

January 28, 2022

Dr. Nichelle Williams
Director of Research
U.S. Election Assistance Commission

Dear Dr. Williams:

Thank you for the chance to comment on the 2022 surveys, the Policy Survey and the EAVS. https://www.regulations.gov/document/EAC_FRDOC_0001-0147

The comments below cover several topics, excluding audits and cybersecurity, which are covered in comments from the State Audit Working Group.

Most of these comments clarify wording to make it easier to obtain consistent data. The last comments collect extra detail on UOCAVA voters in the US, UOCAVA signature verification, FWAB electronic returns, adjudicated and recreated ballots.

Added words are **bold**, and deleted words are ~~stricken out~~. *Explanations for our comments are in italic serif font.*

SAME-DAY REGISTRATION

The policy survey (<https://www.regulations.gov/document/EAC-2021-0002-0003>) defines same-day registration to apply to in-person voting in Q8, so it includes overlap between in-person voting and registration, but excludes overlap between mail voting and registration. (A2 in EAVS says the same.) Therefore it needs to add the word “in-person” in Q8a,

Q8a. Under which circumstances can a voter in your state register on the same day that he or she casts a ballot? ...

- On Election Day
 - During in-person early voting
 - During an overlap between the start of early **in-person** voting and the close of voter registration
 - Only in very specific cases (e.g., for federal offices only; please describe):
-

FIRST TIME REGISTRANTS

Q10a says,

- “The EAC defines active voters as fully eligible voters who have no additional processing requirements to fulfill before voting. Inactive voters are defined as voters who remain eligible to vote but require address verification under the provisions of the National Voter Registration Act (NVRA).”

*This does not directly address the first time registrants who have not yet shown ID, and still must show ID the first time they vote. Does EAC define them as active or inactive,? The current wording treats these first time registrants as inactive, since they have “additional processing requirements to fulfill before voting.” However most states would call them active. It would be best to add the following sentence after either the “active” or “inactive” sentence above, depending on how EAC defines first time registrants: **“This includes first time registrants who still must show ID the first time they vote.”***

FELONS

In some states felons’ rights to vote are restored only by action of a judge, governor or legislature, so Q39a would be clearer if it mentioned this situation. Other states have special rules, such as a payment plan in IA, and “community custody” in WA, and rules can change more by November. So it needs an Other category or instructions how to answer

Q39a. For how long are voting rights limited for an individual in one of the populations you selected in Q39? (Select all that apply.)

- During the period of incarceration
- During any period of probation and parole
- During any additional time (such as a statutorily mandated waiting period **or official action**)
- Until payment of outstanding fines, restitution, or penalties
- Other** _____

REGISTRATION AT POLLING PLACE

The EAVS (<https://www.regulations.gov/document/EAC-2021-0002-0004>) starts with voter registration. Same day registration is common at polling places, and deserves an answer category in the long list of registration options, rather than simply “Other.”

A4-A7. If a voter submits a same-day registration form at a polling place, this would be considered a separate category and should be entered **on a separate line** under “other” in either **A4j, A4k, or A4l.**

i. Registration drives from advocacy groups or political parties				
j. Individual voters registering in person at a polling place or vote center				

UOCAVA SUBTYPES

Section B of begins with a table naming two types of UOCAVA voters. The names are ambiguous, and in any case are not used consistently in the subsequent questions. We suggest clarifying the 2 category names and using them consistently in the questions. Merchant marine are not considered "uniformed services" in peacetime. The law refers to overseas, but actually covers anyone abroad, including Canada and Mexico, so clarity for election staff would be better with the word abroad.

<u>Uniformed Services & merchant marine voters and eligible dependents</u> —domestic or foreign	I am a member of the Uniformed Services or Merchant Marine on active duty OR I am an eligible spouse or dependent
<u>Non-military/Other civilian overseas voter abroad</u>	I am a U.S. citizen residing outside of the United States, and I intend to return I am a U.S. citizen residing outside of the United States, and my return is not certain I am a U.S. citizen and have never resided in the United States

Column headings, for example:

	Type of UOCAVA voter		
	a. Total	b. Uniformed Services & merchant marine voters and eligible dependents—domestic or foreign	c. <u>Other civilian voter abroad</u>
B5. <u>TOTAL absentee ballots transmitted to UOCAVA voters</u> Do not include FWABs in this number.			

DOMESTIC UOCAVA

It would be helpful to know how many UOCAVA voters are in the US, if the jurisdiction has the data:

B5.5 Ballots transmitted to voters in the United States in compliance with UOCAVA regulations. (exclude FWAB)			
--	--	--	--

UOCAVA SIGNATURE VERIFICATION

For B20 it would be helpful to distinguish missing signatures from non-matching signatures, as is done for non-UOCAVA mailed ballots. Some states don't check for a match, so separate counts allow more comparable data across states.

B20. Problem with voter signature: Ballots that were not counted because of an issue relating to the voter signature, including but not limited to a missing signature or a returned ballot signature not matching the signature on file.			
B20.5 Ballots that were not counted because of a missing signature			

FWAB ELECTRONIC RECEIPT

For B23 it would be helpful to know how many Federal Write-in Absentee Ballots (FWABs) come electronically, since electronic transmission can be falsified more easily than mail, and this distinction is made for mail ballots. People with unreliable mail service may choose to send FWAB as an email attachment or fax, in states which allow it. We don't know of any web portal for them, though one could appear by November:

B23. TOTAL number of FWABs returned by UOCAVA voters			
B23.5 Total FWABs returned electronically (email, fax or web portal)			

ADJUDICATED AND RECREATED BALLOTS

Section E collects numbers of provisional ballots. Two other special types of ballots also matter. When ballots arrive damaged or otherwise unscannable, offices copy them to new ballots. When scanners find ambiguous marks on ballots, and/or code them as over-votes, office staff use their judgment to review (adjudicate) the marks to determine voter intent. They may do this by correcting the contest on screen, or recreating the ballot sheet (also called card) on paper. Some offices check all overvotes. Some offices have few and some have large numbers, which are costly. It is important to collect numbers so offices with many might learn from offices with few.

Section E: **Recreated, Adjudicated, and Provisional Voting**

All types of ballots (including UOCAVA, FWAB)	Total
E0.2. Number of damaged or unscannable ballots which election workers recreated on paper in order to count them (ballot was recreated or reconstructed)	
E0.3. Number of ballot sheets adjudicated, where election workers use their judgment to resolve potentially ambiguous marks. This can be done on screen or on paper.	
Comments on E0.2-E0.3	

The people signing below have these joint comments.

Sincerely,

Note: All affiliations are for reference only and do not constitute an endorsement

Paul Burke, <http://VoteWell.net>, retired from HUD where my work included analysis & questionnaire development for the American Housing Survey

April Smith, election protection activist

Tim White, Washington State elections watcher

Harvie Branscomb, electionquality.com; coloradansforvotingintegrity.org; two decades as credentialed election watcher and citizen lobbyist; advocate for maximum citizen access to election process