U.S. ELECTION ASSISTANCE COMMISSION

2016 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 EAC to better understand the quantitative data relating to the 2016 general election that we are collecting from all U.S. states and territories.

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

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DIRECTIONS AND EXAMPLE

As appropriate, please provide your state's legal citation for the responses to the questions beginning on the following page.

Please answer each question to the best of your ability. If a term or concept is ambiguous, please explain why. If a question is not applicable to your state, please explain why. If a definition or term lacks statutory reference in your state but is widely used in practice, please explain. If election procedures vary at the local level within your state, please explain these variations to the best of your ability.

The Statutory Overview data collection document has two columns below each question.

- On the left, we have provided you with the answer your state provided for the 2014 Statutory Overview. If there has not been a change in your state's laws or legal citation in the response to a question, please mark the box labeled **No Change since 2014** at the top of the left column.

- If the response has changed since 2014 – or your state has not answered this question previously for some reason— please mark the box labeled **Changed since 2014** at the top of the right column and then provide the new answer in the text box provided. If your response is too long to fit in the box, please make a note in the text box and place your response in the "Notes" page at the end of the document. Additionally, if a law was repealed in full, please answer "repealed in full" in the box.

If any of your state laws are currently enjoined or otherwise blocked from enforcement by a state or federal court or by executive decision, please specify.

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

☒ **No Change since 2014** ☐ **Changed since 2014**

State code 1.11 - An attempt to vote for a larger number of candidates than is allowed.

b) Under-vote

☐ **No Change since 2014** ☒ **Changed since 2014**

This term has no legal definition.

State code 1.12 - An attempt to vote for a smaller number of candidates than is allowed.

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

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Occurs when a contest is marked with a greater number of choices for different candidates or ballot questions, than the number for which the voter is lawfully entitled to vote.

2016 Response:

b) Under-vote

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Occurs when a contest is marked with a lesser number of choices of candidates or ballot questions, than the number for which the voter is lawfully entitled to vote.

2016 Response:

c) Blank ballot

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

See "UNDERVOTE"

2016 Response:

d) Void/Spoiled ballot

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

In an Election Day context, a ballot is voided or spoiled by the voter in order to correct a problem, (in an OpScan system, to correct an overvote, for example).
In a central count cast ballot context, a ballot may be voided due to the appearance on the ballot of an ambiguous or extraneous mark, or the casting of votes for multiple candidates running for the same office.

2016 Response:

e) Provisional/Challenged ballot

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Called an affidavit ballot in NY, it is cast when a voter's name does not appear in an election day poll book; when an already registered voter has just moved into the election district (precinct) but has not previously advised the county board of that move; when a voter is required to provide ID but does not do so; in a primary election, when a voter's party enrollment does not match the enrollment noted in the poll book.

2016 Response:

f) Absentee

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Voters may cast an absentee ballot because they cannot be at their poll site due to their being out of their home county on election day, or if a resident of the City of New York, outside of such city, ill or disabled and thus unable to appear at the poll site; their being a patient at a VA facility; in jail or prison awaiting trial; or being an accompanying spouse, parent or child. These absentee qualifications include absentee voting for persons who are caregivers of those who are ill or disabled.
See NYS Election Law § 8-400

2016 Response:

g) Early voting

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Not permitted in NY

2016 Response:

h) Active Voter

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

A registered voter who is neither inactive nor cancelled

2016 Response:

i) Inactive Voter

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

A voter who has failed to respond to a confirmation notice, and has neither been restored to active status nor been cancelled: Election Law Section 5-213

2016 Response:

j) Other terms (please specify) _____

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

2016 Response:

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

☐ **No Change since 2014** ☒ **Changed since 2014**

2014 Response:

2016 Response:

In 2016, among other items,

Chapter 44 ensures that postal indicia requirements of our statute are able to be interpreted in a way that synchronizes the action required with the ever-changing language of postal regulations.

in 2015, among other items,

Chapter 255 permits the use of express mail for the receipt of ballot access and other documents and associated date notations in the same manner as the term 'postmark'.

Chapter 515 permits the use of State Board-authorized independent automated audit tools in the conduct of post-election audits.

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.)

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:	2016 Response:
Bottom-up	

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

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:	2016 Response:
Near-real time	

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?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Adding, changing, cancelling or removing voter registration records is conducted only by local boards of elections to voter records within their respective jurisdictions. This includes Active and Inactive status updates. Whenever a local board of elections receives a notice through the US Postal Service or through its NCOA system indicating a potential voter move to a residence address outside of such local board jurisdiction, or may have moved without leaving a forwarding address, the board of elections shall send such voter a Confirmation Notice pursuant to Sections 5-213 and 5-712 of the NYS Election Law and places the record in Inactive status. The board of elections shall restore the registration record to Active status if the voter notifies such board that he or she still resides at the address from which he or she is registered, or the board finds that such voter has validly signed a designating or nominating petition, which states that they reside at the same address, or if the voter casts a ballot in an affidavit envelope which states that they reside at such address.

2016 Response:

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

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Whenever a county board has reason to believe that a registered voter may no longer be qualified to vote, it shall, before cancelling his or her registration, notify such voter by first class forwardable mail to the address from which he or she was last registered, providing the voter with a fourteen day time period to state in writing or in person, the reasons why their registration record should not be cancelled. If after such time, the board is not satisfied that the voter is qualified to remain registered, the board shall cancel the registration. This process is also used for UOCAVA voters.

2016 Response:

B4. Can your state's voter registration database (or equivalent) share information electronically with your state's driver's license agency (for example, to match records or trace changes in address)? Can your voter registration database be similarly linked with databases in any other state or Federal agencies? Please describe these links, including any use of database matching to verify voter registration applications.

