

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.]

If a voter places a mark or writes-in the names of more than one candidate for an office than are to be elected or nominated, it is considered an overvote. The ballot is defective with respect only to the office in which the overvote occurred. The rest of the ballot shall be counted.

Primary Elections: In hand counted paper ballot and optical scan voting systems, if a voter casts a vote for candidates in more than one party in a primary election, none of the partisan votes are to be counted. For punch card voting systems, if a voter punches a party selection in a primary election and votes for candidates in more than one party, only the votes cast in the selected party are counted. If a party selection is not punched and the voter casts votes for more than one party, none of the partisan votes are to be counted.

[End definition (a) above this line.]

b. Under-vote

[Begin definition (b) below this line.]

If a voter does not mark a candidate or issue, the votes for the other candidates or issues on the same ballot that are validly marked shall be counted. Failure to vote for a particular office or issue will be deemed a conscious decision to not vote for either that office or issue.

[End definition (b) above this line.]

c. Blank ballot

[Begin definition (c) below this line.]

A blank ballot occurs when the voter makes no selections of candidates or measure choices throughout the entire ballot.

[End definition (c) above this line.]

d. Void/Spoiled ballot

[Begin definition (d) below this line.]

A spoiled ballot occurs when a voter makes a mistake on the ballot during voting and returns the ballot to the Election Worker to receive a new ballot.

[End definition (d) above this line.]

e. Provisional/Challenged ballot

[Begin definition (e) below this line.]

Idaho does not have provisional or challenged ballots because we have Election Day Registration.

[End definition (e) above this line.]

f. Absentee

[Begin definition (f) below this line.]

An absentee ballot is a ballot that has been requested in writing by the voter in lieu of the voter appearing at their polling location on Election Day. Idaho has 3 types of absentee ballots. The first is a mailed absentee. These ballots are requested by the voter and mailed to the voter at the address listed on the absentee request. The second is an in-person absentee. These ballots are given to the voter in the County Clerk's Office. They are voted there and returned to the County Clerk after the voter has completed voting. The third is a delivered absentee. These ballots are delivered by a county worker to the voter. These are usually voters that are either homebound or in a care facility.

[End definition (f) above this line.]

g. Early voting

[Begin definition (g) below this line.]

Idaho does not have early voting. We have Absentee Voting.

[End definition (g) above this line.]

h. Active Voter

[Begin definition (h) below this line.]

Any Qualified Elector

[End definition (h) above this line.]

i. Inactive Voter

[Begin definition (i) below this line.]

Idaho does not have inactive voters. Our law and registration system only contains active voters.

[End definition (i) above this line.]

j. Other terms (please specify) _____

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

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

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

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

[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.]

Idaho's system is a top-down system. The system is hosted on a single, central platform/mainframe, which is maintained by the Secretary of State's Office. The data is entered and updated by county users in real time.

[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.]

[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.]

Idaho does not maintain an inactive list of voters. Our law and system allows active 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 can be cancelled for several reasons. They are moving out of the state or county, receiving notice of being deceased, not voting in 2 Primary or General Elections (i.e. 4 years), being under a felony conviction, not responding to a challenge notice and at the request of the voter. If a county receives notice from another jurisdiction that the voter has moved or that the voter has died, the county may cancel the voter's registration without sending the voter a notice.

After each General Election, each county reviews their voter list and cancels voters who have been registered for more than 4 years and have not voted in either the last 2 primary

or general elections. These voters are sent a cancellation notice by the county. The individual has the option of contacting the county and challenging the cancellation or re-registering. (I.C. 34-435)

Each county receives a monthly notice from the Department of Corrections with a list of individuals who are currently serving a felony conviction. If any of their registered voters appears on the list, the county cancels their registration and sends the voter a notice. If the individual has completed their sentencing or disagrees with the cancellation, they can petition the County Clerk's Office to re-instate their registration. Once an individual completes their sentence including probation and parole, they gain their voting rights back and may register to vote.

