

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.]

Over-vote – When an elector marks or designates more names than there are persons to be elected to an office or designates more than one answer to a ballot question, and the tabulator records no vote for the office or question. (Sections 97.021(37); 101.5606(3), Florida Statutes)

[End definition (a) above this line.]

b. Under-vote

[Begin definition (b) below this line.]

Under-vote – When an elector does not properly designate any choice for an office or ballot question, and the tabulator records no vote for the office or question. (Section 97.021(37), Florida Statutes)

[End definition (b) above this line.]

c. Blank ballot

[Begin definition (c) below this line.]

Blank ballot – A ballot where the tabulating equipment reads the ballot as a ballot with no votes cast. (Section 101.5606(3), Florida Statutes)

[End definition (c) above this line.]

d. Void/Spoiled ballot

[Begin definition (d) below this line.]

Void/Spoiled ballot – A ballot on which the voter has made an error and may be given up to two more replacement ballots unless the person chooses to cast a spoiled ballot. (Section 101.5608(2)(b), Florida Statutes)

[End definition (d) above this line.]

e. Provisional/Challenged ballot

[Begin definition (e) below this line.]

Provisional/Challenged ballot – Provisional ballot is a ballot voted by a person whose eligibility is in question. The ballot is placed in a provisional ballot

envelope and the canvassing board determines by a preponderance of evidence whether or not to count the ballot based on evidence available. (Section 101.048, Florida Statutes)

[End definition (e) above this line.]

f. Absentee

[Begin definition (f) below this line.]

Absentee –Not defined in statute. An absentee ballot is a ballot voted by an absentee voter. (Section 97.021(1), Florida Statutes). The ballot is placed in an absentee voting envelope and presented to the county canvassing board for determination in accordance with Section 101.68, Florida Statutes.

[End definition (f) above this line.]

g. Early voting

[Begin definition (g) below this line.]

Early voting – An early voting ballot is a ballot cast prior to election day at a location designated by the supervisor of elections and deposited in a tabulation system. (See Section 97.021(7), Florida Statutes). The period for early voting begins on the 15th day prior to an election and ends on the 2nd day prior to an election. The ballot is put through a precinct tabulator at the early voting site by the voter. The early voting period for special elections is different (see Section 101.657, Florida Statutes)

[End definition (g) above this line.]

h. Active Voter

[Begin definition (h) below this line.]

Active Voter – Not defined in statute. A registered voter for whom there is no indication of a change or out-of-date address. (Section 98.065, Florida Statutes)

[End definition (h) above this line.]

i. Inactive Voter

[Begin definition (i) below this line.]

Inactive Voter – A registered voter who has been placed on an inactive list because he or she has not responded to an address confirmation notice or whose address confirmation notice has been returned as undeliverable. (Section 98.065, Florida Statutes)

[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.]

Effective July 1, 2008, all voting in any election is to be by marksense ballot, with the exception of voting by persons with disabilities who have the option of voting by marksense ballot or on an accessible voting system device. By 2012, counties must also employ a voter interface device that uses marksense ballot for use by persons with disabilities. (Section 101.56075, Florida Statutes)

Effective January 1, 2009, persons as young as 16 years old may preregister to vote. (Section 97.041(1)(b), Florida Statutes)

Effective June 2008, a person whose personal identifying number on the voter registration application has not been verified may provide a copy of his or her Florida driver’s license, Florida identification card, or social security card and, if otherwise eligible, will be made an active voter. The number presented need not be the same number as the one originally provided on the application. (Section 97.053(6), Florida Statutes)

Two of the previously approved photo identifications for voting have been eliminated – employee badge or identification and buyer’s club identification are no longer acceptable photo identifications for voting at the polls. (Section 101.043, Florida Statutes)

Following each election, the county canvassing board is required to perform a manual audit of the voting system used in the county. (Section 101.591, Florida Statutes)

[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.]

Florida would be considered a bottom-up 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.]

Information from the counties is transmitted real-time to the statewide 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.]

If the supervisor of elections has information that a voter has moved to a location out of the state, the supervisor sends an address confirmation final notice to the voter. If the voter does not return the notice or the notice is returned as undeliverable, the voter is put on the inactive list. A voter on the inactive list may be restored to the active list of voters upon the voter updating his or her voter registration information, requesting an absentee ballot, or voting. A voter who has not done any of these activities by the second general election after being placed on the inactive list is removed from the statewide voter registration system. (Section 98.065(4)(c), FLORIDA STATUTES) The procedures are the same for UOCAVA voters.

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

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

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

A supervisor of elections may remove the name of a voter, without notice to the voter, if a duplicate registration has been identified or if the Department of State matches the name from a list of deceased persons provided by the Department of Health.

