two members of the panel may be employed by the same office, agency or other employer.

(2) The arbitrators shall review the record compiled in proceedings prior to the transfer, including the tape or transcript of any hearing, but may not conduct any further hearing or receive any additional testimony, evidence, or other submissions. The arbitrators shall determine the appropriate resolution of the complaint by majority vote. No further administrative review is available, but the arbitrator's final determination shall include notice that judicial review may be available.

[Statutory Authority: RCW 29A.04.611. 08-05-120, § 434-263-080, filed 2/19/08, effective 3/21/08. Statutory Authority: RCW 29A.04.610. 04-16-037, § 434-263-080, filed 7/27/04, effective 8/27/04.]

434-263-090

Publication.

All final determinations pursuant to WAC [434-263-070](#) shall be posted on the secretary's web site for at least ninety days.

[Statutory Authority: RCW 29A.04.611. 08-05-120, § 434-263-090, filed 2/19/08, effective 3/21/08. Statutory Authority: RCW 29A.04.610. 04-16-037, § 434-263-090, filed 7/27/04, effective 8/27/04.]

[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.]

- According to Washington state law, most voter registration information is public information. Each voter's name, address, political jurisdiction, gender, date of birth, voting record, date of registration, and registration number are public information pursuant to RCW 29A.08.710. Information about the absentee ballot application process is also public information per RCW 29A.40.130. Please also see RCW Chapter 42.56.
- Each county in Washington State is providing online versions of blank ballots for all military and overseas voters in Washington. Military and overseas ballots may be issued by fax, email or postal mail. See WAC 434-235-030. Washington state law allows a military or overseas voter to return a voted ballot by fax or email, but the hard copies must be received in the mail prior to certification of the election, per RCW 29A.40.150. The Secretary of State's Office has submitted legislation to the Washington State Legislature every year for the past four years to allow electronically returned ballots to be counted, but the Legislature has not yet passed this legislation. Each county in Washington State and the Washington Secretary of State provide a large quantity of election-related material on the websites, including personalized ballots, personalized Voters' Pamphlets, and contact information.
- Each county in Washington State is providing an online tool for military and overseas voters to confirm whether their voted ballot has been received by the county elections office.
- Military and overseas voters in Washington State are automatically sent an absentee ballot; a voter does not have to request a ballot for each election. Washington State captures data on the number of military and overseas voters registered to vote, issued a ballot, returned a ballot, had a ballot counted, and had a ballot rejected. Washington State does not normally capture how many ballots are issued or returned by email v. postal mail since ballots are often issued both ways, making such data meaningless. (All email ballots must be returned via postal mail in order to be counted.)

[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.

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.