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 Additionally, if a law was repealed in full, please answer "repealed in full" in the box.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:

No statutory definition. Understood to mean any instance where the choices recorded on an elector's ballot for an office or a question exceeds the number of choices that the elector is entitled to make.

2016 Response:

b) Under-vote

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

2014 Response:

No statutory definition. Understood to mean any instance where the number of valid votes recorded on an elector's ballot for an office or a question is less than the number of votes that the elector is entitled to cast.

2016 Response:

c) Blank ballot

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

2014 Response:

No statutory definition. Understood to mean a ballot returned by a voter that does not contain a single valid vote.

2016 Response:

d) Void/Spoiled ballot

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

2014 Response:

No statutory definition. Understood to mean a ballot returned by a voter that is not processed or counted because 1) the voter asked for a replacement ballot or 2) because the ballot is deemed "illegal."

2016 Response:

e) Provisional/Challenged ballot

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

2014 Response:

See MCL 168.523a for a definition of "provisional ballot" and an explanation of Michigan's provisional balloting process. A "challenged" ballot is understood to mean a ballot that has been marked so that it can be retrieved after the election to resolve any legal disputes involving the ballot. See MCL 168.745 for ballot identification procedure. (A court order is needed to retrieve and question a "challenged" for ballot.)

2016 Response:

f) Absentee

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

2014 Response:

No statutory definition. Understood to mean a ballot issued to a voter who has requested an absentee ballot in writing in advance of the election. In order to obtain an absentee ballot, a voter must meet one of the qualifications specified under MCL 168.759(5).

2016 Response:

g) Early voting

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

2014 Response:

Not applicable as Michigan does not maintain an "early voting" program.

2016 Response:

h) Active Voter

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

2014 Response:

No statutory definition. See MCL 168.509r. Understood to mean any voter in Michigan who is currently registered and qualified to vote and not qualified to be placed in the inactive file.

2016 Response:

i) Inactive Voter

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

2014 Response:

See MCL 168.509r. Defines an inactive voter as one who has not voted for 6 consecutive years or has failed to respond to a confirmation notice.

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:

PA 101 of 2015: Eliminated Michigan' regular February election date, which was previously held on the 4th Tuesday in February. (MCL 168.641(1).)

PA 268 of 2015: Eliminated the option for straight-ticket voting in Michigan. Note, however that a lawsuit has been filed by parties who are attempting to secure a permanent injunction to implementing the changes, and litigation is ongoing at this time. (MCL 168.795c).

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:

Michigan's Qualified Voter File in a "top down" system. The voter registration software is developed and maintained on the state level and is downloaded to local system users. All voter registration data submitted through the state's driver license agency offices is downloaded on a daily basis while all voter registration data accepted on the local level is uploaded on a daily basis.

2016 Response:

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:

While Michigan does not maintain a bottom-up or a hybrid system, all voter registration data accepted on the local level is uploaded on a daily basis as noted above.

2016 Response:

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:

MCL 168.509r describes the process for creating and placing voters in the voter registration "inactive" file and defines an inactive voter as one who has not voted for 6 consecutive years or has failed to respond to a confirmation notice.
The Qualified Voter File restores the voter to active status if he or she votes, responds to a confirmation notice, or engages in another voter registration transaction (such as changing his or her address). An inactive voter remains eligible to vote, and his or her name shall appear on the precinct list. The AV ballot of an inactive voter who has not responded to a confirmation notice shall be prepared as a challenged ballot. These voters are in the cancellation countdown. NOTE: These are not voters who are in the inactive file solely due to their failure to vote in the past 6 years.

The process is not applicable for UOCAVA voters in Michigan.

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:

1) If a voter identification card is returned by the post office as "undeliverable" and there is no indication that the voter has moved out of the city or township, a cancellation notice is no longer sent to the voter. The procedural change applies to both an "original" voter identification card issued in response to the receipt of a new voter registration application as well as to any subsequent "duplicate" voter identification cards which may be sent to a voter in response to a name change, precinct reassignment, change in a political district or polling place change.
In an instance where the scenario described above occurs and the voter appears to vote on election day or requests an absent voter ballot, the voter is questioned regarding his or her place of residence. If it is confirmed that the voter has not lost his or her right to vote in the jurisdiction, a ballot is issued to the voter.
In an instance where the state is notified that a Michigan voter has surrendered his or her Michigan driver's license in another state, the voter's registration record is no longer immediately cancelled. Instead, a cancellation notice is sent to the voter to confirm the voter's residency status. If

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:

Voter registration database and state's driver license agency offices are electronically linked at the present time. Voter registration database is not presently linked with databases in any other state or federal agencies. The link with the state's driver license agency offices permits the daily transmittal of all voter registration transactions handled in the agency offices to the proper jurisdiction.

