

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.]

There is no legal citation for overvotes in New Hampshire law. "Overvotes" occur when there are more votes in a contest than permitted on the ballot. If the ballot instructions state "vote for not more than three candidates" in a contest, and the voter marks the ballot for more than three candidates in that contest, that would amount to three overvotes on the tally sheet.

[End definition (a) above this line.]

b. Under-vote

[Begin definition (b) below this line.]

Undervotes occur when there are fewer votes in a contest than permitted on the ballot. If the ballot instructions state "vote for not more than three candidates", and the voter votes for two candidates in that contest, that would amount to one vote for each of those two candidates and one undervote.

[End definition (b) above this line.]

c. Blank ballot

[Begin definition (c) below this line.]

New Hampshire does not account for blank ballots. The Accuvote tabulation machine output tape will report blanks for each individual contest. A blank will occur for an overvote or undervote as defined above.

[End definition (c) above this line.]

d. Void/Spoiled ballot

[Begin definition (d) below this line.]

A void, spoiled or cancelled ballot is one on which the Moderator has marked "cancelled" and signed it. Upon returning a ballot that is officially spoiled, the voter may receive others, not exceeding 3 in all, upon returning each spoiled one. RSA 659:22 and 659:95.

[End definition (d) above this line.]

e. Provisional/Challenged ballot

[Begin definition (e) below this line.]

Any voter may have his right to cast a ballot in a given election challenged by any other legal voter of that town or ward. Challenges may occur at any point up until the ballot is deposited into the ballot box and must be made for a specific reason. When a voter is challenged and the moderator rules the challenge is well grounded, the moderator may not accept that voter's ballot unless until the voter signs an affidavit either on the form provided by the Secretary of State or in substantially the same language. RSA 659:27-33; 666:4-5.

[End definition (e) above this line.]

f. Absentee

[Begin definition (f) below this line.]

Voters may vote using the absentee process because they affirm that they (a) will be absent on election day, (b) are unable to vote due to a disability, (c) cannot appear at the polls due to an observance of a religious commitment, or (d) have an employment obligation that requires them to remain physically at work or in transit during the time the polls are open. RSA 657-1-25.

[End definition (f) above this line.]

g. Early voting

[Begin definition (g) below this line.]

“Early voting” is not a legal process in New Hampshire.

[End definition (g) above this line.]

h. Active Voter

[Begin definition (h) below this line.]

The term “active voter” is not defined in the law. A “registered voter” is a person who appears on the checklist and is thereby eligible to vote. RSA 654:25-31.

[End definition (h) above this line.]

i. Inactive Voter

[Begin definition (i) below this line.]

“Inactive” is not an applicable term in New Hampshire. Voters are either “registered” as defined above or not.

[End definition (i) above this line.]

j. Other terms (please specify) _____

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

NA

[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.]

Straight ticket voting was repealed in 2007. RSA 656:10.

Special Assistance to Emergency Workers was adopted in 2006. RSA 657:21-a.

[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, yet maintained by the local supervisors of the checklist or registrars through a live, secure and encrypted web-interface.

[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.]

NA

[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.]

"Inactive" is not an applicable term in New Hampshire. Voters are either "registered" and eligible to vote or not.

[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 may be removed if the supervisors of the checklist determine that they are deceased, moved out of state, have failed to respond to a 30-day letter, have duplicate voter records, are incarcerated felons, or have been purged due to inactivity. Supervisors of the checklist must meet in public session and a majority of supervisors must vote to add or remove voters from the checklist. These same procedures apply to UOCAVA voters. RSA 654:36-39 & 654:44.

[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.]

The New Hampshire Department of Safety's Division of Motor Vehicles provides a list of valid motor vehicle license and non-license holders every night. Upon entry into the system, every voter registration is checked against this list and provides the user with the information from the DMV to verify whether there is a match or not. No data from the DMV or any other agency may be used for any purpose other than verifying the accuracy of the information contained in the voter database. RSA 654:45,IV(b).

There are also links to the U.S. Social Security Administration through the N.H. Division of Motor Vehicle's connection through the American Association of Motor Vehicle Administrators, the N.H. Department of Corrections and N.H. Division of Vital Records. Our software has also been written to process National Change of Address data.

[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 statewide voter registration system has established an NCOA software interface. It will be activated within the next two years.

[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.]

The New Hampshire Department of Corrections periodically provides a list of incarcerated felons, which is automatically matched against the statewide voter registration system. Voting rights are not automatically restored to incarcerated felons who have been released. The individual must register again to vote and may be asked to submit information that he/she is no longer incarcerated. RSA 607-A:2; 654:2-a; 654:5.

[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.]

No voter registration form is offered online. The state provides online training to voters, educating voters on laws involving voter registration and voting.

[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.]

Votes are counted locally by the towns and city wards and reported to the Secretary of State on forms provided by the Secretary of State. These forms are delivered to law enforcement personnel who hand deliver them to the Secretary of State. NH Constitution, Part 1, Article 11; RSA 659:60-63; 659:72-73.

[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.]

Towns and city wards report directly to the Secretary of State. Only 5 towns (no city wards) have multiple polling places. These 5 towns consolidate the results from each polling place and prepare a single town election return for submission to the Secretary of State. Once the Secretary of State has the official return of votes delivered by law enforcement personnel, the official tabulating and reporting is done in offices of the Secretary of State. Official results are reported directly by the Secretary of State. RSA 659:60-63; 659:72-73; 659:81; NH Constitution, Part 1, Article 11.

[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.]

Absentee **votes** are not distinguished from votes on regular ballots in reporting from towns and wards. (This would clearly violate the voter's privacy in small jurisdictions.) These ballots are deposited into the ballot box along with the ballots cast by those voters who personally appeared at the polls. The total number of absentee **ballots** cast is reported by each town and city ward, and reflected on the Secretary of State's website.

[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 a subset of and considered as absentee ballots and follow the same process as indicated above. An additional record of UOCAVA voters is

maintained by the local clerk. This record tracks the disposition of each absentee ballot sent to and received from these voters.

[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.]

New Hampshire requires a reason for voting absentee. RSA 657:1-25.

[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.]

No.

[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.]

All eligible citizens may register on election day if they are not already registered. In the event that any person submits a registration that is rejected, local officials are instructed to contact the state Department of Justice to report potential fraud. Follow-up is immediate, so the matter is resolved at the polls. RSA 654:7-a, 7-b; 654:7.

[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. An individual who is registered at one town or city ward would not be permitted to obtain a ballot at a different town or city ward. Refer to response to question C5.

[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.]

There is no provision for post-election audits. There are many recounts. RSA 660:1-15.

[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.]

Poll workers are not required to attend training, but there are strong incentives and diverse opportunities to obtain training, including on-line courses.

[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.]

Extensive training helps election officials identify overvotes and undervotes. In order to complete the Moderator's Worksheet, which entails reconciliation of ballots cast, election officials count overvotes and undervotes.

[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.]

Submit information to comply with RSA 654:12.

[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 announce his or her name and confirm address. No identification is required.

[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.]

Individual must be on the checklist, or submit information completing registration process. Signatures on the request and the absentee ballot affidavit must match.

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

d. casting a ballot under UOCAVA;

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

Individual must be on the checklist, or submit information completing registration process. Signatures on the request and the absentee ballot affidavit must match.

[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.]

In the event of a challenge to a voter, that voter can sign an Affidavit of Challenged Voter before a Notary Public, Justice of the Peace or Election Officer. RSA 654:12, III; 659:27-33.

[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.]

The general public is allowed to observe elections, but must abide by the Moderator's instructions. RSA 659:60-63.

[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.