Persons who have been identified as having been adjudicated mentally incompetent, convicted of a felony or may be ineligible for other reasons must be provided notice prior to removal. The notice must be sent to the voter by certified mail and must request that the voter respond within 30 days. If the notice is returned as undeliverable, a notice is published in a newspaper of general circulation in the county. The notice provides information to the voter regarding the ability to admit or deny the accuracy of the information underlying the potential ineligibility and provides the right for the voter to request a hearing. After reviewing all evidence, the supervisor makes a final determination and, if the determination is removal, the voter is so notified. (Section 98.075, FLORIDA STATUTES)

[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.]

Currently voter registration information that includes a driver's license number or social security number is forwarded to our state's driver's license agency or further to the Social Security Administration for verification of the personal identifying number. The outcome of that verification process is forwarded back to the Florida Voter Registration System. Similarly, voter registration information is forwarded to Florida Department of Law Enforcement to assist in the identification of potentially ineligible registered voters who are convicted felons. Other than this scenario, data cannot be shared with any other state or federal database.

[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 state does not use NCOA. It is our understanding that several counties in Florida are using NCOA, however, the state has no experience with it.

[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 must have his or her civil rights restored in order to be eligible to vote. The individual simply attests to that on the voter registration application. No other written proof must be provided at that time of registration.

[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.]

Downloadable registration forms are posted on the Division of Elections' web site and most supervisors of elections' web sites for the applicant to complete. The application must be printed, signed and mailed to a voter registration official.

[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.]

- Ballots cast at the precinct on Election Day are tabulated on precinct scanners at the polling place.
- Absentee ballots are tabulated at the central counting location.
- Early voting ballots are tabulated on precinct scanners at the early voting site.
- Provisional ballots are tabulated at the central counting location.

[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.]

All votes must be allocated back to the respective precinct by the 45th day after the general election.
(Section 98.0981, FLORIDA STATUTES)

[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.]

When reporting precinct results to the state, the absentees are reported with the other results as a single number.

[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 tabulated at the central counting location and reported the same as other absentees.

[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.]

Florida has no excuse absentee voting. (Section 97.021(1), FLORIDA STATUTES)

[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 is defined as “casting a ballot prior to Election Day at a location designated by the supervisor of elections and depositing the voted ballot in the tabulation system. (Section 97.021(7), FLORIDA STATUTES)

Florida provides for early voting between the 15th and 2nd days before the election. Ballots are put through a precinct tabulator at the early voting site by the voter. Those votes are eventually allocated back to the precincts of the voters. (Section 98.0981 and 101.657, FLORIDA STATUTES)

[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 person whose name is not on the precinct register and the poll worker is unable to verify whether or not the person is a registered voter of the state. (Section 101.048, FLORIDA STATUTES)
2. A person whose name is not on the precinct register and the poll worker verifies that the person is not registered in the state, but the person maintains that he or she is entitled to vote. (Section 101.048, FLORIDA STATUTES)
3. A voter whose name is on the precinct register with an indication that he or she has received an absentee ballot and the poll worker is unable to verify whether the absentee ballot has been returned to the supervisor of elections. (Section 101.69, F.S.)
4. A voter whose name is on the precinct register with an indication that he or she has received an absentee ballot and the poll worker confirms that the supervisor of elections has received the voted absentee ballot, but the voter maintains that he or she has not returned the absentee ballot. (Section 101.69, FLORIDA STATUTES)

5. A voter whose name is on the precinct register with an indication that he or she voted early but the voter maintains he or she has not already voted in the election. (Section 101.048, FLORIDA STATUTES)
6. A person whose name is not on the precinct register but who has completed either a change of name or change of residence affirmation and the poll worker is unable to verify whether the person is a registered voter of the state. (Section 101.045(2)(c), FLORIDA STATUTES)
7. A voter who does not produce an acceptable form of photo ID with signature or a photo ID and a signature ID. (Section 101.043(2), FLORIDA STATUTES)
8. A person whose name is on the precinct register with an indication that his or her Florida driver's license number or state identification card number, or the last 4 digits of the social security number has not been verified through the Department of Highway Safety and Motor Vehicles. (Section 97.053(6), FLORIDA STATUTES)
9. A person whose signature on the precinct register differs from that on the identification presented and the person refuses to complete the affidavit. (Section 101.49, FLORIDA STATUTES)
10. A voter whose identity is in question based on the photo identification provided. (Section 101.043, FLORIDA STATUTES)
11. A voter who has been challenged. (Section 101.111, FLORIDA STATUTES)
12. A voter who votes on or after the normal poll closing time pursuant to a court or other order extending the polling hours. (Section 101.049, FLORIDA STATUTES)
13. Any person for whom the poll worker is unable to get through to the elections office to determine whether or not the person is eligible to vote. (Section 101.048, FLORIDA STATUTES)

