

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.]

An "over-vote" is not legally defined in Wisconsin statute. The term "overvote" is used in Wis. Stat. § 5.85(2)(a)-(c) and 5.90(1). It is also inferred in 5.91(7). From the inference in 5.91(7), staff has defined an "overvote" as "votes in excess of the number allowed by law" in our Election Administration Manual, page 75. Please see the relevant text below:

5.85 Receiving, counting, tallying and return of ballots.

(2) (a) The election officials shall examine the ballots or record of votes cast for write-in votes and shall count and tabulate the write-in votes. When an electronic voting system is used in which ballots are distributed to electors, before separating the remaining ballots from their respective covering envelopes, the election officials shall examine the ballots for write-in votes.

When an elector has cast a write-in vote, the election officials shall compare the write-in vote with the votes on the ballot to determine whether the write-in vote results in an overvote for any office. In case of an overvote for any office, the election officials shall make a true duplicate ballot of all votes on the ballot except for the office that is overvoted, by using an official ballot of that kind used by the elector who voted the original ballot, and one of the marking devices so as to transfer all votes of the elector except for the office overvoted, to an official ballot of that kind used in the ward at that election. Unless election officials are selected under s. 7.30 (4) (c) without regard to party affiliation, the election officials shall consist in each case of at least one election official of each of the 2 major political parties, whenever officials of both parties are present.

(b) Write-in votes shall be counted as provided in s. 7.50 (2)

(d). The original ballot upon which there is an overvote shall be clearly labeled "Overvoted Ballot" and the duplicate ballot produced under par. (a) shall be clearly labeled "Duplicate Overvoted Ballot." The election officials shall place the same serial number on each "Overvoted Ballot" and its corresponding "Duplicate Overvoted Ballot," commencing with number "1" and continuing consecutively for each of the ballots for which a "Duplicate Overvoted Ballot" is produced in that ward or election district. The election officials shall initial the "Duplicate Overvoted Ballot"

ballots and shall place them in the container for return of the ballots. The “Overvoted Ballot” ballots and their envelopes shall be placed in the “Original Ballots” envelope.

(c) Ballots bearing write-in votes marked in the place designated for write-in votes, bearing the initials of an election official, not resulting in an overvote, and otherwise complying with the election laws as to marking shall be counted, tallied, and their votes recorded on a tally sheet provided by the municipal clerk. Ballots and ballot envelopes shall be separated and all ballots except any that are defective or overvoted shall be placed separately in the container for return of the ballots, along with the ballots marked “Duplicate Overvoted Ballots.”

5.91 Requisites for approval of ballots, devices and equipment.

(7) It permits an elector to vote at an election for all persons and offices for whom and for which the elector is lawfully entitled to vote; to vote for as many persons for an office as the elector is entitled to vote for; to vote for or against any question upon which the elector is entitled to vote; and it rejects all choices recorded on a ballot for an office or a measure if the number of choices exceeds the number which an elector is entitled to vote for on such office or on such measure, except where an elector casts excess write-in votes upon a ballot that is distributed to the elector.

Election Administration Manual, page 75 (Voting Equipment section):

a. Overvotes are votes in excess of the number allowed by law.

[End definition (a) above this line.]

b. Under-vote

[Begin definition (b) below this line.]

The term “undervote” is not defined in Wisconsin statute.

[End definition (b) above this line.]

c. Blank ballot

[Begin definition (c) below this line.]

The term “blank ballot” is used in Wis. Stat. § 7.51(2)(c) & 7.52(4)(c) and it is defined only for the terms of those sections as “a ballot on which no votes are cast for any office or question.” Please see the relevant text below:

7.51 Local board of canvassers. (2) TALLYING.

(c) Whenever the number of ballots exceeds the number of voting electors as indicated on the poll list, the inspectors shall place all ballots face up to check for blank ballots. In this paragraph,

“blank ballot” means a ballot on which no votes are cast for any office or question. The inspectors shall mark, lay aside and preserve any blank ballots. Except in municipalities where absentee ballots are canvassed under s. 7.52, if the number of ballots still exceeds the number of voting electors, the inspectors shall place all ballots face down and proceed to check for the initials. The inspectors shall mark, lay aside and preserve any ballot not bearing the initials of 2 inspectors or any absentee ballot not bearing the initials of the municipal clerk. During the count the inspectors shall count those ballots cast by challenged electors the same as the other ballots.

