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 Additionally, if a law was repealed in full, please answer "repealed in full" in the box.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

Voter marks the ballot for more candidates in a race than authorized to be elected. Texas Election Code Section 65.011.

2016 Response:

b) Under-vote

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

2014 Response:

Voter has voted for fewer candidates in a race than authorized to be elected. (Chapter 4, Section 1) Figure 7 in booklet Qualifying Voters on Election Day.

2016 Response:

c) Blank ballot

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

2014 Response:

Ballot deposited in ballot box, but no votes are cast on the ballot. No legal cite.

2016 Response:

d) Void/Spoiled ballot

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

2014 Response:

Voter mismarks, damages, or otherwise spoils ballot in the process of voting. Texas Election Code Section 64.007.

2016 Response:

e) Provisional/Challenged ballot

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

2014 Response:

Provisional ballot is a ballot voted by a voter who does not have acceptable identification for voting, a voter that is not on the list of registered voters, a voter that is voting after polls close due to court, or a voter that has not properly cancelled their mail ballot. Voter may vote provisional ballot after signing appropriate affidavits. Texas Election Code Sections 63.008, 63.009, 63.011.

2016 Response:

f) Absentee

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

2014 Response:

No longer a term used in Texas elections. Texas Election Code Section 81.001.
We refer to this as early voting by mail.

2016 Response:

g) Early voting

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

2014 Response:

Opportunity for registered voters to cast a ballot either by mail or in person prior to election day. Eligibility listed in methods outlined in Chapters 84 and 85. Texas Election Code, Chapter 82.

2016 Response:

h) Active Voter

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

2014 Response:

Person who has a current registration and is qualified to vote. Texas Election Code Section 13.101.

2016 Response:

i) Inactive Voter

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

2014 Response:	2016 Response:
Person whose voter registration has been canceled. Texas Election Code Section 13.102.	

j) Other terms (please specify) Suspense Voter

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

2014 Response:	2016 Response:
Suspense Voter – Voter who is registered and has been mailed a 8d2 BW 5-1 notice and has not responded. 8d2 BW 5-1 notice is called address confirmation notice. Voter remains in suspense status until their registration address is corrected or 2 federal elections have occurred since voter was placed on suspense. Texas Election Code Section 15.081. (may be referred to as inactive in other states)	

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:

On June 25, 2013, Senate Bill 14, Act of May 18, 2011, 82nd Leg., R.S., Chapter 124 became effective in Texas. This legislation, related to requirements to vote, including presenting proof of identification, amended Sections 13.002, 15.001, 15.022, 32.111, 32.114, 63.001, 63.0011, 63.006, 63.009, 63.0101, 63.011, 64.012, 65.054, 66.0241; added Sections 15.005, 31.012, 62.016, 63.0012, 65.0541; and repealed Sections 63.007 and 63.008 of the Texas Election Code.

2016 Response:

Voter ID has been ruled by the 5th Circuit Court of Appeals to have discriminatory effects. An interim procedure to ameliorate these effects has been put in place to US District Court. Photo IDs can now be expired for up to four years and voters who do not possess and cannot reasonably obtain a photo ID may fill out a reasonable impediment declaration and show an alternate form of ID such as a VR certificate, bank statement or other government document with the voter's name and address.

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:

Hybrid

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:

Local jurisdictions upload once a day.

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:

New voting certificates are mailed to all active voters every 2 years. If a certificate is returned (cannot forward by state law) a notice of address confirmation is mailed to the voter. (See suspense voter above.) Texas Election Code Section 14.001, 14.023. This process is not applicable to UOCAVA.

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:

Remove Voters, Texas Election Code Section Chapter 16
1) Request by voter.
2) Strong match duplicate in another county.
3) Strong match death (Records obtained by Bureau of Vital Statistics, local registrars of death, clerks of the court and Social Security Administration).
4) Challenge because of potential felon (30 days, if no response. Records received from DPS)
5) Challenge citizenship after person indicates on jury notice they are not a citizen (30 days)
6) Voter certificate returned as undeliverable, address confirmation sent, voter status changed to suspense, registration cancelled after 2 federal elections if voter does not update address.
7) Address confirmation mailed to voter if registrar has reason to believe voter has moved. Same procedure as #6.
8) Abstract of final judgment of mental incapacity
9) Notice from voter registrar in another state that voter has registered to vote
These processes are not applicable to 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:

No. We receive files, but we do not share our files.

