

# U.S. ELECTION ASSISTANCE COMMISSION



## *2012 Election Administration & Voting Survey*

### **American Samoa**

## *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 EAC to better understand the quantitative data relating to the 2012 general election that we are collecting from all U.S. states and territories.

EAC understands 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). Prior to beginning the Statutory Overview, please ensure that "track changes" is turned on; this will provide a record of all changes that are made including insertions, deletions, and formatting changes. To turn on track changes hold down "Control" and "Shift" and "E" at the same time. For additional assistance in working with "track changes" please contact your Technical Assistance point of contact at ICF International.

We have provided you with your answers to the 2010 Statutory Overview. If there has not been a change in your State's laws or legal citation in the response to a question, please mark No Change Since 2010 with an "X" as shown below:

**X** **No Change Since 2010**

If the response has changed since 2010, please mark Changed Since 2010 with an "X" and modify the answer as needed using track changes. If you need to replace the entire answer, please delete the 2010 response and record your 2012 response between the red bracketed text lines, as described below.

**X** **Changed Since 2010**

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 statutory reference 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, or executive decision, please specify.

Please keep 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**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[Begin definition (a) below this line.]

No legal definition. However, "overage" is defined as when there are more ballots than the poll book calls for. Section 6.0803, A.S.C.A.

[End definition (a) above this line.]

**b. Under-vote**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[Begin definition (b) below this line.]

No legal definition. However, "underage" is defined as when there are less ballots than the poll book calls for. Section 6.0803, A.S.C.A.

[End definition (b) above this line.]

**c. Blank ballot**

[Begin definition (c) below this line.]

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

An unmarked or unused ballot. ("Ballot" is defined as a written or printed, or partly written and partly printed paper or papers containing the names of persons to be voted for, the office to be filled, and the questions or issues to be voted on. A ballot may consist of one or more cards or pieces of paper depending on the number of offices, candidates to be elected thereto, questions or issues to be voted on, and the voting system in use. Section 6.0102, American Samoa Code Annotated.)

[End definition (c) above this line.]

**d. Void/Spoiled ballot**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[Begin definition (d) below this line.]

No legal definition. (However, a ballot that has been properly issued to a qualified elector but has been returned for another, and has been canceled with the reason for cancellation endorsed thereon. Section 6.0710, A.S.C.A.)

[End definition (d) above this line.]

**e. Provisional/Challenged ballot**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[Begin definition (e) below this line.]

A provisional or challenged ballot is one where the elector or voter, having presented himself to the district officials to vote, is challenged by another qualified elector on the grounds that: (1) the voter is not the person he alleges himself to be; or (2) that the voter is not entitled to vote in that district. No other grounds for challenging the voter are allowed. Section 6.0223(b), A.S.C.A. See also Help America Vote Act (HAVA).

[End definition (e) above this line.]

**f. Absentee**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[Begin definition (f) below this line.]

Any qualified elector who will be unable to appear at his polling place during the hours of voting at any election because of absence from the Territory (American Samoa), or district in which he is registered. Section 6.1101, A.S.C.A.

[End definition (f) above this line.]

**g. Early voting**

☒ No Change Since 2010      ☐ Changed Since 2010

**2010 Response:**

[Begin definition (g) below this line.]

No legal definition.

[End definition (g) above this line.]

**h. Active Voter**

☒ No Change Since 2010      ☐ Changed Since 2010

**2010 Response:**

[Begin definition (h) below this line.]

No legal definition. (However, a qualified elector. A person duly registered to vote. Section 6.0102(j), A.S.C.A.)

[End definition (h) above this line.]

**i. Inactive Voter**

☒ No Change Since 2010      ☐ Changed Since 2010

**2010 Response:**

[Begin definition (i) below this line.]

No legal definition. (However, a qualified elector who has been purged from the centralized official records for failure to vote in two consecutive elections. Section 6.0215(a), A.S.C.A.)

[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. “Significant” does not include routine or technical changes (such as changes to election district boundaries or polling place changes). However, EAC 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.**

  X   **No Change Since 2010**             **Changed Since 2010**

**2010 Response:**

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

Perhaps the most significant changes in this year's election for Federal office is the acceptance of electronic application forms for members of the Uniformed Services and Overseas citizens, under the Uniformed and Overseas Citizens Absentee Voters Act (UOCAVA), as amended by the Military and Overseas Voter Empowerment Act (MOVE). Beginning with this election cycle, American Samoa has begun accepting FPCA, by email and facsimile, in addition to regular postal mail, as a means of registering as qualified electors, and requesting an absentee ballot for Federal election. 42 U.S.C. 1973ff et seq., as amended. Further pursuant to the MOVE Act, American Samoa has done away with the requirement that a Federal voter application be notarized. American Samoa enacted, pursuant to P.L. 31-17, legislation implementing the requirements of the MOVE Act, and empowering the Chief Election Office of the Territory to adopt such rules and regulations consistent with said Act. 6.0214, A.S.C.A., as amended by P.L. 31-17.

