

Primer on the U.S. Election System

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Introduction

This primer provides an overview of all aspects of the American electoral process, from how campaigns are conducted to the mechanics of the voting process. One key difference between the United States and other countries is the level to which American elections are governed in a decentralized manner. In the U.S., there is no central election body. No single federal government agency is in charge of reporting the results of federal elections, adjudicating federal election disputes or setting the rules for federal elections. Instead, American elections are run by states – within a basic framework of anti-discrimination laws set by federal law – and almost all states, in turn, delegate the actual conduct of elections to local election officials. It is in the almost 10,000 counties, cities or townships (local election jurisdictions) that elections are implemented in the U.S.

American elections are complex affairs, involving the expenditure of almost \$10 billion (USD) to advocate for the election of candidates at federal, state and local levels. More than 120 million people will vote – through by-mail absentee voting, in-person early voting and polling place voting on Election Day. These voters will choose candidates for dozens of races – from president to local government officials – and will vote on referenda and initiatives. Even with all of this complexity, it is likely that, in the very late evening of November 6, 2012, we will know who the next U.S. president is and which political party will control the U.S. Congress.

IFES has developed a comprehensive program for international election officials, which provides a full understanding of the American electoral process. This booklet is one resource among many that you will receive during your stay here in the U.S. and we hope you find it to be a helpful starting point to understanding the complexity of the U.S. electoral process.

I. Elections in the United States: 2012

On November 6, 2012, the United States will hold its federal elections. The decision to hold the election of presidential electors on the first Tuesday after the first Monday in November was made in 1845 and has never been changed.¹ On this day, there will be elections in all 50 states and the District of Columbia. In the states, federal elections will be held to elect:

- The President of the United States
- All 435 Members of the U.S. House of Representatives
- One-third, 33 members, of the U.S. Senate

In the United States, state and local governments typically hold their elections on the same date as the federal election, combining federal, state and local races onto a single ballot. On November 6, 11 states will hold elections for governor and other state-wide elected offices. In the United States, it is common for citizens to elect individuals at the state level to serve in positions such as Attorney General (the chief state lawyer). Voters in many states will also vote for members of their state legislature – typically a state House member and a state Senator.

Combining the elections for federal and state offices means voters will make many candidate choices in 2012. For example, in the State of Utah, voters will cast ballots for:

- President and Vice President (voted on together, in one selection)
- U.S. Senate
- U.S. Congress
- Governor and Lieutenant (Lt.) Governor (voted on together, in one selection)
- Attorney General
- State Treasurer
- State Auditor
- State Senator
- State House of Representatives
- State School Board Members

For an example of how complex ballots in the United States can be, the November 6, 2012 ballot for Salt Lake County, Utah, is presented on the next two pages. This ballot covers all of the races – from president to state judges – and numerous state and local constitutional amendments and referenda.

¹ The history of the selection of this date for choosing presidential electors can be found here: http://www.fec.gov/pdf/elec_coll.pdf. Jeffrey M Stonecash, et al., wrote about the decision to use this date for the selection of all federal offices in “Congressional Intrusion to Specify State Voting Dates for National Offices.” *Publius: The Journal of Federalism*, 38, 1: 137-151, 2008.

OFFICIAL BALLOT
SALT LAKE COUNTY, UTAH
TUESDAY, NOVEMBER 6, 2012

Sherris Swenson
COUNTY CLERK

INSTRUCTIONS TO VOTERS: Please use only ballpoint pen. To vote for a candidate or for or against a ballot proposition, fill in the oval to the left of your selection. If you make a mistake, mark the ballot so that your intent is clear, or you may request a replacement ballot. DO NOT initial or sign the correction.


CORRECT MARKING: ●


Write-Ins: If there is a write-in space provided, you may write the name of a valid write-in candidate and fill in the oval to the left of the name.


Political Party Abbreviations
CON=Constitution LIB=Libertarian DEM=Democratic REP=Republican JUS=Justice GRN=Green UNA=Unaffiliated


Voting Straight Party means you are voting for all candidates of one political party without having to fill in the ovals for each candidate. It is **optional** and you can skip it and vote for individual candidates. If you choose to vote a Straight Party option, you may still vote for individual candidates of other parties by filling in the oval next to the candidate's name.