7.52 Canvassing of absentee ballots.

(c) Whenever the number of ballots exceeds the number of voting electors as indicated on the poll list, the board of absentee ballot canvassers shall place all ballots face up to check for blank ballots. In this paragraph, “blank ballot” means a ballot on which no votes are cast for any office or question. The board of absentee ballot canvassers shall mark, lay aside, and preserve any blank ballots. If the number of ballots still exceeds the number of voting electors, the board of absentee ballot canvassers shall place all ballots face down and proceed to check for the initials. The board of absentee ballot canvassers shall mark, lay aside, and preserve any ballot not bearing the initials of the municipal clerk. During the count, the board of absentee ballot canvassers shall count those ballots cast by challenged electors the same as the other ballots.

[End definition (c) above this line.]

d. Void/Spoiled ballot

[Begin definition (d) below this line.]

Wisconsin does not use the term “void ballot”. Wisconsin statutes do refer to a “spoiled ballot” throughout, but never defines it directly. Please see the below references:

5.91 Requisites for approval of ballots, devices and equipment.

(16) It provides an elector with the opportunity to change his or her votes and to correct any error or to obtain a replacement for a spoiled ballot prior to casting his or her ballot.

6.80 Mechanics of voting.(2) METHOD OF VOTING.

(c) Any elector who, by accident or mistake, spoils or erroneously prepares a ballot may receive another, by returning the defective ballot, but not to exceed 3 ballots in all.

6.86 Methods for obtaining an absentee ballot.

(5) Whenever an elector returns a spoiled or damaged absentee ballot to the municipal clerk, or an elector's agent under sub.

(3) returns a spoiled or damaged ballot to the clerk on behalf of an elector, and the clerk believes that the ballot was issued to or on behalf of the elector who is returning it, the clerk shall issue a new ballot to the elector or elector's agent, and shall destroy the spoiled or damaged ballot. Any request for a replacement ballot under this subsection must be made within the applicable time limits under subs. (1) and (3) (c).

6.869 Uniform instructions.

The board shall prescribe uniform instructions for absentee voters. The instructions shall include information concerning the procedure for correcting errors in marking a ballot and obtaining a replacement for a spoiled ballot.

The procedure shall, to the extent possible, respect the privacy of each elector and preserve the confidentiality of each elector's vote.

7.37 Inspectors' duties.

(11) SPOILED BALLOTS. Any spoiled ballot returned to an inspector under s. 6.80 (2) (c) shall be immediately destroyed by one of the inspectors.

10.02 Type B notice content.

(3) The notice shall contain the following:

...

(e) The vote should not be cast in any other manner. If the elector spoils a ballot, he or she shall return it to an election official who shall issue another in its place, but not more than 3 ballots shall be issued to any one elector. If the ballot has not been initialed by 2 inspectors or is defective in any other way, the elector shall return it to the election official, who shall issue a proper ballot in its place.

[End definition (d) above this line.]

e. Provisional/Challenged ballot

[Begin definition (e) below this line.]

Provisional ballots are different than challenged ballots in Wisconsin. We will define them separately.

Challenged Ballot

Any qualified elector of the state may challenge a ballot "for cause". The challenge must go to the voter's qualification to vote in the district where the vote was cast. Challenge procedure is well laid out by the Legislature in Wis. Stats. § 6.92 through § 6.95 as well as in GAB Administrative Rule Chapter 9.

Please see the below relevant text:

6.92 Inspector making challenge. (1) Except as provided in sub. (2), each inspector shall challenge for cause any person offering to vote whom the inspector knows or suspects is not a qualified elector. If a person is challenged as unqualified by an inspector, one of the inspectors shall administer the following oath or affirmation to the person: “You do solemnly swear (or affirm) that you will fully and truly answer all questions put to you regarding your place of residence and qualifications as an elector of this election”; and shall then ask questions which are appropriate as determined by the board, by rule, to test the person’s qualifications. (2) An inspector appointed under s. 7.30 (2) (am) may not challenge any person offering to vote.

6.925 Elector making challenge in person. Any elector may challenge for cause any person offering to vote whom the elector knows or suspects is not a qualified elector. If a person is challenged as unqualified by an elector, one of the inspectors may administer the oath or affirmation to the challenged elector under s. 6.92 and ask the challenged elector the questions under that section which are appropriate to test the elector’s qualifications. In addition, one of the inspectors shall administer the following oath or affirmation to the challenging elector: “You do solemnly swear (or affirm) that you will fully and truly answer all questions put to you regarding the challenged person’s place of residence and qualifications as an elector of this election”; and shall then ask questions which are appropriate as determined by the board, by rule, to test the qualifications of the challenged elector.

