

## 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.]

No statutory definition. Understood to mean any instance where the choices recorded on an elector's ballot for an office or a question exceeds the number of choices that the elector is entitled to make.

[End definition (a) above this line.]

b. Under-vote

[Begin definition (b) below this line.]

No statutory definition. Understood to mean any instance where the number of valid votes recorded on an elector's ballot for an office or a question is less than the number of votes that the elector is entitled to cast.

[End definition (b) above this line.]

c. Blank ballot

[Begin definition (c) below this line.]

No statutory definition. Understood to mean a ballot returned by a voter that does not contain a single valid vote.

[End definition (c) above this line.]

d. Void/Spoiled ballot

[Begin definition (d) below this line.]

No statutory definition. Understood to mean a ballot returned by a voter that is not processed or counted because 1) the voter asked for a replacement ballot or 2) because the ballot is deemed "illegal."

[End definition (d) above this line.]

e. Provisional/Challenged ballot

[Begin definition (e) below this line.]

See MCL 168.523a for a definition of "provisional ballot" and an explanation of Michigan's provisional balloting process. A "challenged" ballot is understood to mean a ballot that has been marked so that it can be retrieved after the election to resolve any legal disputes involving the ballot. See MCL 168.745 for ballot identification procedure. (A court order is needed to retrieve and question a "challenged" for ballot.)

[End definition (e) above this line.]

f. Absentee

[Begin definition (f) below this line.]

No statutory definition. Understood to mean a ballot issued to a voter who has requested an absentee ballot in writing in advance of the election. In order to obtain an absentee ballot, a voter must meet one of the qualifications specified under MCL 168.759(5).

[End definition (f) above this line.]

g. Early voting

[Begin definition (g) below this line.]

Not applicable as Michigan does not maintain an “early voting” program.

[End definition (g) above this line.]

h. Active Voter

[Begin definition (h) below this line.]

No statutory definition. Understood to mean any voter in Michigan who is currently registered to vote.

[End definition (h) above this line.]

i. Inactive Voter

[Begin definition (i) below this line.]

Not applicable as Michigan does not maintain an “inactive” voter registration file.

[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.]

The Michigan Supreme Court ruled on July 18, 2007 that a provision of Michigan election law which requires voters to either present picture identification or sign an affidavit if they do not have picture identification with them is constitutional and enforceable. (See MCL 168.523 for picture identification requirement.) While this requirement was originally enacted by the State Legislature in 1996, the requirement was never implemented due to a prior ruling issued through the Attorney General's office.

Given the ruling, every Michigan voter who offers to vote at the polls must show picture identification or sign an affidavit attesting that he or she is not in possession of picture identification.

[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.]

As the definition provided above relates the terms "bottom-up" and "top-down" to both the system and the data, it is difficult to respond to the question. Clarification is needed.

In Michigan, the voter registration software is developed and maintained on the state level and is downloaded to local system users. All voter registration data submitted through the state's driver license agency offices is downloaded on a daily basis while all voter registration data accepted on the local level is uploaded on a daily basis.

[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.]

While Michigan does not maintain a bottom-up or a hybrid system, all voter registration data accepted on the local level is uploaded on a daily basis as noted above.

[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.]

Not applicable as Michigan does not maintain an "inactive" voter registration file.

[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.]

Record is immediately removed if voter authorizes cancellation or is deceased. If clerk has reliable information that voter has moved out of jurisdiction, voter is issued a confirmation notice pursuant to NVRA requirements. If voter does not respond to notice, record is removed after the second federal election following the issuance of the confirmation notice. UOCAVA voters are subject to the same record removal procedures.

[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.]

Voter registration database and state's driver license agency offices are electronically linked at the present time. Voter registration database is not presently linked with databases in any other state or federal agencies. The link with the state's driver license agency offices permits the daily transmittal of all voter registration transactions handled in the agency offices to the proper jurisdiction.

[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 as Michigan 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 Michigan resident confined in jail or prison who is awaiting arraignment or trial is eligible to vote. A Michigan resident who is serving a sentence in jail or prison after conviction cannot vote during his or her period of confinement. After a Michigan resident who is serving a sentence in jail or prison is released, he or she is free to participate in elections without restriction.

[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.]

Online registration form provided; must be printed, signed and submitted by mail or by hand. Website feature permits voters to verify voter registration status.

[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 ballots cast in the polls on election day are counted at the precincts. Absentee ballots are counted by absent voter counting boards if the jurisdiction employs such boards. Absentee ballots are counted at the precincts if the jurisdiction does not employ absent voter counting boards. Provisional ballots preserved for later evaluation are hand tallied in instances where the ballot is determined valid.

[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.]

In instances where absent voter counting boards process and tabulate absentee ballots from multiple precincts, the votes cast on the ballots are aggregated together; the votes are not attributed to the various precincts involved.

[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.]

If the jurisdiction employs absent voter counting boards, the votes are reported separately. If the jurisdiction does not employ absent voter counting boards, the votes cast on absentee ballots are added to the in-precinct results.

[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.]

See above. No difference in counting and reporting procedures.

[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.]

A reason is required. See MCL 168.759(5).

[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.]