(See also Rule 1S-2.034, Florida Administrative Code)

[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 voter must have voted in the proper precinct in order for the provisional ballot to count (Section 101.045, FLORIDA STATUTES). In determining whether to count a provisional ballot, the canvassing board determines if the person voted at the correct precinct and that they had not already cast a ballot in the election (Section 101.048,

FLORIDA STATUTES) Any written evidence provided by the voter and any evidence presented by the supervisor of elections or any evidence presented by a challenger is considered and the ballot will count unless the canvassing board determines by a preponderance of the evidence that the person was not entitled to vote. If the person is determined to be entitled to vote, the canvassing board compares the signature on the Provisional Ballot Voter's Certificate with the signature on the voter's registration and, if it matches, will count the ballot. (Section 101.048, FLORIDA STATUTES) In those cases in which the person has voted a provisional ballot because he or she failed to provide proper identification at the polls, the person need not provide further evidence of his or her eligibility. The canvassing board will compare the signature on the certificate with the signature on the voter's registration record. If the signatures match, the provisional ballot will count.

[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.]

Immediately following certification of an election, the county canvassing board must conduct a manual audit of the voting system used in randomly selected precincts. The audit consists of a public manual tally of the votes in one randomly selected race in 2 percent of the precincts containing that race. The audit must be completed within 7 days after certification of the election by the county canvassing board. (Section 101.591, FLORIDA STATUTES and Rule 1SER-08-4, Florida Administrative Code.)

[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.]

Each clerk of election shall complete a minimum of 3 hours training prior to each election. Each inspector must complete 2 hours of training prior to each election. No person may serve as a poll worker unless the person has completed the required training, unless there is a vacancy and no person with training is available to fill the vacancy.

A clerk may not work at the polls unless he or she demonstrates a working knowledge of the laws and procedures relating to voter registration, voting system operation, balloting and polling place procedures, and problem-solving and conflict-resolution skills.

In addition, each poll worker must complete a program on issues of etiquette and sensitivity with respect to voters having a disability. (Section 102.014, FLORIDA STATUTES)

[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.]

By December 15 of each general election year, the supervisor of elections must report to the Department of State the total number of overvotes and undervotes in the Presidential or Governor's race that appears first on the ballot, or if neither appears, the first race appearing on the ballot. The report from the supervisor must include the likely reasons for the overvotes and undervotes and other information that may be useful in evaluating the performance of the voting system and identifying problems with ballot design and instructions which may have contributed to voter confusion. The Department uses the information submitted to prepare a public report on the performance of each type of voting system. (Section 101.595, FLORIDA STATUTES)

[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.]

registering to vote -- no specific identification required unless the person is a first time voter who is registering by mail. (Section 97.0535, FLORIDA STATUTES) Each applicant is required to provide a current and valid Florida driver's license number or Florida identification number or the last 4 digits of his or her social security number on the voter registration application, unless the applicant does not have any of these, in which case he or she must indicate "none" on the voter registration application. If the number provided on the application cannot be verified, the applicant is provided with a notice requesting that he or she provide a copy of his or her identification document in order to become a registered voter. (Section 97.053(6), FLORIDA STATUTES)

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

b. casting an in-person ballot;

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

casting an in-person ballot -- One of the following identifications must be presented showing a picture of the voter:

- Florida driver's license
- Florida identification card issued by the Department of Highway Safety and Motor Vehicles
- United States passport

- Debit or credit card
- Military identification
- Student identification
- Retirement center identification
- Neighborhood association identification
- Public assistance identification

If the photo identification provided does not contain a signature, an additional identification that provides the voter's signature is required. (Section 101.043, FLORIDA STATUTES)

[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.]

casting a mail-in or absentee vote -- signature of the voter on the absentee ballot envelope is compared to the signature on the voter registration -- no further identification required. (Section 101.68, FLORIDA STATUTES)

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

d. casting a ballot under UOCAVA;

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

casting a ballot under UOCAVA -- same as absentee ballot above

[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.]

Each political party and each candidate may have one poll watcher in each polling place or early voting area at any one time during the election. A political committee advocating the passage or defeat of an issue may also have one watcher in each polling place. Each poll watcher must be a registered voter of the county and must be designated in writing to the supervisor of elections at least 2 weeks prior to the election or early voting period. (Section 101.131, FLORIDA STATUTES)

[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 the procedures have not been revised since enacted in 2003. (Section 97.028, FLORIDA STATUTES)

[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.