A voter's registration may be challenged by other registered voters or by the County Clerk's Office. These individuals are notified by the County Clerk's Office of the challenge and the reason for the challenge. They then have 20 days to respond to the challenge notice. If they fail to respond the County Clerk's Office may then cancel the individual's registration and are not required to send a notice. (I.C. 34-432)

A voter may make a written request to have their name removed from the voter registration list. Once a County Clerk's Office receives this notice, they may cancel the voter's registration without sending a notice to the individual.

Each county receives a monthly notice from the Bureau of Vital Statistics of those Idaho residents who have died during the preceding month. If a registered voter appears on the list, the County Clerk cancels the registration (I.C. 34-433)

[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.]

Currently, the voter registration system is linked with the Idaho Department of Motor Vehicles (DMV) and the Social Security Administration (SSA). Each registration is validated with either the DMV or SSA.

When a registration validated against the DMV, the voter registration system sends the Driver's License Number (DL#) that was entered during the registration process to the DMV and retrieves the data assigned to that DL#. The data that is retrieved is the DL#, Last Name, First Name and Middle Name assigned to the DL#, the individuals date of birth and the last 4 digits of the individuals SSN. The county user then verifies that the information received from the DMV matches the information listed by the individual on the voter registration form. If the information matches, the registration is accepted and the individual is registered. If the information does not match, the registration is not

accepted and the individual is then required to provide additional information is required to be provided by the individual.

When a registration is validated against the SSA, the voter registration system sends the SSA the individual's first name, middle name and last name along with the last 4 digits of the SSN entered during the registration process. This information is then matched in the SSA database. The county user then receives a notice from SSA that either confirms that the information matches record(s) in their database or it doesn't. If the data matches a record or records in the SSA database, the registration is accepted and the individual is then registered. If the data does not match a record or records in the SSA database, the individual is not registered and additional information is required to be provided by the individual.

Additional information required to be provided by the individual includes a copy of a photo ID and proof of residence. Acceptable photo ID and proof of residence is a copy of a current Idaho Driver's License or Identification Card. Other acceptable photo ID includes any card that contains the individual's photo and printed name. Examples of this would be an expired driver's license or ID card, a membership card to a club or organization that contains the individual's name and photo. Acceptable proof of residence includes a document that contains the individual's name and residence address. Examples of this would include a copy of a bank statement, check stub, auto registration card or insurance card, utility bill, rental agreement, lease agreement, etc.

[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.]

Idaho has not used NCOA.

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

B6. Please describe your state's voting eligibility requirements as they relate to individuals with a felony conviction. (For example, are convicted felons allowed to vote while in prison or while on parole or probation? Are voting rights automatically restored or does the individual have to apply for a pardon, certificate of eligibility or other similar certificate? Does an individual whose voting rights have been restored have to produce documentation of his/her status when registering to vote?)

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

An individual who is serving a felony conviction including probation or parole may not register or vote. However, once an individual completes their sentencing, including probation, parole and payment of any fees or fines, their voting rights are automatically restored. These individual's may then register and vote. They are not required to provide any documentation of this status. They are signing under penalty of perjury that they have no legal disqualifications. (I.C. 18-310)

[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.]

Idaho does use the internet to facilitate registration. Voter registration cards are available for download from the Secretary of State's website. The registration card may be completed online but must be printed and signed by the voter. Once completed the individual may mail or deliver the registration card to the appropriate County Clerk's Office. However, the County Clerk must receive the original voter registration card. A copy, scanned copy or fax of the registration is not acceptable.

[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.]

Idaho has 4 types of voting systems. They are paper ballots, punch cards, oval optical scan and arrow optical scan. Votes cast by paper ballots and two arrow optical scan counties are counted at the polls. Votes cast by punch card and all other optical scan 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?

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

All votes are reported by precinct. Each precinct is counted individually.

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

c. Are the absentee, mail, etc., votes reported separately for each precinct, or are they added to the in-precinct results and reported as just a single number?