6.93 Challenging the absent elector. The vote of any absent elector may be challenged for cause and the inspectors of election shall have all the power and authority given them to hear and determine the legality of the ballot the same as if the ballot had been voted in person. In municipalities where absentee ballots are canvassed under s. 7.52, the vote of an absentee elector may be challenged as provided in s. 7.52 (5).

6.935 Challenge based on incompetency. Section 6.03 (3) applies to any challenge of a person’s right to vote under s. 6.92, 6.925, 6.93, or 7.52 (5) based on an allegation that an elector is incapable of understanding the objective of the elective process and thereby ineligible to vote.

6.94 Challenged elector oath. If the person challenged

refuses to answer fully any relevant questions put to him or her by the inspector under s. 6.92, the inspectors shall reject the elector's vote. If the challenge is not withdrawn after the person offering to vote has answered the questions, one of the inspectors shall administer to the person the following oath or affirmation: "You do solemnly swear (or affirm) that: you are 18 years of age; you are a citizen of the United States; you are now and for 10 days have been a resident of this ward except under s. 6.02 (2); you have not voted at this election; you have not made any bet or wager or become directly or indirectly interested in any bet or wager depending upon the result of this election; you are not on any other ground disqualified to vote at this election". If the person challenged refuses to take the oath or affirmation, the person's vote shall be rejected. If the person challenged answers fully all relevant questions put to the elector by the inspector under s. 6.92, takes the oath or affirmation, and fulfills the applicable registration requirements, and if the answers to the questions given by the person indicate that the person meets the voting qualification requirements, the person's vote shall be received.

6.95 Voting procedure for challenged electors. Whenever the inspectors under ss. 6.92 to 6.94 receive the vote of a person offering to vote who has been challenged, the inspectors shall, before giving the elector a ballot, write on the back of the ballot the serial number of the challenged person corresponding to the number kept at the election on the poll list, or other list maintained under s. 6.79, and the notation "s. 6.95". If voting machines are used in the municipality where the person is voting, the person's vote may be received only upon an absentee ballot furnished by the municipal clerk which shall have the corresponding serial number from the poll list or other list maintained under s. 6.79 and the notation "s. 6.95" written on the back of the ballot by the inspectors before the ballot is given to the elector. The inspectors shall indicate on the list the reason for the challenge. The inspectors shall then deposit the ballot. The challenged ballots shall be counted under s. 5.85 or 7.51. The municipal board of canvassers may decide any challenge when making its canvass under s. 7.53.

If the returns are reported under s. 7.60, a challenge may be reviewed by the county board of canvassers. If the returns are reported under s. 7.70, a challenge may be reviewed by the chairperson of the board or the chairperson's designee. The decision of any board of canvassers or of the chairperson or chairperson's designee may be appealed under s. 9.01. The standard for disqualification specified in s. 6.325 shall be used to determine the validity of challenged ballots.

7.52 Canvassing of absentee ballots.

(5) The vote of any absent elector may be challenged for cause and the board of absentee ballot canvassers shall have all the power and authority given the inspectors to hear and determine the legality of the ballot the same as if the ballot had been voted in person.

Provisional Ballot

The term “provisional ballot” is not used in the Wisconsin statutes. However, we do have what amounts to a provisional ballot procedure in Wis. Stat. § 6.97 which allows individuals to cast a ballot which is held until the clerk can confirm the voter’s qualifications in the district where the vote was cast.

Please see the below relevant text:

6.97 Voting procedure for individuals not providing required identification.

(1) Whenever any individual who is required to provide proof of residence under s. 6.34 in order to be permitted to vote appears to vote at a polling place and cannot provide the required proof of residence, the inspectors shall offer the opportunity for the individual to vote under this section. If the individual wishes to vote, the inspectors shall provide the elector with an envelope marked “Ballot under s. 6.97, stats.” on which the serial number of the elector is entered and shall require the individual to execute on the envelope a written affirmation stating that the individual is a qualified elector of the ward or election district where he or she offers to vote and is eligible to vote in the election. The inspectors shall, before giving the elector a ballot, write on the back of the ballot the serial number of the individual corresponding to the number kept at the election on the poll list or other list maintained under s. 6.79 and the notation “s. 6.97”.