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:

Each county can choose to use NCOA. Larger counties that do use it identify voters who have potentially moved and then send address confirmation notice and put voter on suspense.

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:

Felons can register to vote as soon as they complete all of their punishment, including any term of incarceration, parole, supervision, period of probation, or the person must have received a pardon. No. These people do not have to produce documents to prove status. Texas Election Code Section 11.002.

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:

Registered voters can change name and address if the address is in the same county on the Internet. The voter registration form is posted on the Internet.

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:

In some counties, ballots cast at voting precincts are tabulated at the precinct; otherwise, they are tabulated at a central location.

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. All tabulated votes regardless of the manner and the location at which they are tabulated are reported by precinct. Texas Election Code, Chapter 67.

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:

Early votes are reported by precinct. Texas Election Code Section 87.103.

2016 Response:

d. How are UOCAVA ballots counted and reported?

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

2014 Response:

They are included and reported with the early votes.

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:

Must have a reason to vote by mail. Texas Election Code Chapter 82.

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:

Yes, we have early voting in Texas. Texas Election Code Chapter 85 outlines the process. Defined as the opportunity for registered voters to cast a ballot in-person prior to election day. Sometimes ballots are counted at precinct. Reported by precinct.

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:

Texas Election Code Section 63.011
1. Voter did not present acceptable form of identification or voter certificate with exemption.
2. Voter not on list and did not provide certificate.
3. Voter not on list, registered in another precinct.
4. Voter on the list of people who voted early by mail, but voter has not properly cancelled mail ballot.
5. Voting after 7:00 p.m. due to court order.
6. Voter on list, but registered residence address outside the political subdivision.
7. Other:
_____ (Please explain)

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:

Provisional ballots are rejected if voter voted in precinct not registered in. Voter registrar verifies registration status after election, provisional ballot envelope goes to Ballot Board for final determination whether to count or not count the ballot. Texas Election Code Section 63.011, Chapter 65, Subchapter B.

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:

Manual count of not more than three races in 1% of precincts or 3 precincts, whichever is greater, and is required to begin 72 hours after polls close. Does not apply to tabulation of direct recording electronic voting (DRE) machines. Texas Election Code Section 127.201.

2016 Response:

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

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

2014 Response:

Secretary of State provide online poll worker training, handbooks, advisories, memorandums and in-person election training. The training standards include provisions on the "acceptance and handling of identification." There is not state law requirement for minimum of training. Texas Election Code, Subchapter F, Chapter 32.

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:

If ballots are counted electronically, the tabulating equipment is programmed to capture that data. Hand-counted ballots do not report. Texas Election Code Section 127.1301.

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:

TDL number or last 4 digits SSN for verification (HAVA) if no TDL.

2016 Response:

b. casting an in-person ballot;

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

2014 Response:

Sec. 63.0101. DOCUMENTATION OF PROOF OF IDENTIFICATION. The following documentation is an acceptable form of photo identification under this chapter:
(1) a driver's license, election identification certificate, or personal identification card issued to the person by the Department of Public Safety that has not expired or that expired no earlier than 60 days before the date of presentation;
(2) a United States military identification card that contains the person's photograph that has not expired or that expired no earlier than 60 days before the date of presentation;
(3) a United States citizenship certificate issued to the person that contains the person's photograph;
(4) a United States passport issued to the person that has not expired or that expired no earlier than 60 days before the date of presentation; or
(5) a license to carry a concealed handgun issued to the person by the Department of Public Safety that has not expired or that expired no earlier than 60 days before the date of presentation.

2016 Response:

as modified by the interim order of the US District Court. Photo ID has to be used if possessed and not expired longer than four years. If a voter doest not possess a photo ID and cannot reasonably obtain one, then the voter can sign a Reasonable Impediment Declaration and show an alternate form of ID.

c. casting a mail-in or absentee vote;

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

2014 Response:

None unless TDL or SSN could not be verified at time of registration.

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:	2016 Response:
Candidates and political parties may appoint watchers. Texas Election Code Subchapter A, Chapter 33. The Secretary of State also has authority to appoint election inspectors and must appoint one if a petition is received, Texas Election Code Chapter 34.	

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:

No

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