

Section B

U.S. ELECTION ASSISTANCE COMMISSION



2008 Election Administration & Voting Survey

Statutory Overview

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

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

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DIRECTIONS AND EXAMPLE

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

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

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

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

Example:

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

- a. Over-vote

[Begin definition (a) below this line.]

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

There is no limit to the length of your response.

[End definition (a) above this line.]

SECTION A: GENERAL

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

a. Over-vote

[Begin definition (a) below this line.]

An over-vote occurs when a voter marks too many candidates for the same office or marks both "yes" and "no" for the same question. A race that is over-voted cannot be counted; however, the ballot may be counted for other races that are validly marked. (State Election Board rule, 230:35-5-160 and 230:45-5-19)

[End definition (a) above this line.]

b. Under-vote

[Begin definition (b) below this line.]

An under-vote occurs when a voter does not mark any candidates for an office or does not mark either option for a question. Failure to vote for a particular race does not invalidate valid markings for other races on the same ballot. (State Election Board rule, 230:45-5-19)

[End definition (b) above this line.]

c. Blank ballot

[Begin definition (c) below this line.]

A blank ballot is a ballot has not been marked for any candidate or question or a ballot on which the voting device cannot detect any valid markings. (State Election Board rule, 230:35-5-160 and 230:45-5-19)

[End definition (c) above this line.]

d. Void/Spoiled ballot

[Begin definition (d) below this line.]

A spoiled ballot is a ballot that the voter marks incorrectly, a ballot that the voting device cannot read, or a ballot that is damaged by the voter or by the voting device. A voter who spoils a ballot returns it to the Precinct Officials. The Precinct Official destroys the ballot and issues the voter another ballot. The voter is required to sign an affidavit. (26 O.S. 2001, § 7-122) (State Election Board rule, 230:35-5-127)

[End definition (d) above this line.]

e. Provisional/Challenged ballot

[Begin definition (e) below this line.]

Provisional ballots are issued for the following reasons: 1. A voter's name is not in the Precinct Registry. 2. A voter who is required to show identification

before voting for the first time in a federal election does not have one of the acceptable forms of identification. 3. A voter disputes the political affiliation shown in the Precinct Registry in a partisan primary election. 4. A voter disputes the school district or municipal assignment shown in the Precinct Registry in a school or municipal election. 5. A UOCAVA voter has been discharged, is on leave, or has returned from overseas after the deadline for voter registration. Provisional ballots from these UOCAVA voters are always counted. (26 O.S. Supp. 2007, § 7-116.1) (State Election Board rule, 230:35-5-171 to 5-175)

[End definition (e) above this line.]

f. Absentee

[Begin definition (f) below this line.]

The following categories of voters may vote by absentee ballot: 1. Any registered voter may request that an absentee ballot be sent by mail. 2. A voter in a nursing home may vote an absentee ballot that is delivered by a bipartisan absentee voting board. 3. A physically incapacitated voter or a voter caring for an incapacitated person may vote an absentee ballot sent by mail. 4. A voter who becomes incapacitated after 5 p.m. on the Tuesday before an election may vote an absentee ballot delivered by an agent. 5. Uniformed services and overseas voters may vote an absentee ballot sent by mail or in some cases by fax. These voters must be eligible to be registered, but they do not have to be registered. (26 O.S. 2001, § 14-101 et. seq.) (State Election Board rule, 230:30-1-1 et seq.)

[End definition (f) above this line.]

g. Early voting

[Begin definition (g) below this line.]

Early voting is called in-person absentee voting in Oklahoma. Any registered voter may vote by in-person absentee ballot at the County Election Board office on Friday, Saturday, or Monday immediately preceding a state or federal election and on Friday or Monday immediately preceding any other election. Voting hours are 8 a.m. to 6 p.m. on Friday and Monday and 8 a.m. to 1 p.m. on Saturday. (26 O.S. Supp. 2007, § 14-115.4) (State Election Board rule, 230:30-7-1 et seq.)

[End definition (g) above this line.]

h. Active Voter

[Begin definition (h) below this line.]