If voting machines are used in the municipality where the individual is voting, the individual’s vote may be received only upon an absentee ballot furnished by the municipal clerk which shall have the corresponding number from the poll list or other list maintained under s. 6.79 and the notation “s. 6.97” written on the back of the ballot by the inspectors before the ballot is given to the elector. When receiving the individual’s ballot, the inspectors shall provide the individual with written voting information prescribed by the board under s. 7.08 (8). The inspectors shall indicate on the list the fact that the individual is required to provide proof of residence but did not do so. The inspectors shall notify the individual that he or she may provide proof of residence to the municipal clerk or executive director of the municipal board of election commissioners. The inspectors shall also promptly notify the municipal clerk or executive director of the name, address, and serial number of the individual. The inspectors shall then place the ballot inside the envelope and place the envelope in a separate carrier envelope.

(2) Whenever any individual who votes by absentee ballot is required to provide proof of residence in order to be permitted to vote and does not provide the required proof of residence under s. 6.34, the inspectors shall write on the back of the absentee ballot the serial number of the individual corresponding to the number kept at the election on the poll list or other list maintained under s. 6.79 and the notation “s. 6.97”. The inspectors shall indicate on the list the fact that the individual is required to provide proof of residence but did not do so. The inspectors shall promptly notify the municipal clerk or executive director of the municipal board of election commissioners of the name, address, and serial number of the individual. The inspectors shall then place the ballot inside an envelope on which the name and serial number of the elector is entered and shall place the envelope in a separate carrier envelope.

(3) Whenever the municipal clerk or executive director of the municipal board of election commissioners is informed by the inspectors that a ballot has been cast under this section, the clerk or executive director shall promptly provide written notice to the board of canvassers of each municipality, special purpose district, and county that is responsible for canvassing the election of the number of ballots cast under this section in each ward or election district. The municipal clerk or executive director then shall determine whether each individual voting under this section is qualified to vote in the ward or election district where the individual’s ballot is cast. The municipal clerk or executive director shall make a record of the procedure used to determine the validity of each ballot. If, prior to 4 p.m. on the day after the election, the municipal clerk or executive director determines that the individual is qualified to vote in the ward or election district where the individual’s ballot is cast, the municipal clerk or executive director shall notify the board of canvassers for each municipality, special purpose district and county that is responsible for canvassing the election of that fact.

(4) Whenever a board of canvassers receives timely notification from the municipal clerk or executive director of the board of election commissioners under sub. (3) that an individual who has voted under this section is qualified to vote in the ward or election district where the individual’s ballot is cast, the board of canvassers shall promptly reconvene and, if the ballot cast by the individual is otherwise valid, shall count the ballot and adjust the statements, certifications and determinations accordingly. If the municipal clerk or executive director transmits returns of the election to the county clerk or board of election commissioners, the municipal clerk or executive director shall transmit to the county clerk or board of election commissioners a copy of the amended returns together with all additional ballots counted by each board of canvassers.

6.95 Voting procedure for challenged electors.

Whenever the inspectors under ss. 6.92 to 6.94 receive the vote of a person offering to vote who has been challenged, the inspectors shall, before giving the elector a ballot, write on the back of the ballot the serial number of the challenged person corresponding to the number kept at the election on the poll list, or other list maintained under s. 6.79, and the notation “s. 6.95”.

If voting machines are used in the municipality where the person is voting, the person’s vote may be received only upon an absentee ballot furnished by the municipal clerk which shall have the corresponding serial number from the poll list or other list maintained under s. 6.79 and the notation “s. 6.95” written on the back of the ballot by the inspectors before the ballot is given to the elector. The inspectors shall indicate on the list the reason for the challenge. The inspectors shall then deposit the ballot. The challenged ballots shall be counted under s. 5.85 or 7.51. The municipal board of canvassers may decide any challenge when making its canvass under s. 7.53.

If the returns are reported under s. 7.60, a challenge may be reviewed by the county board of canvassers. If the returns are reported under s. 7.70, a challenge may be reviewed by the chairperson of the board or the chairperson’s designee. The decision of any board of canvassers or of the chairperson or chairperson’s designee may be appealed under s. 9.01. The standard for disqualification specified in s. 6.325 shall be used to determine the validity of challenged ballots.

