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 Additionally, if a law was repealed in full, please answer "repealed in full" in the box.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

If the number of votes for any office exceeds the number allowed, it is an over-vote. 950 CMR § 54.06(9)(f) (procedures for optical scanning machines). No votes shall be counted for an office if a voter marks more candidates than are to be elected. An over-vote shall be tallied as a blank vote, but the remaining valid votes for other offices on the ballot shall be counted. 950 CMR § 52.04(18) (procedures for hand-counting paper ballots).

2016 Response:

2014 Updated but no legal changes.

b) Under-vote

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

2014 Response:

If a voter does not cast a vote for a candidate, that vote for that office is tallied as a blank. If there is more than one position to be filled, there must be a vote tallied for each candidate or for a blank so that the total tally for that office shall equal the number of positions to be filled. 950 CMR § 52.04(13)
Whenever there are fewer vote indicators than number to be elected, it is considered an under-vote.

2016 Response:

c) Blank ballot

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

2014 Response:

A ballot on which no vote indicators are marked would be considered blank. There is no state law definition, but instead is gleaned from HAVA requirements interpreted in the state. Although an optical scan machine may read a ballot as blank, further review may determine that the ballot is not actually blank and instead that the voter simply did not follow instruction. For example, a voter may have circled the candidate's names rather than fill in the oval vote indicator, which upon review at the end of the night would be counted where voter intent can be determined.

2016 Response:

d) Void/Spoiled ballot

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

2014 Response:

If a voter spoils a ballot, the voter may return it and ask for another. Voters shall be allowed up to a total of three ballots. M. G. L. c. 54, § 81; 950 CMR § 52.03(11); 950 CMR § 54.04(11).

2016 Response:

e) Provisional/Challenged ballot

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

2014 Response:

See Appendix A

2016 Response:

f) Absentee

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

2014 Response:

Any voter who during the hours that polling places are open on the day of a special state election or the biennial state election or of any special or regular state primary or of a presidential primary is absent from the city or town where he is a voter by reason of being a specially qualified voter as defined in section one of chapter fifty, or his employment in another community, attendance at any institution of higher education or for any other reason or who will be unable to by reason of physical disability to cast his vote in person at the polling place or who for reasons of religious belief will be unable to cast his vote in person on the day of an election and whose application for an official absent voting ballot has been filed with the city or town clerk as provided in section eighty-nine, and certified under section ninety-one, may vote in accordance with sections eighty-seven to one hundred and three, inclusive. A voter who will be unable by reason of permanent physical disability to cast his vote in person at the polling place may file once with the city or town clerk a certificate executed by a registered physician who is personally acquainted with the voter and aware of his permanent physical disability, stating that it is reasonably

2016 Response:

g) Early voting

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

2014 Response:

Not applicable. Massachusetts does not have early voting.

2016 Response:

Any registered voter may cast a ballot for any biennial state election during the early voting period either in person or by mail.

The early voting period shall run from the eleventh business day preceding the general election until the close of business on the business day preceding the business day before the election; provided, however, that if the eleventh business day before the election falls on a legal holiday the early voting period shall begin on the first business day prior to the legal holiday.

Each city and town shall establish an early voting site that shall include the election office for the city or town; provided, however, that if the city or town determines that the office is unavailable or unsuitable for early voting, the registrars of each city or town shall identify and provide for an alternative centrally-located, suitable and convenient public building within each city or town as an early voting site. A city or town may also provide for additional early voting sites at the discretion of the registrars for that city or town. Each early voting site shall be accessible to persons with disabilities.

h) Active Voter

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

2014 Response:

A voter who has responded to the local street listing and therefore whose name appears on the annual register of voters. M. G. L. c. 51, § 37. A voter can remain active by voting, signing nomination papers or initiative petitions or by updating their voter registration information.