An active voter is any registered voter who has not been designated as inactive as part of the list maintenance process. See the definition of an inactive voter. (26 O.S. 2001, § 4-120.2) (State Election Board rule, 230:15-11-26)

[End definition (h) above this line.]

i. Inactive Voter

[Begin definition (i) below this line.]

An inactive voter is a registered voter who does not respond to an address confirmation notice within 60 days after the notice is mailed. An inactive voter may be restored to active status by returning the confirmation notice, by voting in person or by absentee ballot, or by submitting an application for a change in voter registration. A voter whose status remains inactive for a period covered by two federal general elections will be removed from the rolls. (26 O.S. 2001, § 4-120.2) (State Election Board rule, 230:15-11-26 to 11-28)

[End definition (i) above this line.]

j. Other terms (please specify) _____

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

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

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

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

There have been no significant changes to election laws or procedures since 2006.

[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.]

Oklahoma's voter registration database is probably best described as a hybrid system.

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

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

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

County data is transmitted daily to the state system.

[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.]

An address confirmation notice is mailed to voters for the following reasons: 1. The voter's record has been identified as a potential duplicate of another record. 2. A first class mailing to the voter was returned undelivered by the postal service during the previous 24 months. 3. The voter has not voted in any election since the second previous federal general election. 4. The voter surrendered an Oklahoma driver license after receiving a driver license in another state during the preceding 24 months.

Confirmation notices are mailed no later than June 1 of odd-numbered years. Voters who do not respond to a confirmation notice within 60 days after the mailing are designated as inactive. UOCAVA voters are not required to be registered in Oklahoma, and therefore, they are not designated as inactive.

An inactive voter may be restored to active status by returning the confirmation notice, by voting in person or by absentee ballot, or by submitting an application for a change in voter registration.

[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 whose status remains inactive for a period covered by two federal general elections after the confirmation mailing will be removed from the rolls. A voter who has died may be removed upon notice from the state Department of Health, the voter's next of kin, or a nursing home administrator. A voter who has been convicted of a felony may be removed upon notice from the county court clerk or the United States attorney. A voter who has been adjudged incapacitated may be removed upon notice from the county court clerk. A voter who has registered to vote in another state or county may be removed upon notice from the new jurisdiction. A voter may also request to be removed from the rolls by submitting a written, notarized notice.

The only notice is the confirmation mailing described in question B2 above. Since UOCAVA voters are not registered voters, they cannot be removed from the rolls.

[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.]

The State Election Board receives data from the Department of Public Safety on Oklahoma driver licenses that have been surrendered in other states. We also submit data to DPS for the matches of driver license number and Social Security number required by HAVA. We receive data from the Department of Health on deaths. All of these matches are performed electronically.

[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.]

Oklahoma does not use NCOA.

[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 convicted of a felony is not eligible to register to vote for a period of time equal to the time prescribed in the judgment and sentence. (26 O.S. Supp. 2007, § 4-101) This prohibition applies whether or not the person is incarcerated. Once the period of the sentence has expired, the person is eligible to register again. There is no requirement to apply for a pardon or restoration of rights. No documentation is required when the person is eligible to register again. He or she completes the same voter registration form as other voters, which includes an oath of eligibility.

[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.]

The voter registration application form is available on the State Election Board website. It must be printed, completed, signed, and mailed by the voter.

[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.]

All votes not cast at a precinct are counted centrally.

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

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

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

Votes that are tabulated centrally are not redirected to the appropriate precinct. Each county has one or more "absentee precincts" that are used for reporting the results of absentee voting, early voting, and ballots cast by telephone in compliance with the disability requirements of HAVA. The only exception is for provisional ballots, which are reported with the results of the precincts in which they were cast.

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

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

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

All absentee votes and early votes are reported together in the "absentee precinct." Some of the larger counties have more than one absentee 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 are counted and reported in the same manner as all other absentee ballots.

[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.]

No reason is required for absentee voting.

[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.]

Oklahoma does allow early voting, called in-person absentee voting. See the response to question A1g for the definition. Ballots are counted centrally and the results are reported with the absentee ballots.

[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.]

Oklahoma does not use vote-by-mail in any jurisdictions.

[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.]