STRAIGHT PARTY (OPTIONAL)


CONSTITUTION (CON)


LIBERTARIAN (LIB)


DEMOCRATIC (DEM)


REPUBLICAN (REP)


JUSTICE (JUS)


GREEN (GRN)


FEDERAL

PRESIDENT / VICE PRESIDENT OF THE UNITED STATES
4 YEAR TERM (Vote for One)

JILL STEIN (GRN)
CHERI HONKALA

GLORIA LA RIVA (UNA)
FILBERTO RAMIREZ, JR.

MITT ROMNEY (REP)
PAUL RYAN

BARACK OBAMA (DEM)
JOSEPH R. BIDEN, JR.

GARY JOHNSON (LIB)
JAMES P. GRAY

VIRGIL GOODE (CON)
JIM CLYMER

ROSS C. "ROCKY" ANDERSON (JUS)
LUIS J. RODRIGUEZ

WRITE-IN

U.S. SENATE
6 YEAR TERM (Vote for One)

SHAUN LYNN MCCALSAND (CON)

SCOTT HOWELL (DEM)

ORRIN G. HATCH (REP)

DANIEL GEERY (JUS)

BILL BARRON (UNA)

WRITE-IN

U.S. REPRESENTATIVE DISTRICT #3
2 YEAR TERM (Vote for One)

JASON CHAFFETZ (REP)

SOREN D. SIMONSEN (DEM)

WRITE-IN

STATE GOVERNOR / LIEUTENANT GOVERNOR
4 YEAR TERM (Vote for One)

PETER S. COOKE (DEM)
VINCENT C. RAMPTON

KEN LARSEN (LIB)
J. ROBERT LATHAM

KIRK D. PEARSON (CON)
TIM AALDERS

GARY R. HERBERT (REP)
GREG BELL

WRITE-IN

STATE ATTORNEY GENERAL
4 YEAR TERM (Vote for One)

DEE W. SMITH (DEM)

JOHN SWALLOW (REP)

W. ANDREW MCCULLOUGH (LIB)

WRITE-IN

STATE AUDITOR
4 YEAR TERM (Vote for One)

MARK SAGE (DEM)

JOHN DOUGALL (REP)

RICHARD PROCTOR (CON)

WRITE-IN

STATE TREASURER
4 YEAR TERM (Vote for One)

CHRISTOPHER STOUT (DEM)

VINCENT C. MARCUS III (LIB)

RICHARD K. ELLIS (REP)

WRITE-IN

STATE SENATOR DIST #8
4 YEAR TERM (Vote for One)

BRIAN E. SHIOZAWA (REP)

JOSIE VALDEZ (DEM)

WRITE-IN

STATE REPRESENTATIVE DISTRICT #36
2 YEAR TERM (Vote for One)

DAMA DICKSON (REP)

PATRICE ARENT (DEM)

WRITE-IN

COUNTY COUNTY MAYOR
4 YEAR TERM (Vote for One)

MARK CROCKETT (REP)

BEN MCADAMS (DEM)

WRITE-IN

COUNTY COUNCIL AT LARGE 'C'
6 YEAR TERM (Vote for One)

JOSEPH M. DEMMA (REP)

JIM BRADLEY (DEM)

WRITE-IN

COUNTY COUNCIL DIST #4
4 YEAR TERM (Vote for One)

MISSY W. LARSEN (REP)

SAM F. GRANATO (DEM)

WRITE-IN

NON-PARTISAN

SCHOOL BOARD STATE BOARD OF EDUCATION DISTRICT #8
4 YEAR TERM (Vote for One)

CHRIS WILLIAMS

JENNIFERA A. JOHNSON

WRITE-IN

GRANITE SCHOOL DISTRICT PRECINCT #1
4 YEAR TERM (Vote for One)

DAN LOFGREN

R. WAGNER JONES

WRITE-IN

JUDICIAL

Shall **CHARLES D. BEHRENS, JR.** be retained in the office of JUDGE of the JUVENILE COURT of the THIRD JUVENILE COURT DISTRICT?