[End definition (e) above this line.]

f. Absentee

[Begin definition (f) below this line.]

Wisconsin Statute § 6.85 defines an absent elector as “any otherwise qualified elector who for any reason is unable or unwilling to appear at the polling place in his or her ward.”

Please see the below relevant text:

6.85 Absent elector; definition. An absent elector is any otherwise qualified elector who for any reason is unable or unwilling to appear at the polling place in his or her ward. Any otherwise qualified elector who changes residence within this state by moving to a different ward or municipality later than 10 days prior to an election may vote an absentee ballot in the ward or municipality where he or she was qualified to vote before moving. An elector qualifying under this section may vote by absentee ballot under ss. 6.86 to 6.89.

[End definition (f) above this line.]

g. Early voting

[Begin definition (g) below this line.]

Wisconsin does not have early voting. We have in-person absentee voting available which is similar, but the votes are not actually cast until Election Day at their associated polling place.

[End definition (g) above this line.]

h. Active Voter

[Begin definition (h) below this line.]

Wisconsin statutes do not define this term. Statewide Voter Registration System (SVRS) manuals refer to “active” status throughout, but do not define what makes a voter “active”. The best definition is that an “active voter” is one who is a currently qualified and registered elector who will show up on the poll book.

[End definition (h) above this line.]

i. Inactive Voter

[Begin definition (i) below this line.]

Wisconsin statutes do not define this term. Statewide Voter Registration System (SVRS) manuals refer to making a voter “inactive”, but do not exhaustively define the situations in which a voter may be made inactive. The best definition is that an “inactive voter” is any person who was at one point an active voter, but now will not show up on the poll book for some specified reason (deceased, felon, etc.)

[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.]

There have been no legal changes to Wisconsin election law since the previous Federal election.

There have been a number of new administrative rules promulgated:

GAB 3 – Voter Registration

GAB 4 – Election Observers

GAB 5 – Ballot Security

The full text of these rules is available at:

<http://www.legis.state.wi.us/rsb/code/gab/gab.html>

[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.]

Hybrid. Data is entered locally, but the database is administered at a state level.

[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.]

Data is entered real-time.

[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.]

In Wisconsin, there are only 2 voter statuses: Active (on the poll book) & Inactive/Canceled (not on the poll book).

Voters can only be moved to the inactive/canceled list for specific reasons and each reason follows its own statutory procedure with most requiring notice to the elector before the change is made. The reasons are:

- voter verification mailing undeliverable – Wis. Stat. § 6.32(4), § 6.56(3)
- incompetent – Wis. Stat. § 6.03(1)(a)
- felony record match – Wis. Stat. § 6.03(1)(b), § 6.36(1)(a) & § 301.03(20m)
- confirmed registered out of state – Wis. Stat. § 6.36(1)(d)
- expiration of confidential listing – Wis. Stat. § 6.47(6)
- challenged registration – Wis. Stat. § 6.48(1)(d) & (2)(b)
- 4 year maintenance – Wis. Stat. § 6.50(2)
- administrative action – Wis. Stat. § 6.50(3)
- deceased – Wis. Stat. § 6.50(4)
- condemnation of address – Wis. Stat. § 6.50(5)
- cancellation by elector – Wis. Stat. § 6.50(6)
- voter fraud – Wis. Stat. § 6.56(4)

The process is not different for UOCAVA voters.

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

B3. Please describe your state's process for removing voters from the voter registration rolls (not merely moving them from active to inactive). Please include information regarding notices and confirmations. Are these procedures the same for UOCAVA voters?

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

Voters are never removed from our voter registration database. They are simply moved to Inactive/Canceled status where they do not appear on a poll book anymore. UOCAVA voters are treated the same.

[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 Wisconsin Statewide Voter Registration System (SVRS) sends voter name (first, last, middle), identifying number (DL or SS#) and DOB information to the Wisconsin Department of Transportation. Information is forwarded on from Wisconsin Department of Transportation to the Social Security Administration if the identifying number is a SS#.

Wisconsin's Department of Corrections and Office of Vital Records also regularly send SVRS a file which is loaded into our system to check for convicted felons and confirmed deaths.

We do not have real-time links with any state or federal database.

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

B5. Please describe how your state uses National Change of Address (NCOA). What has been your state's experience with using NCOA?

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

The state does not use the National Change of Address database.