Provisional ballots are issued for the following reasons: 1. A voter's name is not in the Precinct Registry. 2. A voter who is required to show identification before voting for the first time in a federal election does not have one of the acceptable forms of identification. 3. A voter disputes the political affiliation shown in the Precinct Registry in a partisan primary election. 4. A voter disputes the school district or municipal assignment shown in the Precinct Registry in a school or municipal election. 5. A UOCAVA voter has been discharged, is on leave, or has returned from overseas after the deadline for voter registration. Provisional ballots from these UOCAVA voters are always counted. (26 O.S. Supp. 2007, § 7-116.1) (State Election Board rule, 230:35-5-171 to 5-175)

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

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

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

A provisional ballot is counted only if it was cast in the precinct of the voter's residence. In determining whether to count a provisional ballot, county election officials research their records to determine whether the voter is validly registered or attempted to register in the precinct where the vote was cast. This includes checking both electronic and paper records. It may also include researching the records of other offices where voter registration is conducted, such as motor license agencies and public service agencies. Information provided by the voter on the provisional ballot affidavit is used to investigate the voter's eligibility. For a voter who did not have required identification at the polling place, the ballot is counted if the name, date of birth, and driver license number or last

four digits of the Social Security number provided on the provisional ballot affidavit match those on the official voter registration record. For voters who dispute their political affiliation or their school district or municipal assignment, the ballot is counted if county election officials find evidence that the voter was incorrectly assigned through an administrative error. In the case of UOCAVA voters who return too late to register, the provisional ballot is always counted if the voter indicated in the affidavit that he or she falls into this category. (26 O.S. Supp. 2007, § 7-116.1) (State Election Board rule, 230:35-3-126 to 3-130)

[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.]

Oklahoma does not have post-election audits other than recounts requested by candidates.

[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.]

State law requires that all poll workers receive training every two years. (26 O.S. 2001, § 3-111) The State Election Board develops the training program and provides all training materials to the County Election Boards. All trainers must complete a train-the-trainer program conducted by the State Election Board. Both state and county personnel serve as trainers.

[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.]

Oklahoma uses a statewide optical scan voting system. The precinct scanners tally over-votes and under-votes for each race and display them on the results tape. Totals, which include over-votes and under-votes, are then accumulated electronically at the county level and at the state level.

[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.]

Oklahoma has only the voter identification requirements specified in HAVA. Voters who register by mail are asked to provide identification with their voter registration application. If they do so, they will not be asked for identification when they vote for the first time. Acceptable forms of identification are a current and valid photo identification, a voter identification card, a current utility bill, bank statement, government check, paycheck, or other government document that shows the voter's name and address. (26 O.S. Supp. 2007, § 7-115.2)

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

b. casting an in-person ballot;

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

Voters who register by mail must show identification when voting for the first time in a federal election if they did not include identification with their application for voter registration. This applies to voting at a precinct or during in-person absentee voting. Acceptable forms of identification are a current and valid photo identification, a voter identification card, a current utility bill, bank statement, government check, paycheck, or other government document that shows the voter's name and address. (26 O.S. Supp. 2007, § 7-115.2)

[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.]

Most absentee voters must have their ballot affidavits notarized. Absentee voters who are incapacitated or in a nursing home must have two witnesses sign their ballot affidavits. (26 O.S. Supp. 2007, § 14-108, 14-113.2, 14-115)

[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 identification is required for UOCAVA voters. These voters must sign an affidavit. (26 O.S. Supp. 2007, § 14-120)

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

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

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

None

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

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

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

Any candidate or recognized political party may have a watcher at a polling place. Watchers may observe the voting device both before the polls are open and after the polls are closed, but they may not be present at the polling place at other times. Watchers may also observe voting device testing and accompany personnel who repair or maintain voting devices during the election. Watchers must be commissioned in writing by 5 p.m. on the Wednesday before the election. (26 O.S. Supp. 2007, § 7-130)

News reporters and photographers may enter a polling place for a period not to exceed five minutes. They may not interfere with the voting process, and they may not conduct polls within the voting area. All polls must be conducted at least 50 feet from the voting device. (26 O.S. 2001, § 7-108 to 7-108.5 and 26 O.S. Supp. 2007, § 7-112)

[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.]

Oklahoma has not revised its administrative complaint procedures since they were first adopted.

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

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

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

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

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