

Section B

U.S. ELECTION ASSISTANCE COMMISSION



2008 Election Administration & Voting Survey

Statutory Overview

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

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

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DIRECTIONS AND EXAMPLE

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

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

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

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

Example:

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

- a. Over-vote

[Begin definition (a) below this line.]

An attempt to vote for more than the allowed number of candidates for one office. [Alabama Administrative Code, Rule 307-X-1-.01(12)]

[End definition (a) above this line.]

SECTION A: GENERAL

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

a. Over-vote

[Begin definition (a) below this line.]

An attempt to vote for more than the allowed number of candidates for one office. [Alabama Administrative Code, Rule 307-X-1-.01(12)]

[End definition (a) above this line.]

b. Under-vote

[Begin definition (b) below this line.]

No definition in state law or the state administrative code. In practice, "under-vote" refers to the situation where a voter casts no vote 1) for a candidate nominated for a particular office or 2) in a referendum.

[End definition (b) above this line.]

c. Blank ballot

[Begin definition (c) below this line.]

No definition in state law or the state administrative code. In practice, "blank ballot" refers to the situation where a voter casts no vote 1) for any candidates nominated for any offices on a ballot or 2) in a referendum.

[End definition (c) above this line.]

d. Void/Spoiled ballot

[Begin definition (d) below this line.]

No definition in state law or the state administrative code. In practice, a void or spoiled ballot is a ballot is not to be counted in the election. The ballot may be spoiled or void due to a voter requesting a new ballot (e.g., when the voter has made an error in marking the ballot or due to a defect in the ballot which prevents the ballot from being counted in a ballot tabulator).

[End definition (d) above this line.]

e. Provisional/Challenged ballot

[Begin definition (e) below this line.]

A ballot issued to a voter when a question exists regarding the voter's eligibility or when the voter does not submit proper identification at the time of voting, or when a state or federal court extends the hours of operation of polling places, or when the voter has applied for but not voted an absentee ballot.

[End definition (e) above this line.]

f. Absentee

[Begin definition (f) below this line.]

In the context of absentee voting, this term refers to those individuals who are will be out of the county on election day or who, due to an infirmity, physical incapacity, or military or overseas citizen status is unable to vote at a polling place on election day. [§17-11-3(a), Code of Alabama]

[End definition (f) above this line.]

g. Early voting

[Begin definition (g) below this line.]

Not applicable

[End definition (g) above this line.]

h. Active Voter

[Begin definition (h) below this line.]

A voter who is not inactive.

[End definition (h) above this line.]

i. Inactive Voter

[Begin definition (i) below this line.]

A voter who has not voted within the last four years [§17-4-9, Code of Alabama] or whom the county Board of Registrars is unable to contact as part of the State of Alabama's statewide voter file maintenance process [§17-4-30(b), Code of Alabama].

[End definition (i) above this line.]

j. Other terms (please specify) _____

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

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

A2. Please provide the legal citation for any **significant** changes to election laws or procedures that have been enacted or adopted since the previous Federal election. By “significant,” we do not mean routine or technical changes (such as changes to election district boundaries or polling place changes). However, we would like to learn about any new identification requirements for voters or registrants; changes in eligibility for voting or registering; adoption of alternative voting methods; and other changes that you believe represent a significant change in the way your state runs its elections.

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

None.

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

SECTION B: VOTER REGISTRATION

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

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

Top-down.

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

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

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

Not applicable.

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

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

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

A person is made inactive if he or she has not voted within the last four years [§17-4-9, Code of Alabama] or when the county Board of Registrars is unable to contact him or her as part of the State of Alabama's statewide voter file maintenance process [§17-4-30(b), Code of Alabama].

An inactive voter is restored to active status when he or she updates his or her voter registration by submitting an update form at the polling place or by updating with the county Board of Registrars at any time during the year. [§17-4-13, Code of Alabama]

There is no difference in procedure for UOCAVA voters.