Not applicable as Michigan does not maintain an “early voting” program.

[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.]

Provisional ballots are issued in instances where 1) the voter’s name does not appear on the precinct’s voter registration list 2) a voter subject to the federal identification requirement is unable to satisfy the requirement when offering to vote and 3) there are questions over a voter’s identity after an inspection of the picture identification produced by the voter. See MCL 168.523a.

[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 obtained by a voter in the wrong precinct is rejected.

In instances where a voter is issued a provisional ballot because the voter’s name does not appear on the precinct’s voter registration list, the ballot is counted in the precinct if the voter 1) signs an affidavit asserting that he or she submitted a voter registration application on or before the close of registration for the election at hand 2) is in the proper precinct 3) is able to identify himself or herself by showing a Michigan driver’s license, a Michigan personal identification card, any other type of government issued photo identification card or a photo identification card issued by a Michigan university or college and 4) is able to confirm that he or she currently resides in the precinct by showing a Michigan driver’s license, Michigan personal identification card, any other

government issued photo identification card or a photo identification card issued by a Michigan university or college.

In instances where a voter is issued a provisional ballot that is preserved for later evaluation, the ballot is counted under the following conditions:

*Voter does not appear on precinct's registration list:* The ballot is counted if:

- 1) A valid voter registration application for the voter is located; the registration application was submitted by the voter on or before the "close of registration" for the election at hand; and the provisional ballot was issued in the proper precinct.
- 2) The voter signed the affidavit; the voter identified himself or herself by showing acceptable identification; and the voter confirmed that he or she currently resides in the precinct where the ballot was issued by showing a current utility bill, current bank statement, current paycheck or government check or any other government document.
- 3) The voter signed the affidavit and satisfies the identification requirement and/or residence verification requirement within six calendar days after the election.

*Voter required to satisfy the federal identification requirement:* The ballot is counted if the voter satisfies the federal identification requirement within six calendar days after the election.

*Voter produced picture identification that left questions over the voter's identity:* The ballot is counted if the voter appears in person and presents an acceptable form of picture identification that confirms over the voter's identity.

[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.]

While Michigan does not conduct "post-election audits," Michigan election law grants candidates administrative recounts upon request. The candidate is required to file a petition asserting error in the results and submit a \$10.00 per precinct deposit.

[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.]

An individual cannot serve as a poll worker unless he or she attended a training class within the last preceding two years. See MCL 168.683. Those responsible for instructing the poll workers must receive accreditation under a state-level training program. See MCL 168.33.

[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.]

While "over-vote" and "under-vote" data is recorded by tabulators at the precinct level, it is not aggregated or reported.

[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.]

Voter must satisfy the identity verification requirements provided under HAVA.

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

b. casting an in-person ballot;

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

Voter must appear in person to vote if he or she 1) registers by mail and 2) has never previously voted in Michigan. (Requirement does not apply if voter 1) personally hand delivers registration form 2) is 60 years of age or more 3) is disabled or 4) is eligible to vote under Uniformed and Overseas Citizens Absentee Voting Act.)

Voter must show picture identification or sign an affidavit attesting that he or she is not in possession of picture identification.

Voter can satisfy the 1D requirement by showing a Michigan driver's license or a Michigan personal identification card. Voters who do not possess either document may show any of the following forms of picture ID as long as it is current:

- Driver's license or personal ID card issued by another state.
- Federal or state government-issued photo ID.
- U.S. passport.
- Military identification card with photo.
- Student identification with photo from a high school or an accredited institution of higher education.
- Tribal identification card with photo.

Voters who do not have acceptable picture ID or forgot to bring acceptable picture ID to the polls can vote like any other voter by signing the affidavit form.

[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.]

No identification required (unless voter is subject to the federal identification requirement).

[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 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.]

None other than the federal identification requirement and the identification requirement associated with the provisional balloting 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.]

Michigan polling places are public places. Consequently, anyone who wishes to observe the election process is free to do so. Such individuals must sit or stand in the "public area" of the polling place where they will not interfere with the voting process. In addition, Michigan election law provides for the appointment of election "challengers."

Political parties may appoint election challengers to serve at partisan and nonpartisan elections. The appointments may be made at any time through the date of the election. A political party is not required to follow an application process to appoint election challengers.

An incorporated organization, a group interested in the adoption or defeat of a proposal on the ballot or a group interested in preserving the purity of elections and in guarding against the abuse of the elective franchise may appoint election challengers if authorized to do so under an application process. To apply for appointment authorization, the

organization or group must file, not less than 20 days nor more than 30 days prior to the election, the two items described below with the clerk of the county, city, township or village where the election will be held.

- 1) A statement which sets forth the organization's or group's intention to appoint election challengers and the reason why the right to make the appointments is claimed. The statement must be signed under oath (notarized) by the chief presiding officer, secretary or any other officer of the group or organization.
- 2) A copy of the identification card which will be carried by the challengers appointed by the group or organization. The identification card must have entry spaces for the challenger's name, the group's or organization's name, the precinct or precincts in which the challenger is authorized to serve and the signature of a recognized officer of the group or organization.

[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 revisions have been made.

[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](http://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.