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

If a county has approved an absentee precinct, all absentee ballots for that county are counted as a single precinct and report as such. However, if they have not approved an absentee precinct, then the absentee ballots are divided by precinct and counted with the appropriate precinct ballots. (I.C. 34-1007)

[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 that are mailed are counted and reported like absentee ballots. If a county has approved an absentee precinct, all absentee ballots for that county are counted as a single precinct and report as such. However, if they have not approved an absentee precinct, then the absentee ballots are divided by precinct and counted with the appropriate precinct ballots.

[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.]

Idaho has no excuse absentee voting. (I.C. 34-1001)

[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.]

Idaho does not have early voting. We have absentee voting. However, we do have in-person absentee voting. In this case, a voter may appear at the County Clerk's Office and request an absentee ballot. They are issued an absentee ballot to be voted at the Clerk's Office. These in-person absentee ballots are counted and reported with all other absentee ballots.

If a county has approved an absentee precinct, all absentee ballots for that county are counted as a single precinct and report as such. However, if they have not approved an absentee precinct, then the absentee ballots are divided by precinct and counted with the appropriate precinct ballots. (I.C. 34-1007)

[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.]

Idaho code does allow a county to designate a precinct as an all mail precinct. The precinct may not have more than 125 registered voters at the last general election. Voters in these precincts are then mailed a ballot and a polling place is not available on election day. However, anyone living in these precincts may registered and vote at the County Clerk's Office. (I.C. 34-308)

[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.]

Idaho is exempt from using provisional ballots since we have Election Day Registration.

[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.]

Idaho is exempt from using provisional ballots since we have Election Day Registration.

[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.]

Idaho does not have any provisions for post-election audits. However, the code does allow for a contest of an election and for a recount of an election. These processes are after the official canvass of returns.

[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.]

Before each election at which voting machines or vote tally systems are to be used, the County Clerk shall cause the election board to be properly instructed in their use. (I.C. 34-2413)

[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.]

Idaho has 4 types of voting systems. They are paper ballots, punch cards, oval optical scan and arrow optical scan. Over-votes and under-votes are not counted by paper ballot counties. However, tabulators for punch card, arrow optical scan and oval optical scan are programmed to tabulate over-votes and under-votes.

[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.]

Verification of a Mail Registration; First Time Voter for Federal Office

A mail registration received from an elector who has not previously voted in an election for federal office in the state needs to be verified prior to the issuance of a ballot. This is not required for FPCA Registration Applications.

At the time a registration is entered into the statewide voter registration system, the system will attempt to validate the person's identification by either of the following matches:

- Driver's License number through the Department of Transportation.
- Name and Date of Birth through the Social Security Administration.

If the system validates the voter's identification, no further proof or action is required. If the system does not validate the voter's identification, verification is required.

Documentation can be provided at the time of registration or at the polling place. Proof of Identification:

- Idaho Driver's License or Idaho Identification Card issued through the Department of Transportation or;
- A current valid student identification card from a post-secondary educational institution in Idaho accompanied with a current student fee statement that contains the student's valid address in the precinct together with a picture identification card or;
- A document which contains a valid address in the precinct – accompanied with a picture identification card. (If the address on the driver's license is not current – the photo still works, but the address will need to be supplemented by another document. A utility bill, bank deposit slip, credit card billing, etc. with name, current address will work)

[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 identification is required unless it is a first time voter in Idaho who mailed in his or her registration and the person could not be verified prior to appearing at the polls. If verification could not be done, the voter will be required to present a current and valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck or other government document which shows the name and address of the voter (I.C. 34-410)

[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.]

The voter is required to sign and elector's oath on the ballot envelope. The County Clerk verifies the signature with the voter registration card. (I.C. 34-1005)

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

d. casting a ballot under UOCAVA;

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

The voter is required to sign and elector's oath on the ballot envelope. The County Clerk verifies the signature with the voter registration card. (I.C. 34-1005)

[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.]

[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.]