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

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

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

A voter may be removed from the voter list if the Board of Registrars determines that the individual is no longer qualified to vote. Information that may be used to support such determination include: 1) a notice of voter registration from another jurisdiction, 2) notice of death from the Alabama Department of Public Health, 3) notice of disqualifying felony conviction from the Alabama judicial system, and 4) notice of adjudication as mentally incompetent by a proper court. [§17-4-6, Code of Alabama]

Additionally, the State of Alabama has adopted an NVRA-compliant statewide voter file maintenance process to assist in removal of disqualified voters due to change of residency. This process provides that each voter be mailed a non-forwardable postcard in January following a presidential election. If that postcard is returned undeliverable, a forwardable notice is mailed to the voter requesting that the voter update his or her information. If the second notice is returned undeliverable or the voter does not respond to the second notice, the voter is placed on the inactive and is placed in a “suspense” file. If the voter does not update or vote within the next four years, he or she will be removed from the voter list. [§17-4-30, Code of Alabama]

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

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

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

Yes, the database is connected to the Department of Public Health for death notices, Department of Public Safety (to match drivers license or social security numbers), and with the Administrative Office of Courts for information on felony convictions.

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

B5. Please describe how your state uses National Change of Address (NCOA). What has been your state's experience with using NCOA?

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

Not applicable.

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

B6. Please describe your state's voting eligibility requirements as they relate to individuals with a felony conviction. (For example, are convicted felons allowed to vote while in prison or while on parole or probation? Are voting rights automatically restored or does the individual have to apply for a pardon, certificate of eligibility or other similar certificate? Does an individual whose voting rights have been restored have to produce documentation of his/her status when registering to vote?)

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

A person who is convicted of a felony crime of moral turpitude is disqualified from voting. Individuals convicted of other types of felonies maintain their right to vote. Anyone in prison or jail who has not been disqualified from voting may vote by absentee ballot. Voting rights are not restored automatically. The individual must apply for a restoration and be issued of a certificate of restoration of voting rights through the Alabama Department of Pardons and Paroles. The person whose voting rights have been restored may be required to produce proof of restoration at the time of registering to vote. [Constitution of Alabama, Amendment 579; §15-22-36.1, Code of Alabama]

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

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

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

Voter registration information is published on our web site. The State of Alabama Mail-in Voter Registration form is available for download from our web site. The person may print the form, fill it out, and mail it or hand-deliver it.

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

SECTION C: ELECTION ADMINISTRATION

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

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

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

Precincts.

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

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

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

Not applicable.

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

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

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

The absentee box is reported as its own precinct.

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

d. How are UOCAVA ballots counted and reported?

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

UOCAVA ballots are counted and reported in the absentee precinct totals.

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

C2. Does your state require a reason for voting absentee, or does your state allow no-excuse absentee voting? (If a reason is required, please provide the legal citation.)

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

Alabama requires a reason for voting by absentee. [§17-11-3, Code of Alabama]

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

C3. Does your state provide for in-person early voting? If so, how is early voting defined? When early voting is used, are the ballots counted at the precinct or at a central location? How are these votes reported?

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

Alabama does not have “early voting”. However, a person who is eligible to vote by absentee may vote early in the office of the Absentee Election Manager.

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

C4. Do any jurisdictions in your state use a vote-by-mail system to replace (and not merely supplement) at-the-precinct voting in any elections?

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

No.

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

C5. Please list each of the situations that require a provisional ballot in your state. Please provide the relevant legal citation for each situation.

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

- 1) A voter’s name is not on the poll list
- 2) A voter is challenged by the chief inspector as being ineligible to vote
- 3) A voter does not have proper identification
- 4) When a person votes during a time period that the polls are open due to an order of a state or federal court (extended polling hours)
- 5) The voter has requested an absentee ballot but has not voted it

[§17-10-2, Code of Alabama]

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

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

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

If a person is registered in the county but has moved to a new precinct without updating his or her voter registration record, the provisional ballot will be counted as long as the person completes the voter update form as part of the provisional ballot to report the change of address. [§17-10-2(e)]

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

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

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

Voter registration data is updated based on the voter reidentification/update forms submitted at the polling places.

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

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

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

Not less than 5 days prior to an election, the authority charged with holding the election is to conduct a trainings school for poll workers. [§17-8-9, Code of Alabama]

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

SECTION D: ELECTION DAY ACTIVITIES

D1. Please describe your state's process for capturing "over-vote" and "under-vote" counts.

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

The ballot tabulators automatically record this data.

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

D2. What identification does your state require from voters in the following situations:

a. registering to vote;

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

None.