[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.]

Felons who were active voters are moved to an inactive status upon notification from the courts that they are convicted of a felony. Their rights are restored upon completing the terms of their felony sentence, but they are not automatically returned to active status. The felon needs to reapply for voter registration just like any other inactive voter. No documentation of their restored rights is required to re-register

Wisconsin does provide lists of convicted felons at the polling place to guard against potential election day registration of felons. If an Election Day registrant is found to be on the felon list, but the voter disputes the match, they are still allowed to vote, but the ballot is challenged for subsequent review.

[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.]

Wisconsin provides a fillable PDF of the voter registration form on our website. The voter still needs to print the form, sign it and send it to their local elections official. We also regularly review 3rd party voter registration and information websites to confirm the accuracy of the information provided.

[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.]

Both. The general rule is that all ballots are counted at the polling place per Wis. Stat. § 7.51. However, Wis. Stat. § 5.86 does provide for counting of optical scan votes at a central location and § 7.52 provides for central count of absentee votes only.

[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.]

After tabulation, the results are reported to the appropriate local municipality to be included in their 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.]

The various submission types are not reported separately on the canvass itself. However we do capture a large amount of this data on a separate voting statistics report (GAB-190) that is required under Wis. Stat. § 6.275(1) to be completed by the municipal clerk within 30 days after each primary and election for state or federal office.

[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 counted and reported just like absentee ballots. However, Wis. Stat. § 6.276 requires that a UOCAVA statistics report be submitted within 30 days of each general election. The report contains the following data: number of absentee ballots sent to military electors, number of absentee ballots sent to overseas electors, and the combined number of those ballots that were successfully cast by UOCAVA electors. A state report is then compiled and submitted to the EAC.

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

C2. Does your state require a reason for voting absentee, or does your state allow no-excuse absentee voting? (If a reason is required, please provide the legal citation.)

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

No excuse is required under Wis. Stat. § 6.85 to qualify as an absentee voter.

[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.]

Wisconsin does not provide for early voting. Instead we have in-person absentee voting that is functionally similar for the voter, but the ballot is not processed until Election Day. Absentee voting begins thirty (30) days before a September primary or November general election and twenty-one (21) days before any other election and continues until 5:00PM the day before Election Day (other deadlines may apply for special situations). Absentee ballots may be requested by mail until the Thursday before Election Day and in-person at the clerk's office or other designated site until the day before Election Day.

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

C4. Do any jurisdictions in your state use a vote-by-mail system to replace (and not merely supplement) at-the-precinct voting in any elections?

[Begin response to above question (C4) below this line.]

No.

[End response to above question (C4) above this line.]

C5. Please list each of the situations that require a provisional ballot in your state. Please provide the relevant legal citation for each situation.

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

1. A qualified elector registering to vote at the polls on Election Day, who has been issued a current and valid Wisconsin driver's license, but does not provide the driver's license number, shall be allowed to vote a provisional ballot. GAB 3.04(2).
2. A first-time Wisconsin registrant by mail who fails to include proof of residence as required under Wis. Stat. § 6.34, and subsequently fails to provide proof of residence on Election Day, shall be allowed to vote a provisional ballot according to Wis. Stat. § 6.97. See § 6.34(2), "Each elector who is required to register under § 6.27 who is not a military or an overseas elector who registers by mail, and who has not voted in an election in this state shall, if voting in person, provide an identifying document that establishes proof of residence..."

[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.]

We do not issue provisional ballots to voters who are registered in different polling places. Wisconsin allows Election Day registration so there is no barrier for the voter to re-register in the appropriate ward.

In either provisional ballot situation, the voter has until 8:00PM on Election Day to provide the required information to the elections inspectors at the polling place or until 4:00PM the day after Election Day to provide the required information to the municipal clerk for their ballot to be counted.

[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.]

Verification of Late & Election Day Registrants

Electors who register to vote after the twentieth (20th) day before the election, electors who register by agent as a hospitalized elector and Election Day registrants, are all sent a first-class postcard to the address provided on their registration form. Registrants whose postcards are returned undeliverable are removed from the registration list and referred to the district attorney where the polling place is located. The names of such registrants are also submitted to the Government Accountability Board. Wis. Stat. § 6.56(3).