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:

Not applicable as Michigan does not use NCOA.

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 Michigan resident confined in jail or prison who is awaiting arraignment or trial is eligible to vote. A Michigan resident who is serving a sentence in jail or prison after conviction cannot vote during his or her period of confinement. After a Michigan resident who is serving a sentence in jail or prison is released, he or she is free to participate in elections without restriction.

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:

A Michigan voter may change his/her driver license or personal identification card address online using the internet. This type of address change automatically changes the voter registration address. This program is called ExpressSOS (www.expresssos.com) and only applies to those already registered to vote, who are changing their address on their Michigan driver license or personal identification card. Alternatively, Michigan's Voter Information website (MVIC) (www.michigan.gov/vote) provides a registration form that must be printed, signed and submitted by mail, in person, or by email (scanned copy of hand-written/signed form). MVIC web site feature permits voters to verify their voter registration status.

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:

All ballots cast in the polls on election day are counted at the precincts. Absentee ballots are counted by absent voter counting boards if the jurisdiction employs such boards. Absentee ballots are counted at the precincts if the jurisdiction does not employ absent voter counting boards. Provisional ballots preserved for later evaluation are hand tallied in instances where the ballot is determined valid.

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:

MCL 168.792a permits jurisdictions to maintain absent voter counting boards that correspond to a specific physical precinct. As of 2014, those jurisdictions electing to utilize absent voter counting boards are no longer permitted to aggregate the totals within an absentee board, the absent voter totals must be listed as a separate total corresponding to a specific physical precinct, along with a combined total (absent voter total + election day precinct total = grand total).

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:

If the jurisdiction employs absent voter counting boards, the votes are reported both separately and as an aggregate total. If the jurisdiction does not employ absent voter counting boards, the votes cast on absentee ballots are added to the in-precinct results.

2016 Response:

d. How are UOCAVA ballots counted and reported?

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

2014 Response:

See above. No difference in counting and reporting procedures.

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:

A reason is required. See MCL 168.759(5).

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:

Not applicable as Michigan does not maintain an "early voting" program.

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:

Provisional ballots are issued in instances where 1) the voter's name does not appear on the precinct's voter registration list 2) a voter subject to the federal identification requirement is unable to satisfy the requirement when offering to vote and 3) there are questions over a voter's identity after an inspection of the picture identification produced by the voter. See MCL 168.523a.

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:

A provisional ballot obtained by a voter in the wrong precinct is rejected.
In instances where a voter is issued a provisional ballot because the voter's name does not appear on the precinct's voter registration list, the ballot is counted in the precinct on election day if the voter 1) signs an affidavit asserting that he or she submitted a voter registration application on or before the close of registration for the election at hand 2) is in the proper precinct 3) is able to identify himself or herself by showing a Michigan driver's license, a Michigan personal identification card, any other type of government issued photo identification card or a photo identification card issued by a Michigan university or college and 4) is able to confirm that he or she currently resides in the precinct by showing a Michigan driver's license, Michigan personal identification card, any other government issued photo identification card or a photo identification card issued by a Michigan university or college.
In instances where a voter is unable to satisfy all four steps above and is issued a provisional ballot that is preserved for later evaluation (evaluation period is within six days after the election), the ballot is counted under the following conditions:
Voter does not appear on precinct's registration list: The ballot is counted if:
1) A valid voter registration application for the voter is located; the registration application was submitted by the voter on or before the "close of registration" for the election at hand; and the provisional ballot was issued in the proper precinct.
2) The voter signed the affidavit; the voter identified himself or herself by showing acceptable identification; and the voter confirmed that he or she currently resides in the precinct where the ballot was issued by showing a current utility bill, current bank statement, current paycheck or government check or any other government document.
3) The voter signed the affidavit and satisfies the identification requirement and/or residence verification requirement within six calendar days after the election. Voter required to satisfy the federal identification requirement: The ballot is counted if the voter satisfies the federal identification requirement within six calendar days after the election.
Voter produced picture identification that left questions over the voter's identity: The ballot is counted if the voter appears in person and presents an acceptable form of picture identification that confirms over the voter's identity.

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:

Michigan law changed in 2012 to provide for post-election audits. Performance audits began in 2013, after the November 2012 General Election. The Secretary of State, by law, develops the audit curriculum. (MCL 168.31a) These audits are conducted at both the State and County level. Those conducted on the County level utilize the State developed audit curriculum and are performed in precincts across the state, randomly selected by the Secretary of State. The curriculum covers numerous pre-election, Election Day and postelection day tasks. Additionally, Michigan election law grants candidates administrative recounts upon request. The candidate is required to file a petition asserting error in the results and submit a $10.00 per precinct deposit.

