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Administration and Voting Survey

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Comment from Verified Voting

Submitter Information

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General Comment

See attached file(s)

Attachments

2024-Election-Administration-and-Voting-Survey

Verified Voting

April 2, 2024

633 3rd Street NW,
Suite 200
Washington, DC 20001
Attn: EAVS
Submitted electronically

RE: 2024 Election Administration and Voting Survey

Dear U.S. Election Assistance Commissioners,

Verified Voting submits the following suggestions regarding the 2024 Election Administration Voting Survey (EAVS) and Election Administration Policy Survey drafts. Since the founding of our organization in 2004 by computer scientists, we have used data from the U.S. Election Assistance Commission (EAC) surveys in our work. We appreciate the inclusion of several of our suggestions to the 2022 drafts and believe that, together with the suggestions we propose this year, they will enhance the quality, practical utility, and clarity of the information collected.

As part of our work to promote the responsible use of technology in elections, Verified Voting tracks election systems in use in every U.S. election jurisdiction. As such, we recognize the significant changes in election technology since the passage of the Help America Vote Act (HAVA) of 2002[1] and the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA).[2] We therefore suggest the EAC consider the following changes and additions to the 2024 EAVS and Election Administration Policy Survey.

2024 Election Administration and Voting Survey (EAVS)

Distinguishing UOCAVA ballots returned via internet technologies. We support the proposal to distinguish UOCAVA ballots returned by email (B11), fax (B12), or online via a ballot delivery portal (B13), instead of using a single "Other" category.
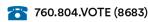
Ballot Marking Devices Used by Some or All In-Person Voters: Verified Voting proposes an adjustment to the response options in section F3–F8. "Election Equipment Used" to clarify the distinction between "In-precinct Election Day regular ballot marking and/or counting" and/or "In-precinct accessible voting for voters with disabilities." Beginning in 2014, some election jurisdictions began deploying BMDs for use

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[1] 52 U.S.C. § 20901 *et seq*.
[2] 52 U.S.C. § 20301 *et seq*.

by all in-person voters (as opposed to primarily as assistive devices).[3] In November 2020, 20.4% of registered voters lived in jurisdictions in which all in-person Election Day voters used BMDs—up from just 1.9% in 2018.[4] In 2024, this figure will rise to at least 25.7%.[5] In some jurisdictions,[6] election workers offer every voter the choice to hand mark a ballot or use a ballot marking device. We propose adjusting the language of the first and second response options to clarify whether all voters use the equipment (e.g., "In-precinct Election Day regular ballot marking and/or counting **(used by all voters)**" or whether it is used primarily as assistive equipment (e.g., "In-precinct accessible voting **primarily** for voters with disabilities"). The instructions for the first response option could be updated with parenthetical language, such as "(equipment is used by all in-person voters)."

We also suggest distinguishing equipment used during the early voting period by all in-person voters and equipment used primarily by voters with disabilities. This could be achieved by adding "regular" to the early voting response option (i.e., "In-person early voting **regular** ballot marking and/or counting **(used by all voters)**") and by adding another response option (e.g., "In-person early voting accessible voting **primarily** for voters with disabilities").
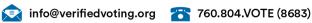
Ballot Marking Device/Tabulators: Ballot marking device/tabulators, which combine ballot marking and tabulation, are significantly distinct from ballot marking devices, which only mark ballots.[7] In 2024, we expect 2.9% of registered voters to live in jurisdictions fielding ballot marking device/tabulators for all in-person Election Day voters.[8] We recommend the EAVS include a separate equipment category in section F3–F8 "Election Equipment Used" for ballot marking device/tabulators. We also recommend a basic definition (e.g., "A ballot marking device/tabulator functions as both a ballot marking device and

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[3] *See* Verified Voting, *The Verifier — Election Day Equipment — November 2016*, https://verifiedvoting.org/verifier/#mode/navigate/map/ppEquip/mapType/normal/year/2016 (last visited Mar. 26, 2024).

[4] Verified Voting, *The Verifier — Election Day Equipment — November 2020*, https://verifiedvoting.org/verifier/#mode/navigate/map/ppEquip/mapType/normal/year/2020; Verified Voting, *The Verifier — Election Day Equipment — November 2018*, https://verifiedvoting.org/verifier/#mode/navigate/map/ppEquip/mapType/normal/year/2018 (last visited Mar. 26, 2024).

[5] Verified Voting, *Election Day Equipment — November 2024*, https://verifiedvoting.org/verifier/ (last visited Mar. 26, 2024).

