

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.]

Although the term "over-vote" is not defined explicitly in statute, 21-A MRSA § 696(2A) indirectly addresses over-votes as follows: "If a voter marks more names for an office than there are vacancies to be filled, the voter's vote for that office may not be counted". A pending amendment to this section adds the clause "or more choices for a question than are permitted" after the phrase "vacancies to be filled".

[End definition (a) above this line.]

b. Under-vote

[Begin definition (b) below this line.]

Not defined in statute.

[End definition (b) above this line.]

c. Blank ballot

[Begin definition (c) below this line.]

Not defined in statute.

[End definition (c) above this line.]

d. Void/Spoiled ballot

[Begin definition (d) below this line.]

21-A MRSA §696(5A) provides that "A ballot on which a voter has made a distinguishing mark is void". 21-A MRSA §1(13) defines a distinguishing mark as follows: "Distinguishing mark means a mark on a ballot of a type or in a place not specifically permitted by this Title, which indicates the apparent intent of the voter to make the voter's ballot distinguishable in a manner that is fraudulent or inconsistent with an honest purpose. A stray mark on the ballot or mark made on or in the voting indicator or near the candidate's name or space for a write-in candidate that differs from the instructions at the top of the ballot is not a distinguishing mark unless it is of such a character or is made in such a manner that it manifests an intent to make the ballot distinguishable for a fraudulent or dishonest purpose. Marking the write-in space on a ballot with the name of a fictitious person, a deceased person or a person from outside the State who could not be a candidate for that office is not a distinguishing mark unless it is made in such a manner that manifests an intent to make the ballot distinguishable for a fraudulent or dishonest purpose."

[End definition (d) above this line.]

e. Provisional/Challenged ballot

[Begin definition (e) below this line.]

21-A MRSA §1(7) defines a challenged ballot as follows: “Challenged ballot means a ballot cast by one whose eligibility to vote has been questioned during election day.”

All challenged ballots are initially counted in the same manner as regular ballots. No further determination is made on the challenge unless a recount occurs and it is determined that the challenged ballot could affect the outcome of the election. If there are enough challenged ballots to affect the outcome of an election, then the challenged ballots in that district will be segregated, and the basis for each challenge may be determined by the appropriate authority designated by statute or by state or federal constitution.

[End definition (e) above this line.]

f. Absentee

[Begin definition (f) below this line.]

The term “absentee” is not defined in statute.

21-A MRSA §1(1) defines an absentee voter as follows: “Absentee voter means a person who qualifies under section 751 to cast an absentee ballot”.

Maine has no-reason absentee voting – the voter need not specify a reason to receive an absentee ballot, but must request the ballot in one of the methods provided in statute. There are multiple methods a voter may use to request an absentee ballot, including by application or written request, telephone or in-person. Regardless of the request method, the voter must seal the voted ballot in a return envelope and sign an affidavit that is printed as part of the envelope.

[End definition (f) above this line.]

g. Early voting

[Begin definition (g) below this line.]

Not currently allowed under Maine law for candidate elections. Maine has conducted a pilot program to study early voting and describes it as “a time period before an election during which voters have the opportunity to cast a ballot at a designated voting place within their municipality, in the same manner as on Election Day”.

[End definition (g) above this line.]

h. Active Voter

[Begin definition (h) below this line.]

Not defined in statute.

[End definition (h) above this line.]

i. Inactive Voter

[Begin definition (i) below this line.]

Not defined in statute.

[End definition (i) above this line.]

j. Other terms (please specify) _____

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

None

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

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

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

None

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

SECTION B: VOTER REGISTRATION

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

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

Top-down. Maine's central voter registration system (CVR) is a web-browser based, real-time system, with the software application and database hosted and maintained by the State on a single platform. The state system is accessed by municipal election officials from 504 municipalities to add or update individual voter data, with some central data cleanup functions performed by the state.

[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.]

N/A

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

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

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

A voter's status is designated as "inactive" after the voter has failed to respond to an NVRA 8(d)2 notice, or the notice is returned by the USPS as undeliverable. A voter is removed from "inactive" status, and designated as "active" when the voter votes or attempts to vote, signs a petition, changes his/her address within the municipality, responds to a change of address confirmation card, or otherwise makes his/her residence known to an election official. The same procedure is used 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.]

Voters' names are removed from the voter list (status changed to "cancelled") due to death, change of address outside the jurisdiction (municipality) or at the request of the voter. A voter's name may also be removed from the voter list (status changed to "cancelled"), if after being designated as "inactive", the voter does not vote or otherwise

contact an election official for 2 federal general elections. The same procedure is used for UOCAVA voters.

[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 driver's 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.]

Maine does not have a direct link to any other databases. With respect to the Maine Bureau of Motor Vehicles driver license data, the CVR application receives a weekly data file for purposes of matching and verifying data. Maine's CVR has a real-time driver-license lookup function (to the data in the weekly extract) for matching a new voter's ID, and verifying voters' names and addresses. CVR also contains a batch process for identifying potential voter record changes of address based on the data in the weekly extract. No voters' names are removed from the list based on a system-to-system match of data. Rather, the potential matched records are presented to the registrar of voters, via a screen in CVR, for review and determination of whether there is a true match. The registrar will then designate the voter's status as "cancelled" (i.e. removed from the list), or update the record to reflect a change of address within the jurisdiction.