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

The system is linked with DMV, to verify driver's license ID number and the last 4 digits of an applicant's SSA number.

2016 Response:

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

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Files are sent annually to a certified NCOA vendor, and processed records are returned to the SBOE. Records are then "transmitted" to county election officials via New York's statewide database, called NYSVoter, who determine if NCOA info provided is sufficient to modify a voter record. Counties send out transfer and/or confirmation mailings, as appropriate.

2016 Response:

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?)

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

A voter's registration is cancelled when convicted of a felony and sentenced to a term of imprisonment. A voter may reapply for registration, as same is not automatically restored. A voter on parole may not reapply, however a voter on probation may reapply for registration.

2016 Response:

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.).

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

At present, New York's Department of Motor Vehicles shares its NVRA voter registration transactions electronically with county boards of elections. Apart from the DMV's upgraded NVRA component, voter registration forms may be filled out online, but New York still requires that they be printed out, signed, and mailed or delivered in person to the voter's local board of elections, as electronic submission is not permitted.

2016 Response:

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?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Emergency ballots are tabulated at the poll sites, while absentee and provisional ballots are counted centrally.

2016 Response:

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

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

YES – though not redirected on election night, centrally tabulated votes are added to that specific precinct's original canvass, as part of the recanvass process, which begins 7 days after Election Day.

2016 Response:

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?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

They appear separately on the county board's original canvass sheet, but for reporting and publication by the State Board, they are aggregated.

2016 Response:

d. How are UOCAVA ballots counted and reported?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

In the same manner as other absentee ballots.

2016 Response:

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.)

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

YES – see ABSENTEE, in Section A, above

2016 Response:

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?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

NO – early voting is not permitted in New York

2016 Response:

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?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

NO

2016 Response:

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

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Called an affidavit ballot in NY, it is cast when a voter's name does not appear in an election day poll book; when a voter has just moved into the election district (precinct) but has not previously advised the county board of that move; when a voter is required to provide ID but does not do so; in a primary election, when a voter's party enrollment does not match the enrollment noted in the poll book. See NYS Election Law § 8-302.

2016 Response:

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.

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

If research at the county board supports the claim the voter makes in their oath on the ballot envelope, the ballot will be counted. If research proves otherwise, the ballot is not counted. Provisional ballots cast by voters who were in the correct poll site but at the wrong voter sign-in table, will be counted, however only those contests and questions which the two different districts had in common will be counted.

2016 Response:

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

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

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

New York requires a complete recanvass of machine and paper ballots cast at each election – one of the few states to do so. In addition to this complete recanvass process, New York has provided for a post-election audit which requires a random selection of 3% of the scanners used in an election, from which the voter-verifiable audit records of those voting machines or systems within the jurisdiction of the board, will be manually counted.

See Election Law 9-208, 9-211, and Regulations, Part 6210.18

HOWEVER,
Chapter 515 of 2015 authorizes the use of independent automated audit tools in post-election auditing.

2016 Response:

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

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

The State provides to county boards and poll workers, a statewide curriculum, and web-based training programs. Poll workers serve one-year terms, must be trained annually, and must pass an exam prior to their certification as a poll worker.
See Election Law 3-412

2016 Response:

SECTION D: ELECTION DAY ACTIVITIES

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

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

County boards of elections canvass and report votes to the State Board. At present, they are aggregated when reported to the State, however blanks, voids, and other votes can be reported separately, then be aggregated for reporting purposes.

2016 Response:

D2. What identification does your state require from voters in the following situations:

a. registering to vote;

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Driver's license or non-driver ID number, or last 4 of SSN, however if an applicant has neither, several forms of ID can be provided/presented: valid photo ID, current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter.
See Election Law 5-210

2016 Response:

b. casting an in-person ballot;

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Signature comparison in poll book, however if such record is flagged as "ID REQUIRED" the above list applies

2016 Response:

c. casting a mail-in or absentee vote;

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

NONE

2016 Response:

d. casting a ballot under UOCAVA;

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

NONE

2016 Response:

e. any other stage in registration or voting process in which identification is required (please specify).

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

NO

2016 Response:

D3. Please describe your state's laws regarding access to the polling place for election observers. Election observers are people allowed inside the polling place who are not poll workers, election officials or voters. If decisions on access to observers are left to local jurisdictions, please explain.

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Poll watchers are permitted in a poll site, provided they are qualified voters in the county in which they are serving and have a signed certificate from a party official or candidate who appears on the ballot. 2014 brought a change to this provision, which prohibits candidates for public office from serving as watchers in poll sites in which they appear on the ballot for that district/site..
See Election Law 8-500

2016 Response:

SECTION E: OTHER

E1. Under HAVA, Section 402, states are required to establish and maintain administrative complaint procedures to remedy grievances. Has your state revised its administrative complaint procedures since they were first implemented? If so, how?

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

Subsequent to the passage of HAVA in 2002, the NY statutory mandate relative to a HAVA complaint procedure was codified in Election Law 3-105, effective May 3, 2005. Board Regulation Part 6216 is the framework for the HAVA administrative complaint procedure, adopted in 2006, pursuant to the federal and state statutory mandates. There has been no statutory amendment of 3-105, nor any revision of the Regulation.

2016 Response:

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.

☒ **No Change since 2014** ☐ **Changed since 2014**

2014 Response:

New York State continues to evaluate the transition to a new voting technology, seeking to amend statutes that while previously synchronized with the use of lever voting machines, may no longer have the same effect or serve the same or better purpose.

2016 Response:

* 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 04/30/2017). 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 – 2014 Election Administration and Voting Survey, 1335 East West Highway, Suite 4300, Silver Spring MD, 20910.

NOTES – please place longer responses below