2016 Response:

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

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

2014 Response:

An individual cannot serve as a poll worker unless he or she attended a training class within the last preceding two years. See MCL 168.683. Those responsible for instructing the poll workers must receive accreditation under a state-level training program. See MCL 168.33.

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:

While "over-vote" and "under-vote" data is recorded by tabulators at the precinct level, it is not aggregated or reported.

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:

Voter must satisfy the identity verification requirements provided under HAVA. See MCL 168.497c. Voter must show picture identification or sign an affidavit attesting that he or she is not in possession of picture identification if registering to vote in person. Voter can satisfy the ID requirement by showing a Michigan driver's license or a Michigan personal identification card. Voters who do not possess either document may show any of the following forms of picture ID as long as it is current:
a. Driver's license or personal ID card issued by another state.
b. Federal or state government-issued photo ID.
c. U.S. passport.
d. Military identification card with photo.
e. Student identification with photo from a high school or an accredited institution of higher education.
f. Tribal identification card with photo.

2016 Response:

b. casting an in-person ballot;

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

2014 Response:

Voter must appear in person to vote if he or she 1) registers by mail and 2) has never previously voted in Michigan. (Requirement does not apply if voter 1) personally hand delivers registration form 2) is 60 years of age or more 3) is disabled or 4) is eligible to vote under Uniformed and Overseas Citizens Absentee Voting Act.)
Voter must show picture identification or sign an affidavit attesting that he or she is not in possession of picture identification. Voter can satisfy the ID requirement by showing a Michigan driver's license or a Michigan personal identification card. Voters who do not possess either document may show any of the following forms of picture ID as long as it is current:
a. Driver's license or personal ID card issued by another state.
b. Federal or state government-issued photo ID.
c. U.S. passport.
d. Military identification card with photo.
e. Student identification with photo from a high school or an accredited institution of higher education.
f. Tribal identification card with photo.
Voters who do not have acceptable picture ID or forgot to bring acceptable picture ID to the polls can vote like any

2016 Response:

c. casting a mail-in or absentee vote;

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

2014 Response:

No identification required (unless voter is subject to the federal identification requirement or obtaining an absentee ballot in person). See MCL 168.761. Voter obtaining an absentee ballot in person must show picture identification or sign an affidavit attesting that he or she is not in possession of picture identification. Voter can satisfy the ID requirement by showing a Michigan driver's license or a Michigan personal identification card. Voters who do not possess either document may show any of the following forms of picture ID as long as it is current:
a. Driver's license or personal ID card issued by another state.
b. Federal or state government-issued photo ID.
c. U.S. passport.
d. Military identification card with photo.
e. Student identification with photo from a high school or an accredited institution of higher education.
f. Tribal identification card with photo.
Voters who do not have acceptable picture ID or forgot to bring acceptable picture ID to the clerk's office can obtain an absentee ballot like any other voter by signing the affidavit form

2016 Response:

d. casting a ballot under UOCAVA;

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

2014 Response:

No identification required.

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:

None other than the federal identification requirement and the identification requirement associated with the provisional balloting process.

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:

Michigan polling places are public places. Consequently, anyone who wishes to observe the election process is free to do so. Such individuals must sit or stand in the "public area" of the polling place where they will not interfere with the voting process. In addition, Michigan election law provides for the appointment of election "challengers."
Political parties may appoint election challengers to serve at partisan and nonpartisan elections. The appointments may be made at any time through the date of the election. A political party is not required to follow an application process to appoint election challengers.
An incorporated organization, a group interested in the adoption or defeat of a proposal on the ballot or a group interested in preserving the purity of elections and in guarding against the abuse of the elective franchise may appoint election challengers if authorized to do so under an application process. To apply for appointment authorization, the organization or group must file, not less than 20 days nor more than 30 days prior to the election, the two items described below with the clerk of the county, city, township or village where the election will be held.
1) A statement which sets forth the organization's or group's intention to appoint election challengers and the reason why the right to make the appointments is claimed. The statement must be signed under oath (notarized) by the chief presiding officer, secretary or any other officer of the group or organization.
A copy of the identification card which will be carried by the challengers appointed by the group or organization. The identification card must have entry spaces for the challenger's name, the group's or organization's name, the precinct or precincts in which the challenger is authorized to serve and the signature of a recognized officer of the group or organization.

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:

No revisions have been made.

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:

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