After all Election Day registrations have been processed, the Government Accountability Board shall compare the list of late registrants against the felon list provided by the Department of Corrections as of Election Day. If the board finds a match, the board shall inactivate the voter and refer the name to the district attorney where the polling place is located. Wis. Stat. § 6.56(3m).

After each election, the municipal clerk shall perform an audit to assure that no person has been allowed to vote more than once. If the clerk has good reason to believe that a person has voted more than once in an election, the clerk shall send the person a 1st class letter asking for clarification or the voter will be made inactive within seven (7) days. The letter and any subsequent information received from or about the addressee shall be sent to the district attorney where the person resides and to the Government Accountability Board. Wis. Stat. § 6.56(4).

Enforcement of Federal Voting System Standards – Wis. Stat. § 7.08(6)

Following each November general election, the Government Accountability Board shall audit the performance of each voting system to determine the error rate of the system in counting ballots that are validly cast by voters. The audit is designed to assess how electronic voting systems performed on Election Day through a hand-count of electronically tallied ballots.

Fifty (50) reporting units are randomly selected to be audited by municipal clerks. At least five (5) reporting units of each type of system being used will be selected. If adequate representation is not achieved from the random selection, further reporting units will be drawn until the minimum representation is achieved. An additional set of reporting units will be audited by Government Accountability Board staff. These audits are considered a public meeting and shall be noticed at least 48 hours in advance.

Error rates in excess of 1-in-10,000,000 (any error) will be referred to the vendor for explanation. If a vendor is unable to provide a sufficient written explanation within 30 days of notification the Government Accountability Board will suspend approval of all voting systems manufactured or serviced by the vendor in Wisconsin. Based upon the results of the audit the board also may choose to retest a system under GAB 7 as a condition of continued approval.

Local municipalities are encouraged to do their own voluntary audits of voting equipment after each election.

[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.]

In Wisconsin, poll workers are called “election inspectors” and their training is mandated by Wis. Stats. § 7.31 & 7.315. There are two levels of election inspector: the chief inspector and regular inspectors. The chief inspector is the liaison between the clerk and the election inspectors and is in charge of the polling place on Election Day. Regular election inspectors staff the polling place on Election Day.

Chief inspectors are required to attend “Baseline” training, conducted by the state, in order to be initially certified. Attending Baseline training certifies the attendee as a chief inspector for the current election cycle (a 2 year term, ending Dec. 31st of each odd-numbered year). In order to recertify for the following election cycle, a chief inspector must attend at least six (6) hours of Government Accountability Board-approved continuing election education during the current term. Attendance at Baseline training counts as three (3) of those hours. Wis. Stat. § 7.31, GAB 11.

Election inspectors are required to attend one (1) training session, conducted by the municipal clerk, every two (2) years and must have attended such training within two (2) years of any election at which they serve. Wis. Stat. § 7.315.

[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.]

First, we attempt to screen out over-votes and under-votes as much as possible. The process depends on the voting system in use in the municipality. Obviously there is no way to catch an over-vote or under-vote in a hand-count paper ballot system. However, electronic voting equipment does provide such warnings. Optical scan tabulating devices are programmed to give an audible warning to help prevent an elector from over-voting. Direct-record electronic devices will not let the elector over-vote and also provide a warning when the elector under-votes a contest. Wis. Stat. § 5.91.

Once a ballot has been cast with an under-vote or over-vote, we do not currently have a process of capturing the total number of ballots cast with an over-vote or under-vote. We are currently in the process of refining our data collection processes and may seek to capture that data in the future.

[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.]

The identification requirements to register to vote depend on the circumstances of the registration. A voter registering during "open registration" (20 days or more before an election) needs to provide their:

1. Name
2. Residence Location
3. Date of Birth
4. Identifying Number
 - Must be the Wisconsin Driver's License Number if they have ever been issued one.
 - If they have not been issued a Wisconsin driver's license number, we can then accept either a Wisconsin DOT-issued identification card number or the last four (4) digits of their social security number.
 - If a registrant affirms that they have been issued none of the above numbers, we can still accept the registration and will assign them a unique identifying number.
5. Former Name or Address (if applicable)
6. Affirmation of Eligibility
 - US citizen
 - 18 years of age on or before Election Day
 - Residing in the election district or ward for at least 10 days
 - Not currently serving a felony sentence

- Not otherwise disqualified

7. Signature

Wis. Stats. §§ 6.30, 6.33(1); GAB 3.02.

