

Section B

U.S. ELECTION ASSISTANCE COMMISSION



2008 Election Administration & Voting Survey

Statutory Overview

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

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

Information Supplied By	
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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.]

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.]

ESVI does not define over-vote, because our DRE's do not allow such a voting action.

[End definition (a) above this line.]

b. Under-vote

[Begin definition (b) below this line.]

ESVI has no formal definition of under-vote however when an elector does NOT vote for the full number of candidates allowed it is considered and under-vote. This would apply more in our case to absentee ballots.

[End definition (b) above this line.]

c. Blank ballot

[Begin definition (c) below this line.]

Blank ballot is defined as a ballot or section of a ballot for which the elector provided no vote.

[End definition (c) above this line.]

d. Void/Spoiled ballot

[Begin definition (d) below this line.]

Void/Spoil ballots are ballots where the elector votes for more candidates than allowed, vote across party lines (when applicable), etc...

The Board of Elections is guided by previous law, Attorney General Opinions and previous Court cases to assess void/spoil ballots.

[End definition (d) above this line.]

e. Provisional/Challenged ballot

[Begin definition (e) below this line.]

Provisional ballots are defined according to the HAVA Act of 2002.

[End definition (e) above this line.]

f. Absentee Ballot

[Begin definition (f) below this line.]

(1) "Absentee" means:

(a) any member of the Armed Forces of the United States or;

(b) any person registered and otherwise qualified to vote in elections in the United States Virgin Islands who is:

(i) a person or his spouse who is engaged in educational pursuits and who is residing either outside the Territory of the Virgin Islands or in an election district other than that in which he is registered; or

(ii) an officer or employee of the Government of the United States Virgin Islands or the Government of the United States assigned to official duties outside of the election district in which he is registered; or

(iii) the spouse of any member of the Armed Forces of the United States; or

(iv) any person who has not been out of the election district in which he is registered for more than 90 days prior to the date of the election for which absentee status is sought; or

(v) unable to appear personally at the polling place of the election district in which he is a qualified voter because of illness or physical disability, whether permanent or temporary, or because he will be or is a patient in a hospital, nursing home, or home for the aged; or

(vi) an inmate or patient in a Veterans' Administration hospital; or

(vii) absent from the district of his residence because of his accompanying a spouse, parent or child who would be entitled to apply for the right to vote by absentee ballot;

(viii) absent from his voting residence because he has been detained in jail awaiting action by a grand jury or trial, or has been confined in prison after a conviction for an offense other than a felony; or

(ix) duly registered to vote, but will be unable to vote in person based on religious grounds.

(2) “Armed forces of the United States” means the principal or auxiliary units of the Army, Navy, Air Force, Marine Corps, Coast Guard or Merchant Marine, whether composed of male or female persons or both, and any religious groups or welfare or service agencies or organizations assisting members of the armed forces, which, or any member of which, are officially attached to and serving with the armed forces; and

[End definition (f) above this line.]

g. Early voting

[Begin definition (g) below this line.]

Early voting is not authorized in the Virgin Islands, by the Legislature of the Virgin Islands.

[End definition (g) above this line.]

h. Active Voter

[Begin definition (h) below this line.]

There is no legal definition of an Active Voter, however an Active Voter is one that can legally participate in the election, through a formal registration process.

[End definition (h) above this line.]

i. Inactive Voter

[Begin definition (i) below this line.]

There is no legal definition of an Inactive Voter. However we do have cancelled voters.

[End definition (i) above this line.]

j. Other terms (please specify) _____

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

Not Applicable

[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.]

No significant changes to the election laws or procedures have been enacted or adopted since the previous Federal election.

[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.]

The Virgin Islands voter registration database system is a top-down system is hosted on a single, central platform/mainframe and is generally maintained by the Territory with information supplied by the 2 local jurisdictions. (St. Croix and St. Thomas and St. John)

[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.]

As described above the Election System of the Virgin Islands does not define votes as active or inactive. However, we do have a cancellation process as described in section B3.

[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.]

Within 120 days after the general election held in the year 1998 and within 120 days after each general election thereafter, the Board of Elections shall cause all the district registers to be examined, and in the case of each elector who is not recorded as having voted at such election and the last general election prior to the same, the board shall send to such electors by mail, at his address appearing upon his registration card or wherever he is known to reside, a notice, setting forth that the records of the board indicate that he has not voted at the last two general elections and that his registration will be canceled at the

expiration of thirty (30) days from the date of the notice unless he shall within that period, file with the board, either personally or by mail, a written request for reinstatement of his registration, setting forth his place of residence, and signed by him. At the expiration of the time specified in the notice, the board shall cancel the registration of such elector unless he has filed with the board a signed request for reinstatement of his registration as above provided. The cancellation of the registration of any such elector for failure to vote within a period of two years shall not affect the right of any such elector to subsequently re-register by personal application to the board, or a board member, or the clerk, in the manner provided by this chapter. The name of any elector whose registration has been canceled shall be posted forthwith in three places; provided, that if the Supervisor of Elections determines that the district registers are incomplete as to one or more polling districts so that it does not appear with certainty whether or not an elector has been recorded as voting in two general elections as above provided, the requirement of this section and the duties imposed on the Board of Elections shall be waived as to electors residing within the polling district for which the district registers are incomplete.