YES

NO

Shall **ANN BOYDEN** be retained in the office of JUDGE of the DISTRICT COURT of the THIRD JUDICIAL DISTRICT?

YES

NO

Shall **ROYAL I. HANSEN** be retained in the office of JUDGE of the DISTRICT COURT of the THIRD JUDICIAL DISTRICT?

YES

NO

TURN OVER ►►

Shall ELIZABETH A. LINDSLEY be retained in the office of JUDGE of the JUVENILE COURT of the THIRD JUVENILE COURT DISTRICT?

- YES
 NO

Shall C. DANE NOLAN be retained in the office of JUDGE of the JUVENILE COURT of the THIRD JUVENILE COURT DISTRICT?

- YES
 NO

Shall ANTHONY B. QUINN be retained in the office of JUDGE of the DISTRICT COURT of the THIRD JUDICIAL DISTRICT?

- YES
 NO

STATE QUESTIONS

CONSTITUTIONAL AMENDMENT A

Shall the Utah Constitution be amended to require a portion of the revenue from all of the state's severance taxes, excluding severance tax revenue used for Indian tribes, to be deposited into the permanent state trust fund beginning July 1, 2016?

- FOR
 AGAINST

CONSTITUTIONAL AMENDMENT B

Shall the Utah Constitution be amended to allow real property to be exempt from property tax if:

- the real property is owned by a person in the military, or the person's spouse, or both;
the real property is the military person's primary residence; and
the military person serves in federal active duty out of state for at least 200 days in a calendar year or 200 consecutive days?

- FOR
 AGAINST

LOCAL QUESTIONS

OFFICIAL BALLOT FOR SALT LAKE COUNTY, UTAH SPECIAL BOND ELECTION

PROPOSITION #1

OPEN SPACE, NATURAL HABITAT, PARKS AND COMMUNITY TRAILS

Shall Salt Lake County, Utah, be authorized to issue general obligation bonds in a principal amount not to exceed \$47,000,000 and to mature in no more than 20 years from the date or dates of issuance of such bonds for the purpose of acquiring, improving or extending open space, natural habitat, parks and community trails and related facilities; and, to the extent necessary, for the refunding, at or prior to the maturity thereof, of bonds authorized hereby?

(Salt Lake County Ordinance No. 3.54.100(C)(2))

Property Tax Cost of Bonds. A general obligation bond is a debt owed by government. The government uses tax revenue to pay for the debt. If the bonds are issued as planned, an annual property tax to pay debt service on the bonds will be required over a period of approximately 20 years from the last date of issuance of the bonds in the estimated amount of \$5.63 on a \$238,000 residence and in the estimated amount of \$10.24 on a business property having the same value.

(Salt Lake County Ordinance No. 3.54.100(C)(1))

In addition to the bond payment costs as outlined above, the average annual combined net operational and maintenance costs for this facility during its first ten years of operation is projected to require additional annual expenditures of \$580,950. If approved, the County will determine during its next budget cycle whether additional operational and maintenance costs may or may not require any additional funds from budget cuts or a tax increase.

To vote in favor of the above bond issue, select the box immediately adjacent to the words "FOR THE ISSUANCE OF BONDS." To vote against the bond issue, select the box immediately adjacent to the words "AGAINST THE ISSUANCE OF BONDS."

- FOR THE ISSUANCE OF BONDS
 AGAINST THE ISSUANCE OF BONDS

INCORPORATION OF MILLCREEK

1. Shall the area described as:

Beginning at the intersection of the South Salt Lake City boundary line, the Taylorsville City boundary line and the Jordan River; then east and north along South Salt Lake City's boundary line to the Salt Lake City boundary line; then following easterly along Salt Lake City's boundary line to the Southeast Corner of the City's boundary; then northeasterly approximately 1 mile along I-80 to the east line of Section 24 of the Salt Lake Base and Meridian (SLBM); then south along that section line to the ridgeline separating Parley's and Millcreek canyons; easterly along the ridgeline to the Salt Lake County boundary line; then south along the County boundary line to the ridgeline separating Millcreek and Big Cottonwood canyons; then westerly along the ridgeline to the east quarter corner of Section 12 of the SLBM; then west along the quarter section line to the easterly boundary line of Holladay City; then following westerly along Holladay City's boundary line to the Murray City boundary line; then northwesterly along Murray City's boundary line to the northeasterly boundary line of Taylorsville City and along the Taylorsville boundary and the Jordan River to the point of beginning.

be incorporated as the city of Millcreek?

