

Section B

U.S. ELECTION ASSISTANCE COMMISSION



2008 Election Administration & Voting Survey

Statutory Overview

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

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

Information Supplied By	
Name	
Title	
Office/Agency Name	
Address 1	
Address 2	
City	
State	
Zip Code	
Email Address	
Telephone (area Code and number)	
Fax Number (area code and number)	

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.]

Not defined by state statute. The Vermont Official Return of Votes includes overvotes in the "spoiled" category for each contest or race.

[End definition (a) above this line.]

b. Under-vote

[Begin definition (b) below this line.]

Not defined by state statute. The Vermont Official Return of Votes includes overvotes in the "blank" category for each contest or race.

[End definition (b) above this line.]

c. Blank ballot

[Begin definition (c) below this line.]

Not defined by state statute. The Vermont Official Return of Votes includes overvotes in the "blank" category for each contest or race.

[End definition (c) above this line.]

d. Void/Spoiled ballot

[Begin definition (d) below this line.]

Multiple definitions in state statute. 17 V.S.A. § 2568 defines spoiled ballot as when a voter takes a ballot, makes a mistake and then returns the ballot to get another ballot to vote. 17 V.S.A. § 2587 provides that if the election officials cannot determine the voter's intent by the marking on the ballot for a race, then that shall be counted as spoiled.

[End definition (d) above this line.]

e. Provisional/Challenged ballot

[Begin definition (e) below this line.]

17 V.S.A. § 2556 provides the same definition as federal law. However, in Vermont state law we also have a sworn affidavit that allows a voter to be added to the checklist (voter registration list) and vote a regular ballot if he swears he submitted a timely registration form.

[End definition (e) above this line.]

f. Absentee

[Begin definition (f) below this line.]

Title 17 treats absentee ballots and early voting as the same. The references throughout Vermont election law refer to early absentee voting. The same rules apply to both.

[End definition (f) above this line.]

g. Early voting

[Begin definition (g) below this line.]

Title 17 treats absentee ballots and early voting as the same.

[End definition (g) above this line.]

h. Active Voter

[Begin definition (h) below this line.]

A voter who has been added to the checklist and who has not been challenged.

[End definition (h) above this line.]

i. Inactive Voter

[Begin definition (i) below this line.]

A voter that has been sent a challenge letter from the local election board stating that the board believes the voter has moved out of the town or city and asks the voter to complete the response form either acknowledging he has left town or affirming a physical residence in town.

[End definition (i) above this line.]

j. Other terms (please specify) _____

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

Defective ballot – 17 V.S.A. §2547 defines an absentee ballot that is returned outside the absentee ballot certificate envelope, or if the certificate is not signed as a defective ballot. This means that the entire ballot is not counted for any race.

[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 hosted on servers in our office. Town and City Clerks use a remote desktop connection to enter data directly into the 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.]

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.]

When the local election board believes a voter has moved out of the town or city, it directs the clerk to send a letter to the voter (there is a form letter in the statewide voter registration database) along with a response form for the voter to complete and return. The letter states that the board believes the voter has left the jurisdiction and is no longer entitled to be on the voter registration checklist and asks the voter to complete the response form, sign it and return it to the town clerk.

For UOCAVA voter the form letter is modified to state that the local board believes that the voter has left the military or has returned to reside somewhere else in the United States and asks the voter to complete the response form that either he is still in the military or still living outside the U.S. or checks a box that he is no longer qualified to remain on the checklist.

A voter is returned to the active list if and when the voter returns the response form swearing that he continues to reside at a physical location within the town or city OR for UOCAVA voters swears that he still meets the requirements to remain on the voter registration checklist in the town or city.

[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.]

- the voter submits a change of address form showing that the voter has moved to a different town or city,
- when the voter signs and returns the response form to the challenge letter stating that that he has moved from the town or city and stating that he can be removed from the checklist,
- when a death certificate or public notice of death is received,
- when a notice of voter registration in another town, city or state with the voter authorizing removal is received,
- any written authorization by the voter to remove his name from the checklist.

Yes

[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.]

Vermont DMV sends a file each night to a FTP site that our database automatically finds and uploads to our database so that we can match Driver's license information with our data entry information. So it is not real time but only a 24 delay before we can verify all DMV data.

Please describe these links, including any use of database matching to verify voter registration applications. We match Driver's license numbers as described above. For voters who do not have DMV PID#'s we deliver information to DMV staff who then use the AAMVA SSA system to verify SSNs.

[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.]

Vermont does not use the NCOA on a statewide basis. A limited number of large towns or cities may use the NCOA. Our understanding from past users is that this was not effective in providing better information to locate voters or to locate duplicates.

[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.]

Vermont law allows convicted felons to continue to vote in the last place of residence immediately prior to incarceration—voting rights are not lost by conviction of a felony in Vermont.

This is N/A in Vermont because voting rights are not lost.

[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.]

We post a downloadable voter registration form that voter's can download, print, complete and mail. Vermont law requires the voter to sign attest that he or she has taken the Vermont voter's oath as required by the VT Constitution.

[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.).

All early absentee ballots are commingled at the polling place. In towns using optical scan vote tabulators after the voter's name was checked off the Entrance Checklist, the envelope is opened by pairs of election officials and fed through the tabulator in the same manner as a voter voting at the polls. In towns that count by hand, after the name is checked off the Entrance checklist, the pair of election officials deposit the ballot into the ballot box with ballots being voted that day and after the polls are closed, all of the commingled ballots are counted.

- a. Are the votes counted centrally or at the precincts?