[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.)**

☒ **X** **No Change Since 2010**      ☐ **Changed Since 2010**

### **2010 Response:**

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

American Samoa is neither a pure bottom-up nor top-down system because of its size. American Samoa could be said, however, to be more of a top-down system in the sense that there is one centralized platform/mainframe maintained at the state level. However, there are no local level jurisdictions which may be considered contributories to the central mainframe. American Samoa, because of its relatively small size, has only one main Election Office where everyone desiring to register as a qualified voter may apply for qualified voter status. This one centralized office administers election contests for both local and federal offices throughout the whole Territory.

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

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

☒ **X** **No Change Since 2010**      ☐ **Changed Since 2010**

### **2010 Response:**

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

As indicated above, American Samoa has no local jurisdictions, other than the one centralized Election Office which is the only location where individuals may register as qualified voters.

[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?**

☒ **X** **No Change Since 2010**      ☐ **Changed Since 2010**

**2010 Response:**

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

American Samoa law provides that the Chief Election Officer shall remove from the register the names of those qualified electors who failed to vote at the election, if the voter also failed to vote at the preceding election. This purging process must be done within 60 days from the conclusion of the general election. The voter registration number issued to that voter is reserved and will be reissued to the same voter if that person reregisters. Section 6.0215(a), A.S.C.A. Notice is issued to the voter, whose name has been removed, informing him of the Chief Election Officer's action.

For voters who have been purged from the system, they only need reregister pursuant to the registration requirements set forth in Section 6.0214, A.S.C.A. Section 6.0215(b), A.S.C.A.

The same process applies to 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?**

☒ **No Change Since 2010**      ☐ **Changed Since 2010**

**2010 Response:**

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

Same as answer provided in B2 above.

[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.**

☒ **No Change Since 2010**      ☐ **Changed Since 2010**

**2010 Response:**

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



American Samoa does not have the technological capacity for information sharing with our local Office of Motor Vehicles, the Territorial entity responsible for the issuance of drivers' licenses in order to match records or track changes in address. Nor do we have the capacity to connect and share information with agencies of other states or Federal government. Our local Election Office has a working understanding with the the local Social Security office which allows us to verify social security numbers for new registrations that come in.

[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 NCOA?**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

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

American Samoa does not use the 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?)**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[Begin response to above question (B6) below this line.]

Pursuant to Article II, Section 7, of the Revised Constitution of American Samoa, no person who has been convicted of a felony may qualify to vote in any election unless he has had his civil rights previously restored, or unless he has maintained good behavior for two years following the date of his conviction or his release from prison, whichever is later. Article II, Section 7, Revised Constitution of American Samoa.

The American Samoa Election Office, in conjunction with the American Samoa Office of the Attorney General and the Office of Probation share information relating to individuals with felony convictions. Every year, the Attorney General's Office and the Office of Probation forwards a list of individuals with felony conviction to the Chief Election Officer for matching against the voter registration list.

The Governor's Office, whenever an Executive Pardon is granted, forwards a copy of said pardon to the Chief Election Officer for his records. In the event no such records exist with the Election Office, an individual who is seeking registration will most likely be required to furnish such necessary documents.

[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.).**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[Begin response to above question (B7) below this line.]

The American Samoa Election Office maintains a website at: [www.aselectionoffice.com](http://www.aselectionoffice.com) as a tool for registration. With the recent MOVE Act enactments, UOCAVA voters and other off-island registrants are given the option of downloading the appropriate forms for registration. Currently, American Samoa registration forms can only be printed from the official website and filled out manually. However, the Election Office in an effort to further ease the registration process, will be including the capacity to fill out the application forms on-line. Instructions for registration are also included with important dates and deadlines relating to off-island registration.

[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?**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

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

The only votes tabulated outside of the voter's electoral district (precinct) are absentee ballots, which also include mail-in ballots). These votes are counted centrally.

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

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

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

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

No.

[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?**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

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

Absentee ballots for Gubernatorial and U.S. Congressional races are counted centrally within the Election Office upon the closing of polls. Only absentee ballots for local district representative races are forwarded to their respective districts for counting.

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

**d. How are UOCAVA ballots counted and reported?**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

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

UOCAVA ballots are counted together with regular absentee and mail-in ballots, and reported as a single number.

[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.)**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[Begin response to above question (C2) below this line.]

Only those individuals who fall under the following categories may vote absentee in American Samoa:

1. Persons absent from American Samoa on election day due to:
  - (a) active service in the U.S. military forces;
  - (b) employment in the service of the U. S. Government;
  - (c) employment in the service of the American Samoa Government;
  - (d) student at an institution of learning (outside American Samoa).
  
2. Temporary absence from American Samoa on election day due to:
  - (a) travel for medical treatment;
  - (b) travel for military related assignments;
  - (c) travel for employment related training, conference or assignments;
  - (d) vacation.
  
3. Present in American Samoa but absent from district on election day due to:
  - (a) confinement in a hospital;
  - (b) confinement in any public institution;
  - (c) confinement at home due to illness, physical disability;
  - (d) religious belief, ruling, doctrine, or standard which will prevent him from attending polls; or
  - (e) employment as an election official on election day.

