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 Additionally, if a law was repealed in full, please answer "repealed in full" in the box.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

A ballot condition that indicates the number of valid marks found within the contest for office exceeds the number of votes allowable for that race.

2016 Response:

b) Under-vote

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

2014 Response:

A ballot condition that indicates the number of valid marks found within the contest for office are less than the number of votes allowable for that race.

2016 Response:

c) Blank ballot

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

2014 Response:

The ballot contains no valid marks for any candidate for office.

2016 Response:

d) Void/Spoiled ballot

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

2014 Response:

The ballot contains errors, mistakes, marks, or any condition that the voter believes renders the ballot insufficient or defective to cast the person's vote(s) at the election, and the person requests another ballot to vote. HAR § 3-172-1 (Definitions).

2016 Response:

e) Provisional/Challenged ballot

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

2014 Response:

A provisional/challenged ballot is that ballot provided to a voter whose right to vote remains to be verified within a fixed period of time.

2016 Response:

f) Absentee

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

2014 Response:

For purposes of this survey, an absentee ballot is a ballot mailed to a registered voter who requests a ballot by mail within the lawful period for requesting an absentee ballot. HRS § 15-1.

2016 Response:

g) Early voting

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

2014 Response:

For purposes of this survey, early voting is that period before election day when a registered voter may cast a ballot to be counted on election day. HRS §§ 15-4 & 15-7.

2016 Response:

h) Active Voter

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

2014 Response:

Any registered voter who may vote whose voter registration record contains no evidence that raises a question about the person's eligibility to vote.

2016 Response:

i) Inactive Voter

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

2014 Response:

Any voter who is registered to vote and has been mailed a confirmation postcard under section 8(d)(2), HAVA, but who did not vote at an election.

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:

None at this time.

2016 Response:

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:

Hawaii's voter registration system is a top down system.

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:

Not applicable.

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:

Voters are moved to the inactive list after election officials mail the section 8(d)(2) confirmation postcard.
Re-registration submitted by this category of voter would move the record back to the active list. This process is used for UOCAVA voters.

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:

Voters are removed after non activity/non registration for two federal election cycles following placement on the inactive list. Typically, the purging is conducted several months after the general election. This process is used for UOCAVA voters.

2016 Response:

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

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

2014 Response:

Hawaii currently verifies voter registration information with the state drivers license database.

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:

We do not use the NCOA process but are currently researching and experimenting with it to determine factors that affect reliability for Hawaii addresses.
We use the NCOA process before any election mailing. It has results in savings as we are able to quickly identify no longer valid addresses, versus relying on returned mail.

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:

Convicted felons regain the right to vote upon probation, parole, or final discharge. HRS § 831-2. Individuals may be asked to produce documentation to that effect. Registration by deadlines is not automatic and is required.

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:

Yes. A person who wants to register to vote may download and print a voter registration form.

2016 Response:

Online voter registration began in 2015. Anyone with a valid driver's license or state identification card can register to vote or update their voter registration online. The applicant types in their driver's license information (i.e. name, date of birth, driver license/state identification card number) which is then confirmed against the driver's license and state identification card database. If the system confirms that the applicant is the same person in the driver's license and state identification card database then they are permitted to register for the first time or update their registration online.

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:

For early vote the ballots are counted on a precinct counter and/or DRE. For Absentee Mail the ballots are counted centrally at a counting center in each county.

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:

No, the votes are redirected by ballot style.

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:

The absentee mail and early vote ballots are reported by ballot style, separate from the election day votes.

2016 Response:

d. How are UOCAVA ballots counted and reported?

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

2014 Response:

UOCAVA votes are counted the same as absentee ballots in c., supra.

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:

Hawaii does not require a reason for voting absentee. HRS § 15-4.

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, Hawaii provides for in-person early voting. HRS § 15-7. Here early voting is termed “absentee walk in” voting. Votes are counted at the precincts and compiled centrally.

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:

For unique historical reasons the area of Kalawao, located on the Island on Molokai, is designated as a county, but for election purposes it is included in the County of Maui. HRS 11-1 (Definitions). The County of Kalawao utilizes a vote by mail system. HRS § 15-4. However, we do not consider it to be an election jurisdiction for purposes of this survey.

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:

A voter who asserts his/her registration but whose name does not appear on the voter registration list.
A voter is to be turned away by election official.

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 voter casting a provisional ballot must be in the proper precinct. Local election officials will determine whether the voter's ballot proposed to be cast is in the proper precinct by verifying the ballot style against the address noted on the provisional ballot documentation.

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:

HRS §11-153 requires that the overages and underages to the poll book be made public.

2016 Response:

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

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

2014 Response:

Hawaii Revised Statutes §11-73 – No precinct official shall serve unless the official has received instruction and has been certified by the authorized instructor to that effect. This section shall not prevent the assignment of a person who has not received such instruction or such certificate but who is otherwise qualified to fill a vacancy among precinct officials when a qualified certified person is not available.

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:

Any overvotes and / or undervotes are captured for each contest as part of the election tally.

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:

Hawaii requires HAVA-required ID for first time mail registrants. If the HAVArequired ID is not provided at the time of voter registration then it must be provided at the polling place or with the voter's absentee ballot, in accordance with HAVA.

2016 Response:

b. casting an in-person ballot;

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

2014 Response:

Hawaii Revised Statutes §11-136 – Every person shall provide identification if so requested by a precinct official. Hawaii Administrative Rules §2-51-80 – The voter shall present valid identification to the official in charge of the pollbook.

2016 Response:

c. casting a mail-in or absentee vote;

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

2014 Response:

The voter is required to sign an affirmation, which is part of the return envelope, stating that the voter is the person voting. HRS § 15-6. The signature on the affirmation statement is compared to the voter's signature on the absentee request or the voter registration affidavit and it must correspond in order for the vote to be counted. HAR § 3-174-11.

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:

None.

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:

HRS § 11-77. Appointment of watchers; service
(a) Each qualified political party shall be entitled to appoint no more than one watcher who may be present at any time in each precinct and absentee polling place in which the candidates of that political party are on the ballot. Each party shall submit its list of watchers not later than 4:30 p.m. on the tenth day prior to any election to the chief election officer or to the clerk in county elections. All watchers shall serve without expense to the State or county. All watchers so appointed shall be registered voters. No person shall serve as a watcher who could not qualify to serve as a precinct official under section [11-72(b)(3)].
(b) Each watcher shall be provided with identification from the chief election officer, or by the clerk in the case of county elections, stating the watcher's name and the name of the party the watcher represents. On election day the watcher shall present identification to the chairperson of precinct officials of the precinct or precincts where the watcher is to serve.
(c) All watchers for precincts shall be permitted to observe the conduct of the election in the precinct. The watchers may remain in the precinct as long as the precinct is in operation subject to section 19-6. Watchers may review the polling book pursuant to section 11-97.
(d) The watcher shall call the attention of the chairperson to any violations of the election laws that the watcher observes. After the chairperson's attention is called to the violation the chairperson shall make an attempt to correct such violation. If the chairperson fails to correct the violation, the watcher may appeal to the clerk of the county.
(e) The watchers shall be permitted to observe the operations of the absentee polling place. Any violation of the election laws shall be reported to the clerk.

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:

No additional comments.

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