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

All ballots are counted at the polling place including early absentee ballots which are commingled during election day with ballots being voted at the polling place. Vote-by-Telephone ballots and Provisional ballots, if any (because we have a sworn affidavit procedure to allow a voter to be added at the polling place we should not have any provisional ballots to count), are counted centrally at the office of the Secretary of State. For example, in our state Primary Election conducted on September 9, 2008 there were no provisional ballots because town and city clerks correctly used the state sworn affidavit procedure to add voters who swear that he or she submitted a timely voter registration application to the checklist and the voters vote a regular ballot.

[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.]

The Vote by Telephone votes are added to the correct polling place for the final canvass.

[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.]

Early absentee ballots are commingled at each precinct or polling place and reported in one polling place total.

[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 generally early absentee ballots and are commingled and reported in one polling place total.

[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.]

(If a reason is required, please provide the legal citation.)

No excuse needed.

[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.]

Elections are administered at the town or city level in Vermont. Voters can go to the clerk's office to vote in the 30 days preceding the election. The early absentee ballots are commingled with all absentee ballots that are done through the mail and then all the early absentee ballots are brought to the polling place on the election day and commingled with the ballots being voted on election day and counted together.

[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. However, there are a number of towns that regularly have over 30% of the voters use the early absentee ballot system.

[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.]

There should not be any provisional ballots in Vermont because our state law allows any voter who would qualify for a provisional ballot to complete a sworn affidavit that is provided by statute and be added to the regular checklist and vote a regular ballot. 17 V.S.A. §2147(4).

On very limited occasions a citizen will misunderstand media reports about provisional ballots and may go to a polling place in a city or town where the citizen is not a residence (for example, to a polling place in the town where he works not where he resides.) If a voter does not live in the jurisdiction and therefore does not qualify for a provisional ballot, but insists that he can vote a provisional ballot, a clerk may provide the ballot but will tell the voter that it will not be counted, and will mark the provisional ballot envelope accordingly.

[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.]

No. The voter must come to the correct polling place in the town where the voter resides. The local election official completes the certificate on the ballot by checking the appropriate boxes. The instructions on the envelope provide that the clerk can only mark the envelope that the ballot should be counted IF the voter will swear that he or she

submitted a timely voter registration application and is otherwise qualified to register (US Citizen, over 18 and resident of the city or town. IF the voter will so swear and is qualified, then the clerk should have used the Vermont Sworn Affidavit form and provided a regular ballot. So if our election officials understand our training, we will not have any provisional ballots that would ever be marked by the clerk to be counted. However, we may continue to encounter a few officials who do not understand the law. If this happens, then the provisional ballots are sent to the Office of the Secretary of State with the Official Return of Vote to be counted here—in our last election there were none so our training appears to be working—after 3 previous elections where we received limited numbers of provisional ballots where sworn affidavits should have been used.

[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.]

Vermont law authorizes the Secretary to conduct random post election audits within 30 days of the election. 17 V.S.A. §2493(2). The Secretary decided to conduct audits of 4 polling places following the 2006 General Election. If the Secretary decides to conduct audits, the secretary selects polling places and the ballots are transported to our office on the date set for the audit by two local election officials. Local election officials are recruited to assist with the counting which is done using the same procedures that are used in hand count towns on election day.

[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 Presiding Officer of each polling place (VT has 280 polling places) must attend one workshop presented by the Office of the Secretary of State every 2 years. 17 V.S.A. §2457. In actual fact, our office conducts over 15 regional workshops attended by over 1500 election officials in 2008 and additional more detailed trainings for Presiding Officers who are generally the 246 town and city clerks, supplemented by local election board members in towns or cities with more than one polling place or precinct—a very small number of multiple precinct cities and towns—less than 20.

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

SECTION D: ELECTION DAY ACTIVITIES

D1. Please describe your state's process for capturing "over-vote" and "under-vote" counts.

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

The optical scan tabulators provide a count of over-votes and under-votes for each race. Hand count towns use tally sheets and make a tic mark for each overvote (spoiled) or undervote (blank) for each race.

[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.]

None unless a voter submits his registration form individually by mail—in this case the voter must also submit a copy of an approved form of ID as listed in the Help America Vote Act) or the voter can provide the same range of id when he first votes.

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

b. casting an in-person ballot;

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

None, unless first time voter as explained in a.

[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.]

None, unless first time voter as explained in a.

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

d. casting a ballot under UOCAVA;

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

None, unless first time voter as explained in a.

[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, only first time voters registering individually by mail as set out in HAVA.

[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 organized political party, each candidate on the ballot not represented by a party, and each committee supporting or opposing any public question can have 2 representatives which we call poll watchers that can listen as names are given at the Entrance Checklist and observe the voting process. The "poll watchers" can only challenge a voter if they believe: 1. he is not in fact the person whose names appears on the checklist or 2. that he previously voted in the same election. 17 V.S.A. §2564.

[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.]

VT adopted a detailed administrative complaint procedure to comply with HAVA. Historically in Vermont, the Office of the Secretary of State has encouraged all citizens to contact this office with any questions or concerns about any aspect of municipal and state government including elections. Vermont has had a toll free number for calls for assistance since long before 1999 when I joined the agency. Any citizen calling on election day will have the opportunity to speak with the Secretary of State, the Deputy Secretary of State, or the Director of Elections to have questions answered.

[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.]

When elections are administered at the municipal level with town clerks who are locally elected or appointed and elected boards of civil authority (local election boards), citizens are encouraged to observe the voting and counting process, the citizens tend to have confidence the election administration process. Since Vermont implemented the Sworn Affidavit to address the issues created by misdirected voter applications, local officials and our office receive very few complaints or concerns. Knock wood, we have not yet had any citizen ask to file a written complaint.

Vermont only has ten (10) cities or towns with over 5,000 registered voters, so that most voters will know at least one of the election officials at the polling place. Even in our largest city elections are administered by wards of around 5,000 registered voters so that the voters will know the officials.

[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.