Section 6.1101, American Samoa Code Annotated (ASCA)

[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?**

  X   **No Change Since 2010**             **Changed Since 2010**

**2010 Response:**

[Begin response to above question (C3) below this line.]

The only individuals who are allowed in-person early voting are those who will be temporarily absent from American Samoa on election day, and those who are present but will be absent from their representative district on election day for any justified reason, as indicated in C2 above. There is no legal definition for “early voting”, however, early voting is any vote or ballot cast before election day. Early voting ballots are counted at a central location. They are reported separately.

[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?**

  X   **No Change Since 2010**             **Changed Since 2010**

**2010 Response:**

[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.**

  X   **No Change Since 2010**             **Changed Since 2010**

**2010 Response:**

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

Provisional ballots are allowed in only two instances: First, if a qualified elector is challenged on the grounds that the qualified elector is not the person he alleges himself to be; and second, that the qualified elector is not qualified to vote in the district he attempts to vote

in. Section 6.0223(b). While the word “provisional ballot” is not used, per se, in this statute, it is understood that the ballot would be marked as provisional pending a final determination by the district official.

[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.**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

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

Provisional ballots are subject to further determination by the appropriate election officials and if the determination is favorable to the elector, the ballot is counted. If the determination is not favorable, it is rejected.

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

**C7. Please describe your state’s laws regarding post-election audits, if any. A post-election audit refers to hand-counting votes on paper records and comparing those counts to the corresponding vote counts originally reported, as a check on the accuracy of election results, and resolving discrepancies using accurate hand counts of the paper records as the benchmark.**

**If your state has post-election auditing, consider including in your response information such as the unit being audited (e.g., precincts, machines); the sampling method (e.g., fixed percentages); whether there is a specific trigger for the audit; the location of the random selection (e.g., state, county); and the races that can be audited.**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

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

Not later than the second day after the election, an audit is conducted of the reports that were turned in by the district supervisors. The Chief Election Officer delegates a member of the Election Office staff, or an election official temporarily hired, to perform the audit. The purpose of the audit is to compile a report that reflects any discrepancy in the information contained in the supervisors’ reports and the information contained in the Official Rolls. The purpose of the audit is only to report the election numbers. It must report and publish all overage and underages. It does not attempt to correct any discrepancies, rather only to report the numbers. Election Office Operating Manual.

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

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

  X   **No Change Since 2010**             **Changed Since 2010**

**2010 Response:**

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

Not later than the 5<sup>th</sup> day prior to any election, the Chief Election Officer conducts a school of instruction for persons designated as prospective district officials or poll workers. All poll workers and district supervisors shall attend this school of instruction. No district official or poll worker may serve unless he has received the required training and instruction from an authorized instructor. Section 6.040, A.S.C.A. A guide is developed to assist officials at the polling places. All officials must take an oath to uphold election laws and preserve the integrity of the entire election process. Any reports to the Chief Election Officer that an official is involved in any campaign activities must be investigated immediately. If involvement is confirmed, the official must be removed immediately. Section 6.0402, A.S.C.A.

[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.**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

[Begin response to above question (D1) below this line.]

In the event there are more ballots than the poll book calls for, it will be declared as an overage, if less, then it is declared an underage. The overage or underage is recorded on the proper official form and forwarded to the Chief Election Officer separate and apart from other election records. The Chief Election Officer makes a list of all districts in which an overage or underage occurred, indicating the appropriate amount and posted at the Election Office as a public record. Section 6.0803, A.S.C.A.

[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;**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

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

An identification document duly issued by a governmental agency, containing a photographic likeness of applicant, and showing date of birth, place of birth, residency. The person's social security card is also required. (Such acceptable documents include passports and birth certificates.)

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

**b. casting an in-person ballot;**

  X   No Change Since 2010             Changed Since 2010

**2010 Response:**

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

Voter Registration Card or acceptable Government issued identification document.

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



c. casting a mail-in or absentee vote;

☒ No Change Since 2010 ☐ Changed Since 2010

**2010 Response:**

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

No identification is required. However, the voter is asked to sign the ballot envelope which the Election Office will compare to the voter's signature on file for verification purposes.

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

d. casting a ballot under UOCAVA;

☒ No Change Since 2010 ☐ Changed Since 2010

**2010 Response:**

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

Same as procedure in subsection c 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).

☒ No Change Since 2010 ☐ Changed Since 2010

**2010 Response:**

[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.**

☒ No Change Since 2010 ☐ Changed Since 2010

**2010 Response:**

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

The decision on whether observer groups are allowed into the polling place rests solely with the Chief Election Officer. An application is made with the Chief Election Officer before election day, and an application may be granted for educational purposes. The Chief Election Officer shall use his discretion, making sure that those persons allowed to observe will do so in a manner that will not interfere with the election process.

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

## SECTION E: OTHER

**E1. Under HAVA, Section 402, states are required to establish and maintain 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.]

NONE

[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 5/31/2013). 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 – 2012 Election Administration and Voting Survey, 1201 New York Avenue, Suite 300, Washington, DC 20005.