2016 Response:

i) Inactive Voter

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

2014 Response:

The name and address of a voter that is not entered in the annual register pursuant to section thirty-seven shall be maintained on an inactive voters list until such voter has failed to vote in two consecutive biennial state elections and has thereafter been notified, by mail, of such removal from the inactive voters list. M. G. L. c. 51, § 37A. In Massachusetts, each year the local election officials conduct an annual street listing which is a mailing sent to each residential address. If a voter fails to respond to this mailing, they are made inactive and sent the required 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:

In 2009, changes were made to the laws relating to the Federal Write-in Absentee Ballot. Massachusetts General Laws chapter 54, section 95, was amended to allow for electronic receipt of the FWAB for all elections.
In 2014, changes were made to the requirements of local election officials to transmit ballots to UOCAVA voters at least 45 days before each federal election. Further, under the new law, the Secretary's office is authorized to transmit ballots to UOCAVA voters if it is determined that the local election official is unwilling or unable. M.G.L. c. 54, § 91C.

2016 Response:

Under the provisions of section 74 of Chapter 119 of the Acts of 2015, local election officials were mandated to transmit ballots to UOCAVA voters at least 45 days before the November 8, 2016 election.

Pursuant to Chapter 111 of the Acts of 2014, the following changes were made to the election laws:

Under the provisions of M.G.L. c. 51, section 33A, applicants can submit their voter registration online.

Under the provisions of M.G.L. c. 54, § 25B, early voting is now available for all registered voters.

Under the provisions of M.G.L. c. 51 § 42, a MA resident who is a US citizen and at least 16 years old may pre-register as a voter.

Under the provisions of M.G.L. c. 54, § 109A, post-election audits must be conducted.

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:

The Voter Registration Information System (VRIS) is a top-down system. It is a real-time database hosted on servers maintained by the Secretary of the Commonwealth's office. All voter information is maintained and updated by the local election officials as required by state law.

2016 Response:

2014 Updated but no legal changes.

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:

The system in Massachusetts is real-time.

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:

In Massachusetts, local election officials conduct an annual street list survey pursuant to M. G. L. c. 51, § 4. Initially all residents of a city or town are contacted in January or February to determine their residence as of the first of the year. M. G. L. c. 51, § 4. The names of voters who respond to the street listing, are entered into the annual register. M. G. L. c. 51, § 37. All voters from the previous year who do not respond the annual street listing are sent a confirmation notice as required by the NVRA. M. G. L. c. 51, § 37. If a person does not respond to this notice, that person's name is placed on the "inactive voter's list" until such time as the person does contact the registrar, or votes in one of the next two biennial elections. M. G. L. c. 51, § 37A.

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:

If an individual fails to respond to the confirmation notice as required by M.G.L. c. 51, § 37, and fails to vote or appear to vote in the next two biennial elections, that individual's name may be removed from the voter's list. M. G. L. c. 51, § 38. Voters may also be removed if they have died, re-registered in another jurisdiction, requested that their name be removed or found ineligible

Registration is waived for UOCAVA voters.

2016 Response:

2014 Updated but no legal changes.

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:

Yes. The statewide database is electronically connected to the Registry of Motor Vehicles database (and through the RMV access SSA database). We are not connected to any other state database. However, we do receive death records from the Department of Public Health and send reports to the appropriate municipality for removal of any voters contained therein. In 2014, Massachusetts participated in an Inter-state Crosscheck program with many other states.

2016 Response:

Yes. The statewide database is electronically connected to the Registry of Motor Vehicles (RMV) database and through the RMV accesses the SSA database. Voter registration applications and changes of address process through the RMV are electronically transmitted to the statewide database.

We are not connected to any other state database.

However, we do receive death records from the MA Department of Public Health and send reports to the appropriate municipality for removal of any voters contained therein. In 2016, Massachusetts participated in an Inter-state Crosscheck program with many other states.

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:

Massachusetts does not use the NCOA on a state level. Some municipalities use NCOA to send additional notices to voters who do not respond to confirmation mailings.

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:

In Massachusetts, persons currently incarcerated for a felony conviction are prohibited from registering and voting. Additionally, any person convicted of corrupt practices in respect to elections may be temporarily or permanently disqualified from registering and voting. M.G.L. c. 51, § 1.

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:

Changes in state regulations in 2012 now allow applicants to download the Massachusetts Mail-In Voter Registration Form. There is a fill-able pdf on our website: http://www.sec.state.ma.us/ele/elepdf/2012-Voter-reg-mail-in.pdf
Applicants can also download the National Voter Registration Form for use in Massachusetts.