If a registrant has never voted before in Wisconsin and they are registering to vote by mail, or if they register during “closed registration” which begins after the twentieth (20th) day before the election and continues through Election Day, they are required to present “proof of residence”. Proof of residence can be any of the following that contain the registrant’s full name and residential address, and if they have an expiration date, are valid on Election Day:

- A current and valid Wisconsin driver’s license.
- A current and valid Wisconsin identification card.
- Any other official identification card or license issued by a Wisconsin governmental body or unit.
- An official photo identification card or license issued by an employer, not including a business card.
- A real property tax bill or receipt for the current year or year preceding the date of the election.
- A residential lease (not valid for first-time registrants by mail)
- A university, college, or technical college fee or identification card that has a photograph of the registrant.
 - May be accepted even though it does not have current name and address if the university, college or technical college provides a certified and current list of students who reside in school-sponsored housing to the municipal clerk prior to the election showing the current address of the students and the election official verifies that the registrant is on that list.
- A utility bill for the period commencing not earlier than ninety (90) days before the day the registration was made.
- A bank statement.
- A paycheck.
- A check or other document issued by a unit of government.

If an elector cannot provide any of the above, their registration may instead be corroborated in a statement signed by an eligible elector of the municipality. That corroborating elector shall then provide their own address and proof of residence. Wis. Stats. §§ 6.29, 6.34(2)-(3), 6.55.

[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 to cast an in-person ballot if the elector was properly registered. The elector is required to announce their name and address to the election inspectors before receiving a ballot. Wis. Stat. § 6.79(2)(a).

If a registrant did not provide proof of residence when required, they must show the election inspector proof of residence before being given a ballot. Those electors should have "ID required" printed next to their name in the poll book. Wis. Stat. § 6.79(2)(d).

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

c. casting a mail-in or absentee vote;

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

No further identification is required to cast an absentee ballot if the elector was properly registered. If the elector did not submit proof of residence (if so required) they should submit the required proof of residence with the absentee ballot. Wis. Stat. § 6.87(4).

Also, an absentee elector is required to have an adult US citizen witness the process of them marking their ballot (without disclosing how they voted) and then must sign and have the witness sign a certification statement. Wis. Stat. § 6.87(4).

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

d. casting a ballot under UOCAVA;

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

No further identification is required. Casting a UOCAVA ballot is identical to casting a regular absentee ballot with the exception that a UOCAVA elector is never required to provide proof of residence. An adult US citizen witness is still required. Wis. Stats. § 6.22, 6.24.

[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.]

No.

[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.]

Any member of the public, except a candidate who appears on the ballot, may be present at any polling place, in the office of any municipal clerk whose office is located in a public building on any day that absentee ballots may be cast in that office, or at an alternate site designated according to Wis. Stat. § 6.855 on any day that absentee ballots may be cast at that site for the purpose of observation of an election and the absentee ballot voting process. Wis. Stat. § 7.41(1).

The Wisconsin Government Accountability Board also recently passed a new set of emergency rules regarding election observers, GAB Chapter 4. Under this new rule, observers are required to:

- Sign-in and provide their full name, street address, municipality and the name of the organization they represent (if applicable).
- Wear a nametag at all times while inside the polling place which reads "Election Observer".
- Remain in the designated observer area unless otherwise necessary.
- Comply with the lawful commands of the chief inspector of the polling place.
- Direct all challenges and questions to the chief inspector of the polling place.
- Minimize distraction to voters and election officials.

The full-text of the rule is available at:

<http://elections.state.wi.us/docview.asp?docid=15022&locid=47>

[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. Wis. Stat. § 5.061 remains unchanged since first implemented.

[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.]

Please note that there is no photo ID requirement in the State of Wisconsin. While we do require proof of residence in a number of situations, that proof of residence is not necessarily a photo ID.

It is also important to note the distinction between in-person absentee and early voting. Unlike early voting, in-person absentee can only be conducted in the clerk's office (unless an alternative site is designated under Wis. Stat. § 6.855, in which case in-person absentee may only be conducted at the alternative site). Also, the absentee ballot is not counted until Election Day, so an in-person absentee voter may still be able to beat their ballot to the polls and vote on Election Day, in which case their subsequently processed absentee ballot would be rejected.

Finally it is important to remember that in Wisconsin a voter can register to vote 365 days a year. As an Election Day Registration state, our election administration processes are very different from a state where there is a firm deadline for registration.

[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.