As required by HAVA, the CVR uses the Maine Bureau of Motor Vehicle's connection, via AAMVA, to the Social Security Administration. The CVR produces a weekly extract of new voter data, for voters who provided the last 4 digits of the SSN as their unique identifier. This batch process is sent to SSA, and the returned responses are used to validate the identity match in CVR.

The CVR also performs a monthly match against an extract of the Maine Office of Vital Statistics' death records file, and presents possible matches of decedent information back to CVR. The potential matched records are presented to the registrar of voters, via a screen in CVR, for review and determination of whether there is a true match. The registrar will then designate the voters's status as "cancelled" (if there is a match) or "no action required" if no match is determined.

[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 of Maine managed a statewide voter list maintenance process with NCOA in the summer of 2007. The State sent its entire voter list to an NCOA vendor and received a number of potential matches indicating changes of address. These voters were sent an NVRA 8(d)2 notice. The voters who submitted a reply confirming a move out of the jurisdiction had their voter status designated as "cancelled" (removed from the voter list). If a voter's notice was returned as undeliverable by the USPS or the voter failed to

respond to the notice (after NCOA has indicated a potential move outside the municipality) the voter was designated as “inactive”.

[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.]

Maine has no restrictions on felons registering to vote or voting.

[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.]

Maine does not allow Internet voter registration. Maine does not currently offer a Maine voter registration application that can be filled out online to be printed and then signed, but does accept Federal applications to be completed in this manner.

[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 the precincts.

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

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

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

N/A

[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.]

Reported 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 must be received by the close of polls on Election Day and are reported as a single number along with all other ballots cast in the election.

[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 excuse

[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.]

Maine allows in-person absentee voting at the municipal clerk's office starting 45 days before an election (or as soon as ballots are received). Voted ballots are required to be sealed in absentee ballot envelope on which the voter signs an affidavit. Ballots are not cast until Election Day.

[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.]

21-A, Maine Revised Statutes, section 673 provide the reasons that a ballot may be challenged.

A voter or an election official may challenge another voter only upon personal knowledge or a reasonably supported belief that the challenged voter is unqualified. Only the following reasons for challenges may be accepted by the warden.

The challenged person:

- (1) Is not a registered voter;
- (2) Is not enrolled in the proper party, if voting in a primary election;
- (3) Is not qualified to be a registered voter because the challenged person does not meet the age requirements as specified in sections 111, subsection 2 and section 111-A; is not a citizen of the United States; or is not a resident of the municipality or appropriate electoral district within the municipality;
- (4) Registered to vote during the closed period or on election day and did not provide satisfactory proof of identity and residency to the registrar pursuant to section 121, subsection 1-A (only an election official may challenge for this reason);
- (5) Did not properly apply for an absentee ballot;
- (6) Did not properly complete the affidavit on the absentee return envelope;
- (7) Did not cast the ballot or complete the affidavit before the appropriate witness;
- (8) Communicated with someone as prohibited by section 754-A, subsection 1, paragraph B or subsection 3, paragraph B or D;
- (9) Did not have the ballot returned to the clerk by the time prescribed;
- (10) Voted using the name of another;
- (11) Committed any other specified violation of this Title; or
- (12) Voted using the wrong ballot for the appropriate electoral district or political party, if applicable.

[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.]

All challenged ballots are initially counted in the same manner as regular ballots. No further determination is made on the challenge unless a recount occurs and it is determined that the challenged ballot could affect the outcome of the election. If there are enough challenged ballots to affect the outcome of the election, then the challenged ballots in that district will be segregated, and the basis for each challenge may be determined by the appropriate authority designated by statute or by state or federal constitution.

[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.]

A losing candidate in any election may request a recount within 5 business days after the election. Recounts are conducted at a single central location under the supervision of the Secretary of State.

[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.]

The clerk and registrar of each municipality must attend a training session that is approved by the Secretary of State at least once every 2 years in regard to the conduct of elections. The Secretary of State shall encourage municipalities to provide training biennially to all election officials.

[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.]

Each precinct reports a Total Ballots Cast figure which can be compared to individual office totals to determine the under-vote counts. Over-vote counts 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.]

Pursuant to HAVA, first-time voters who register by mail must provide proof of identification prior to voting for the first time. All persons registering to vote for the first time in the State of Maine must provide proof of identification and residency. Maine allows the voter to provide the actual document or the identification can be matched against databases maintained by the Maine Bureau of Motor Vehicles or federal Social Security Administration.

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

b. casting an in-person ballot;

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

No proof of identification is required after a person is registered to vote. At the time of check-in at the polls, voters are asked to provide their names, and may be asked to provide their addresses, to the election official at the voting list.

[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 proof of identification is required after a person is registered to vote. The voter signs an affidavit on the absentee ballot envelope, which election officials may use to compare to the signature on file.

[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 proof of identification is required after a person is registered to vote.

[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.]

21-A MRSA §627 provides that "municipalities must provide a polling place large enough to allow at least one worker from each political party to remain outside the guardrail enclosure as a pollwatcher".

21-A MRSA §681(4) provides that “if sufficient space exists, party workers and others, in addition to the pollwatchers allowed pursuant to section 627, may remain in the voting place outside the guardrail enclosure as long as they do not attempt to influence voters or interfere with their free passage”.

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

SECTION E: OTHER

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

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

No.

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

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

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

[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.