2016 Response:

Yes. Under the provisions of M.G.L. c. 51, section 33A, applicants who have a valid identification number issued by the Registry of Motor Vehicles and an electronic signature on file with the RMV can submit their voter registration online at www.RegisterToVoteMA.com.

An applicant who is unable to complete the entire process online, such as those without an RMV identification number, can still complete the application electronically but then must print, sign and mail the completed application to their local election official.

Further, voters can check their voter status on the Elections Division website as well.

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:

In Massachusetts, all ballots are counted at the precincts. M. G. L. c. 54, § 105; 950 CMR § 52.04(1) and 950 CMR § 54.06(1) (the counting of votes takes place in the polling place and counting shall continue without interruption until all the votes are counted and the results are announced). Absentee ballots received by the local election official on or before election day are brought to the appropriate precinct for counting. Absentee ballots received in the office of the

2016 Response:

In Massachusetts, all ballots cast at a polling place are counted at the precincts. M. G. L. c. 54, § 105; 950 CMR § 52.04(1) and 950 CMR § 54.06(1) (the counting of votes takes place in the polling place and counting shall continue without interruption until all the votes are counted and the results are announced).
Absentee ballots received by the local election official on or before election day are brought to the appropriate precinct for counting. Absentee ballots received in the office of the municipal official

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:

Votes are not centrally tabulated.

2016 Response:

Yes. Any early voting ballots tabulated at a Central Tabulation Facility will be added to the appropriate precinct returns for final tally.

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:

Absentee ballots are NOT reported separately and instead are contained within the precinct results which are a single number.

2016 Response:

d. How are UOCAVA ballots counted and reported?

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

2014 Response:

Regular absentee ballots (as opposed to Federal Write-in Absentee Ballots) returned by UOCAVA voters on or before election day are included in the precinct results with any other absentee ballots. Absentee ballots from UOCAVA voters, including Federal Write-in Absentee Ballots, which are postmarked on or before election day and received within 10 days after the election are counted separately at a meeting of the local board of registrars or election commissioners and then added to the precinct totals. M. G. L. c. 54, § 95.

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. In Massachusetts there are three reasons for voting by absentee ballot: absence from the city or town during the voting hours, physical disability prevents a voter from going to the polling place, or religious beliefs in conflict with the act of voting on the day on which such election is to be held. Mass. Const. Amend. Art. LXV; M. G. L. c. 54, § 86.

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.

2016 Response:

Yes. Under the provisions of M.G.L. c. 54, § 25B, enacted in 2014, any registered voter may cast a ballot for any biennial state election during the early voting period either in person or by mail.

The early voting period shall run from the eleventh business day preceding the general election until the close of business on the business day preceding the business day before the election; provided, however, that if the eleventh business day before the election falls on a legal holiday the early voting period shall begin on the first business day prior to the legal holiday.

Each city and town shall establish an early voting site that shall include the election office for the city or town; provided, however, that if the city or town determines that the office is unavailable or unsuitable for early voting, the registrars of each city or town shall

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:

Pursuant to M. G. L. c. 54, § 76C, whenever a person asserting a right to vote in a primary, caucus, preliminary, or other election appears at the polling place for the precinct in which that person resides, but that person is not permitted to vote, that person shall be allowed to deposit a provisional ballot.
More specific situations include:
1-in a primary if a voter is listed on the voting list in one party but claims they should be listed in another party;
2-voter whose name is already checked as voting on the voting list; 3-first time voter who registered to vote by mail whose identification could not be verified before election day;
4- a voter voting in an election for federal office as a result of a federal or state court order or any other order extending the time established for closing the polls by a state law in effect 10 days before the date of that election may only vote in that election by casting a provisional ballot.

2016 Response:

2014 Updated but no legal changes.

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:

Provisional ballots cast by a voter who is registered in another precinct may count. If a voter is listed as a voter in another precinct in the same city or town, the voter has the option to go back to that precinct to cast a regular ballot or cast a provisional ballot at the precinct in which they appeared. If they cast the provisional ballot and their registration for that precinct cannot be verified, the provisional ballot will not count. If their registration in the new precinct can be verified, the provisional ballot will count. If a voter casts a provisional ballot and their name is not on a list anywhere in that city or town and it is determined that their name should have been on the list but in a different precinct, only those offices which are common to both precincts will be counted.
Provisional ballots are counted if the local election official can verify the applicant's voter registration status.