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

. 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 voter registration database program has the capability to do information sharing electronically, presently it is only done with the Courts in the Virgin Islands, but we are in the process of working with DMV and Social Security. A formal agreement is being worked out between the two agencies through the AMA.

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

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

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

The National Change of Address (NCOA) is process as all other registrants. Our experience has been good, but very limited.

[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.]

Every person who has been twice convicted by a court of competent jurisdiction of a felony or of a crime involving moral turpitude shall be debarred from voting for a period of 10 years.

Every person who has been convicted by a court of competent jurisdiction of a felony or of a crime involving moral turpitude shall be debarred from voting for a period of one year following the date of his discharge.

No inmate of a public or private institution for the insane and no person under the care of a guardian by reason of any mental incapacity shall be entitled to vote.

A felon does get automatically reinstated into the system once he has completed all requirements of conviction, (e.g. jail time, probation, parole and restitution). Additionally if and felon is pardon all voting rights are restored. Yes, documentation is required for reinstatement.

[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 Election System of the Virgin Islands utilizes the Internet to facilitate voter registration through education on our website www.vivote.gov.

[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.]

At ESVI the votes are counted centrally by precincts on the night of Election through an electronic system. For absentee ballots, provisional ballots, write-in ballots and walk-in ballots they are counted centrally, through a manual counting process.

[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.]

No, all information is processed centrally.

[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.]

They are added to AT-Poll results and reported as a single number when certified.

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

d. How are UOCAVA ballots counted and reported?

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

All ballots are counted through the same tabulation process.

[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.]

Reason required pursuant to Title 18 section 664 Virgin Islands Code (See Section A subsection (f)).

[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.]

Early voting not authorized by Legislature in the VI.

[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. An individual's name is not in the district register.
2. Appear at the wrong voting poll without time to get to the correct poll.
3. Indicates that they DO NOT want to vote on the DRE.
4. There is no record of a current registration.
5. The electoral district is other than the specified location
6. Current registration reflects a party other than what it should be.

[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.]

Provisional ballots are counted in each of the two election districts by the District Boards of Elections. All ballots are reviewed as why a provisional ballot was used and a determination is made by the District Board.

[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.]

There is no requirement in Territorial law for post-election audits.

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

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

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

There is no requirement in Territorial law for poll worker training; however the Boards of Elections has the subject under deliberation.

[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 ESVI's DRE does not allow over-votes. Under-votes are not captured.

[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.]

1. US Passport
2. US Birth paper
3. Naturalization Certificate
4. Baptismal Certificate with place and date of birth
5. Military Discharge form (DD214)

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

b. casting an in-person ballot;

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

If you are a first time voter you must provide some form of voter identification.

[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.]

A self affirmation is required.

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

d. casting a ballot under UOCAVA;

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

A self affirmation is required

[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.]

Identification can be required at the beginning of the registration process.

[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) Each candidate for nomination or election at a primary may appoint two **watchers** in each polling place in which such candidate is to be voted for.

(b) Each political party or political body which has nominated candidates in accordance with this title, and each nominated independent candidate, may appoint three **watchers** at any general election for each polling place in which the candidates of such party or body, or such independent candidate, are to be voted for. Such **watchers** shall serve without expense to the territory.

(c) All **watchers** appointed under this section shall be qualified registered voters of the legislative district in which they are authorized to act. Only one watcher for each candidate at primaries, or for each political party or body or independent candidate at general elections, shall be allowed to remain in the polling place at any one time prior to the close of the polls, and all **watchers** in the room shall remain outside the enclosed space. After the close of the polls and while the ballots are being counted, all the **watchers** shall be permitted to be in the polling place outside the enclosed space. Each watcher shall be provided with a certificate from the district board of elections, stating his name and the name of the candidate, political party or body or independent nominee he represents. **Watchers** shall be required to show their certificates when requested to do so.

(d) **Watchers** allowed in the polling place under this section may keep a list of voters for use only in connection with the challenging of any person making application to vote. A watcher may be permanently ejected from the polling place or the polling grounds upon the determination by the judge of elections or, in his absence, by both of the election inspectors, that such **watchers** have violated any proscription under this title or is otherwise disrupting the election procedures.

[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.]

The Administrative procedure is outlined in the Virgin Islands State Plan. No revisions have been made to the procedures.

[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.]

The Election System of the Virgin Islands is constantly review existing system.

[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.