Idaho does allow for watchers and challengers. **ROLE OF CHALLENGERS** **CHALLENGERS** (Section 34-304, Idaho Code)

A. Authorization: Each political party is entitled to have persons authorized to be challengers. The county chairman and secretary of the political party must submit a written request to the county clerk no later than May 18 for Primary and November 2 for General in order for their party's challengers to be present at the polls.

B. Role of Challenger: Section 34-304, Idaho Code, states that a challenger is allowed to be present to challenge voters as to their qualifications. In case any person offering to vote is challenged one (1) of the judges must declare the qualifications of an elector to such person. If the person so challenged then declares himself duly qualified, and the challenge is not withdrawn, one (1) of the judges shall then tender him the elector's oath, (EG-7) as prescribed by the secretary of state. No challenged elector shall have the right to vote until he has subscribed to the elector's oath. Upon a challenged elector subscribing the elector's oath, he shall be entitled to vote. (Section 34-1111, I.C.)

An authorized party challenger could also utilize Section 34-431, Idaho Code, to challenge the entry of an elector's name as it appears in the poll book. Such a challenge will be noted in the remarks column following the elector's name stating the reason, such as "died," "moved," or "incorrect address." The individual making the challenge shall sign his name following the entry.

C. Election Judge's Authority: A challenger is not to interfere with the orderly conduct of the election. Challengers should be positioned so as not to be confused as a member of the election board. Persons who are authorized to serve as challengers shall wear a visible name tag identifying their title. The chief election judge in each precinct has the authority to remove any challenger that is disrupting the orderly conduct of the election.

D. Miscellaneous: Idaho law does not prohibit challengers from leaving the polls and consequently challengers may work in various shifts throughout the day. However, each party may have one challenger in the poll area at any given time.

The election judge in charge of receiving the ballots should proclaim in an audible voice that an elector has voted (Section 34-1107, I.C.). This procedure is often used by the challengers to record on their own lists that an individual has voted.

ROLE OF WATCHERS

WATCHERS (Section 34-304, Idaho Code)

A. Authorization: Any person authorized by a candidate, several candidates, or political party may be present at the polls to watch the receiving and counting of votes. The candidate or political party must submit a written request to the county clerk no later than May 22 for the Primary and October 30 for the General in order for their watchers to be present at the polls. One person on each side of an issue on the ballot may also be authorized to be a watcher.

B. Role of Watcher: The election and voter tabulation process should be open to public scrutiny without jeopardizing the integrity of the process. Section 34-304, Idaho Code,

states that a poll watcher is allowed to be present to watch the receiving and counting of the votes.

In counties which utilize a central count punch-card voting or optical scan voting systems the ballots are transmitted from the polls to the counting center (usually the courthouse). The ballots are actually counted at the counting center. Central count watchers, may under the direction of the county clerk, observe the receiving of ballots transmitted to the counting center, observe the inspection of ballots prior to processing, and observe the counting of votes as they are processed through the tabulation equipment. However, watchers will not be allowed to handle any voted ballots or interfere with any of these processes. Precinct count counties where the count occurs at the polls shall allow watchers at the polls.

Candidates and/or political parties may have watchers present at the polls and/or counting center. Persons permitted to be present to watch the counting of the votes shall not absent themselves until the polls are closed (if counting begins before 8:00 p.m.). Authorized watchers present at the polls may work in various shifts throughout the day.

C. Election Judge's Authority: A watcher is not to interfere with the orderly conduct of the election. Watchers should be positioned so as not to be confused as a member of the election board. Persons who are authorized to serve as watchers shall wear a visible name tag identifying their title. The chief election judge in each precinct has the authority to remove any watcher that is disrupting the orderly conduct of the election.

D. Miscellaneous: As outlined above watchers at the polls may work in various shifts throughout the day. However, each candidate and/or political party may have only one watcher at the poll area at any given time. The candidate should not be present at the polls (except to vote). The presence of the candidate would be deemed electioneering. (Section 18-2318, I.C.)

The election judge in charge of receiving the ballots should proclaim in an audible voice that an elector has voted (Sections 34-1107, I.C.). This procedure is often used by the watchers to record on their own voter lists that individual has voted.

[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.