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:

None.

2016 Response:

Pursuant to M.G.L. c. 54, § 109A, post-election audits must be conducted following any presidential general election. The precincts to be audited shall be chosen in a random, publicly verifiable, non-computerized drawing supervised by the state secretary within 48 hours after polls are closed. The drawing shall be fully observable to the public and representatives of each political party and shall use a procedure that can be easily understood to be random by members of the public. Notice of the time and place of the drawing shall be given at least 10 days before the election on the electronic website of the state secretary. The number of precincts selected to be audited in this drawing shall be equal to 3 per cent of all precincts in the commonwealth, rounded up to the next highest whole number.

Each precinct selected for an audit must conduct a hand-counted audit of votes cast on the day of election of: (i) races in which more than 1 candidate's name appears on the ballot for president and vice president, representative in congress, senator in congress, representative in the general court and senator in the general court; and (ii) 1 statewide ballot question, if any appear on the ballot, chosen by random drawing.

If a valid petition for a recount is made pursuant to M.G.L. c. 54, § 135 for a race subject to audit by this section, then the votes for that race shall not be audited in any precinct named in the petition; provided, however, that if an audit has commenced in a precinct where the valid petition for a recount is made, the audit in the precinct shall be suspended.

The board of registrars or election commission in a municipality where 1 or more precincts selected to be audited are located shall conduct the audit. The board of registrars or election commission may employ tally clerks to count the ballots. Audits shall begin not later than 2 business days following the random drawing of precincts supervised by the state secretary and shall continue on each successive business day or other day at the discretion of the board or commission in each municipality. The time and place of the audits in a municipality where 1 or more precincts selected to be audited are located shall be publicly announced in advance. The audits shall be performed in full public view and conducted pursuant to the procedures for hand counts of ballots in the recount laws.

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

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

2014 Response:

There are no state requirements for poll worker training.

2016 Response:

Pursuant to M.G.L. c. 51 § 17A, the city or town clerk and a registrar or election commissioner, as designated by the board of registrars or the board of election commissioners, shall attend an annual training conducted by the office of the state secretary, and offered at no cost to the municipality or to the individual, on the applicable state and federal election laws and regulations. Upon completion of the training, the clerk, registrar or commissioner shall inform the board of registrars and election commissioners.

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:

Over-and under-votes are tallied as blanks collectively. They are not separately reported to this Office.

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:

Provide identification number—MA driver's license number, but if don't have MA driver's license, the last four digits of social security number.

2016 Response:

b. casting an in-person ballot;

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

2014 Response:

Only required for: newly registered voters who registered to vote by mail on or after Jan. 1, 2003, whose information contained on their voter registration application could not be verified (MA driver's license number or last four digits of social security number) or who indicated on their application that they had neither AND who did not provide a copy of identification with their application; or inactive voters; or a voter who is challenged; or a person claiming the right to vote but whose name is not listed and is casting a provisional ballot.

2016 Response:

c. casting a mail-in or absentee vote;

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

2014 Response:

Only required for: newly registered voters who registered to vote by mail on or after Jan. 1, 2003, whose information contained on their voter registration application could not be verified (MA driver's license number or last four digits of social security number) or who indicated on their application that they had neither AND who did not provide a copy of identification with their application; or inactive voters.

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:

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:

Massachusetts state law allows for observers to be in a polling place outside of the guard rail, unless they are disorderly or obstruct the access of voters. 950 C.M.R. § 54.04(22)(a).

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.

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:

Unlike most states, elections in Massachusetts are administered at a municipal level, not a county level.

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

Appendix A – Massachusetts 2014 Data

A1e. Provisional/Challenged ballot

Provisional ballots are defined differently than challenged ballots.