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

b. casting an in-person ballot;

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

(a) As used in this section, the term "valid photo identification" may include in addition to governmentally produced photo identifications, identification cards containing the photo of the elector produced by employers for employees and identification cards containing the photo of the elector produced by a public or private college, university, or postgraduate technical or professional school located within the state.

(b) Each elector shall provide identification to an appropriate election official prior to voting. A voter required to show identification when voting in person shall present to the appropriate election official either of the following forms of identification:

(1) A current valid photo identification.

(2) 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. The term "other government document" may include, but is not limited to, any of the following:

a. A valid identification card issued by a branch, department, agency, or entity of the State of Alabama, any other state, or the United States authorized by law to issue personal identification.

- b. A valid United States passport.
- c. A valid Alabama hunting or fishing license.
- d. A valid Alabama permit to carry a pistol or revolver.
- e. A valid pilot's license issued by the Federal Aviation Administration or other authorized agency of the United States.
- f. A valid United States military identification card.
- g. A certified copy of the elector's birth certificate.
- h. A valid Social Security card.
- i. Certified naturalization documentation.
- j. A certified copy of court records showing adoption or name change.
- k. A valid Medicaid card, Medicare card, or an Electronic Benefits Transfer Card (formerly referred to as a "food stamp card").

[§17-9-30, Code of Alabama]

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

- c. casting a mail-in or absentee vote;

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

Same as above.

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

- d. casting a ballot under UOCAVA;

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

No ID required for UOCAVA voters. [§17-9-30(d)]

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

- e. any other stage in registration or voting process in which identification is required (please specify).

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

No.

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

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

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

(a) Except in the case of municipal elections, each political party or organization having candidates nominated, by a writing submitted to the inspector by the chair of the county executive committee or nominees for office or beat committeeman, may appoint a watcher for each voting place. In the event of an election in which there are no candidates, each political party, through a writing submitted to the inspector by the chair of the county executive committee, may appoint a watcher for each voting place.

(b) Watchers shall have the right to:

(1) Observe the conduct of the election.

(2) Monitor the preliminaries of opening the polls.

(3) Remain at the polling place throughout the election until the results of the election have been posted and the voting machines sealed, as provided by law.

(4) Observe the ballots as they are counted.

(5) Observe absentee ballots and affidavits when they are called during the count.

(6) See all oaths administered and signed, the record of assisted voters, the list of qualified voters, the poll lists, and any and all records made in connection with the election.

(c) Each watcher shall be sworn to faithfully observe the rule of law prescribed for the conduct of elections. Watchers may be present to be sworn in with the precinct election officials, or as time allows, but so as not to interfere with the election. Each watcher shall be a resident and qualified elector of the State of Alabama. Election officials, including returning officers, may not serve as poll watchers.

(d) A watcher may not disturb voters, attempt to influence voters, campaign, or display or wear any campaign material or buttons while inside any polling place.

[§17-8-7, Code of Alabama

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

SECTION E: OTHER

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

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

No.

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

E2. Please add any additional comments or information about your state's election administration processes that would help to inform the EAC's interpretation of your data.

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

None.

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

* The information collection associated with the Election Administration and Voting Survey is required for the EAC to meet its statutory requirements under the Help America Vote Act (HAVA) of 2002 (42 U.S.C. 15301), the National Voter Registration Act (NVRA) (42 U.S.C. 1973gg-1 et seq.), and the Uniformed and Overseas Citizens Absentee Voters Act (UOCAVA) (42 U.S.C. 1973ff-1). Respondent's obligation to reply to this information collection is mandatory as required under NVRA (42 U.S.C. 1973gg-1 et seq.) and UOCAVA (42 U.S.C. 1973ff-1). This part of the information collection is being requested to help the EAC to better understand state laws governing federal elections. Respondents include the fifty states, the District of Columbia, and the U.S. Territories. This information will be made publicly available on the EAC website (www.eac.gov). According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is OMB Control No. 3265-0006 (expires 3/31/09). The time required to complete this information collection is estimated to average 59 hours per state response. This estimate includes the time for reviewing the instructions, gathering information, and completing the form. Comments regarding this burden estimate should be sent the U.S. Election Assistance Commission – 2008 Election Administration and Voting Survey, 1225 New York Avenue, Suite 1100, Washington, DC 20005.