[6] *See e.g.*, Pamela Wood, *Maryland settles lawsuit over machines used by blind voters*, The Baltimore Sun (Sept. 1, 2021), https://www.baltimoresun.com/politics/bs-md-pol-blind-voting-20210901-gvppd2wtaveijalyaz5hh7t7l4-story.html. As a result of a settlement, the State Board of Elections agreed to offer both hand-marked paper ballots and BMDs neutrally to all voters, and to attempt to have at least 10 voters at each polling place use the BMDs.

[7] *See e.g.*, United States Election Assistance Commission, *Certificate of Conformance ES&S EVS 6.0.4.0* 3 ("ExpressVote XL" and "ExpressVote Hardware 2.1") (2019), https://www.eac.gov/sites/default/files/voting_system/files/EVS6040_Cert_Scope%28FINAL%29.pdf.

[8] *Id*.

ballot tabulator.") with possible additional context (e.g., "The voter's selections are printed and tabulated by the same machine.").

Voting System Versions: As in our comment on the 2022 drafts,[9] Verified Voting encourages the EAVS request voting system version information from election jurisdictions in addition to make and model of each type of equipment used in section F3–F8 "Election Equipment Used." Voting system version information indicates which election system hardware, firmware, and software a jurisdiction fields, how recently developed or updated the voting system is, and whether the system has been decertified.[10] Prior to 2018, the EAVS included a space for respondents to record a "version" for each equipment type in the voting technologies section following the make and model of the voting equipment used.[11] Verified Voting proposes the 2024 EAVS include a column, which could be inserted between current column b "Make/Model" and column c "Number deployed" for election jurisdictions to enter voting system version information.

Use of Electronic and Paper Poll Books: Verified Voting greatly appreciates the added opportunity for election jurisdictions to record the make, model, and quantity of electronic poll book systems used. Similar to our suggestion *supra* to include voting system versions for election equipment, we likewise suggest that a column for electronic poll book version number be included.

2024 Election Administration Policy Survey

Domestic Civilian (non-UOCAVA) Voters: Verified Voting profoundly appreciates the incorporation of our 2022 suggestion to include questions Q33 and Q33a, regarding the circumstances when domestic civilian voters (non-UOCAVA) can return their ballots through an electronic format and how states determine if a domestic civilian voter is eligible to return a ballot electronically. States continue to make changes to their laws and policies regarding who is eligible to return a voted ballot electronically.[12] While we recognize the benefits of allowing voters to receive blank ballots electronically, we and other security experts have noted the dangers inherent in the electronic return of voted ballots.[13] To better track the

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[9] *See* Verified Voting, *Comments on the EAC's 2022 Election Administration Voting Survey (EAVS) and Election Administration Policy Survey drafts* 3 (Jan. 28, 2022), https://verifiedvoting.org/comments-on-the-eacs-022-election-administration-voting-survey-eavs-and-election-administration-policy-survey-drafts/.

[10] National Institute of Standards and Technology, *Appendix A: Definitions of Words with Special Meanings in the VVSG: "voting system,"* https://www.nist.gov/itl/voting/appendix-definitions-words-special-meanings-vvsg (last updated May 24, 2017).

[11] *See e.g.*, U.S. Election Assistance Commission, *2016 Election Administration & Voting Survey* 28–36 (2017) https://www.eac.gov/sites/default/files/eac_assets/1/28/2016_EAVS_Instrument.pdf.

[12] *See* Verified Voting, *Internet Voting: State by State*, https://verifiedvoting.org/internetvoting/ (last visited Mar. 26, 2024).

[13] *See e.g.*, Verified Voting, *Casting Votes Safely: Examining Internet Voting's Dangers and Highlighting Safer Alternatives* (2023) https://verifiedvoting.org/publication/casting-votes-safely-oct-2023/.

various methods by which states allow eligible voters to return their voted ballots, we suggest that the Policy Survey also include a question regarding the methods by which each state allows Domestic Civilian (non-UOCAVA) voters to return their ballots. This could be based on current Q42: "By which of the following methods does your state allow domestic civilian (non-UOCAVA) voters to <u>return</u> their voted UOCAVA ballots? (Select all that apply.)."

Conclusion

Verified Voting appreciates the Election Assistance Commission's ongoing efforts to collect and disseminate detailed information about election administration in the United States. We welcome the opportunity to make suggestions to enhance the quality, utility, and clarity of the information to be collected and are available to discuss our suggestions further. Thank you for considering our comments.