Provisional ballots:

Whenever a person asserting a right to vote in a primary, caucus, preliminary, or other election appears at the polling place for the precinct in which that person resides, but that person is not permitted to vote, that person shall be allowed to deposit a provisional ballot as provided in this section. A precinct election officer who cannot confirm a potential voter's eligibility to vote on election day shall notify the individual of the option of appearing before the city or town clerk to dispute eligibility or vote a provisional ballot in that precinct pursuant to the procedures set forth in this section. An election officer who believes that the individual may be eligible instead to vote in a different precinct shall direct the individual to the polling place for that precinct.

To cast a provisional ballot, an individual shall execute a provisional ballot affirmation before a precinct officer at the polling place declaring that the individual is a registered voter in the city or town and resides within the geographical boundaries of the precinct.

A provisional voter shall be requested to present identification when completing a provisional ballot. Failure to present identification shall not prevent the voter from completing a provisional ballot.

A provisional ballot shall be counted if the city or town clerk determines that the individual is eligible to vote in the precinct in the election under the law of the commonwealth. A provisional ballot shall not be counted if the city or town clerk determines that the individual is ineligible to vote in the precinct in the election under the law of the commonwealth. A provisional ballot cast by a person whose name is not on the voting list for the city or town in which they are claiming the right to vote, but whom the city or town clerk determines to be eligible to vote in another precinct of the same city or town, shall be counted in the precinct in which the person cast the provisional ballot for all offices for which the person is eligible to vote.

An individual who votes in an election for federal office as a result of a federal or state court order or any other order extending the time established for closing the polls by a state law in effect 10 days before the date of that election may only vote in that election by casting a provisional ballot. A provisional ballot cast during an extension of the time for closing the polls required by orders described in this subsection shall be separated and held apart from other provisional ballots cast by those not affected by the order.

The city or town clerk shall count all eligible provisional ballots. A provisional ballot cast by an individual whose voter information is verified before 5:00 p.m. on the third day after a presidential or state primary or the twelfth day after a state election shall be removed from its provisional ballot envelope, grouped with other ballots in a manner that allows for the secrecy of the ballot to the greatest extent possible, and counted as any other ballot.

The city or town clerk must determine persons to be entitled to vote a provisional ballot whenever those persons have registered to vote in that city or town in the past and affirm in writing, signed under the penalties of perjury, that they have continuously resided in the city or town, unless the city or town clerk affirmatively establish, by evidence other than failure to respond to the street listing under section 4 of chapter 51, or failure to respond to a notice under section 37 of said chapter 51, that the person has not in fact continuously resided in that city or town.

The city or town clerk shall report the disposition of all provisional ballots to the state secretary on or before the fourth day following a presidential or state primary and on or before the fifteenth day following a state election. Instructions shall be posted in each precinct on how to cast a provisional ballot.

Each polling place shall have instructional sheets, as provided by the state secretary, instructing individuals on the process of casting a provisional ballot and determining whether the ballot was counted and if not, why.

The state secretary shall make a toll-free telephone number available to individuals for the purpose of determining the status of provisional ballots. Provisional voters wishing to determine the disposition of their ballot may call the office of the state secretary 7 days or more after a presidential or state primary and 20 days or more after an election. The state secretary, before providing information to a voter on the disposition of his ballot, shall verify the identity of the voter by name, address, date of birth and provisional voter number. The state secretary shall not discuss the disposition of any provisional ballot with any person other than that provisional voter.

The state secretary shall promulgate regulations to achieve and maintain accuracy, uniformity and security from forgery and fraud in the procedures for casting provisional ballots. M. G. L. c. 54, § 76C

Challenged ballots:

If in any state, city or town election at which official ballots are used the right of a person offering to vote is challenged for any legal cause, the presiding officer shall administer to him the following oath: You do solemnly swear (or affirm) that you are the identical person whom you represent yourself to be, that you are registered in this precinct (or town) and that you have not voted at this election. He shall also be required to write his name and residence on the outside of the ballot offered, and the presiding officer shall add thereto the name of the person challenging, and the cause assigned therefor, whereupon such ballot shall be received; and no person shall make any statement or give any information in regard thereto, except as required by law. The clerk shall record the name and residence of every person who has been challenged and has voted. M. G. L. c. 54, § 85; 950 CMR § 52.03(23); 950 CMR § 54.04(23).