- YES
 NO

FORM OF GOVERNMENT

2. If the above incorporation proposal passes, under what form of municipal government shall Millcreek operate?

(VOTE FOR ONE)

- FIVE-MEMBER COUNCIL FORM
 SIX-MEMBER COUNCIL FORM
 FIVE-MEMBER COUNCIL-MAYOR FORM
 SEVEN-MEMBER COUNCIL-MAYOR FORM

CITY COUNCIL DISTRICTS

3. If the above incorporation proposal passes, shall members of the city council of Millcreek be elected by district?

- YES
 NO

Some voters in some states will also vote on referenda (also called propositions or initiatives) or amendments to their state constitutions that affect public policy within the state. Similarly, some local governments will also have initiatives and referenda on their ballot. In the text box, two of the propositions that will be on the 2012 ballot in California are listed. Proposition 33 changes how automobile insurance is handled in California and Proposition 36 modifies a state law governing the sentencing of repeat criminal offenders in the state. Interestingly, Proposition 36 modifies a previously passed initiative. Once a proposition passes, it can only be modified by passing yet another proposition. The idea behind propositions and initiatives is that they allow the public to have a say in the lawmaking process, especially if the government is ignoring issues of importance. However, the initiative process can also be captured by interest groups, who use the process for passing legislation that benefits their industry.

Some voters will also vote for candidates for local government positions, such as the chief executive of the county in which they live and the sheriff (chief law enforcement officer).

On November 6, a voter may vote for more than 20 different contests on a single ballot.

II. Governance of American Elections

The United States has a federalist character, where much of the nation's governance occurs at the state or local level of government. Elections are an excellent example of a public policy that is implemented and governed through our federalist system. The U.S. does not have a single federal election for president or for the U.S. Congress or a single election board or office that governs election disputes.

Instead, the U.S. has 50 separate elections – one in each state – and the states, in turn, delegate responsibility for running elections to the 10,499 local election jurisdictions across the country.

So how are elections governed across the federal, state and local levels of government?

Let's briefly consider the role that each level of government in the U.S. plays in election administration.

The Federal Level

At the federal level, there is no central electoral body that governs election administration. Instead, the federal government plays a relatively minor role in most elections, with these roles spread across several different agencies and actors.

U.S. House of Representatives and Senate

Under the U.S. Constitution (Article I, Section 5), "Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members." This means that, should a dispute arise in a U.S. House

or Senate race that cannot be remedied by state and local election officials, the membership of the Senate or House will make the determination of who won the election.²

Federal Election Commission – Campaign Finance

The Federal Election Commission (FEC) administers and enforces laws pertaining to the financing of federal elections. The FEC discloses campaign finance information, enforces law related to limits and prohibitions on contributions, and oversees public funding of presidential elections.³ The FEC has six members, three from each political party, and at least four votes are required for any official action, which is intended to ensure the decisions of the commission are nonpartisan.

Election Assistance Commission

The Election Assistance Commission (EAC) was created in 2002 as an independent, bipartisan commission charged with:

- Developing guidance for state and local governments related to meeting the requirements of the Help America Vote Act (HAVA) – explained below
- Adopting voluntary voting system guidelines
- Serving as a national clearinghouse of information on election administration⁴

Voluntary voting system guidelines (VVSG) were developed in 2007 by the EAC and covered issues related to the technical requirements that voting equipment must meet, the documentation that must exist with a voting system and the testing requirements for voting systems. These guidelines are voluntary – voting systems used in the states do not have to meet these standards – but often states link their own voting system standards to the VVSG.

The EAC cannot issue binding regulations related to election administration and plays no role in the counting of ballots or certification of elections.

Department of Justice

The Department of Justice Civil Rights Division enforces federal election law.⁵ This includes enforcing the following four primary federal election laws:

The Voting Rights Act (VRA) of 1965 (and subsequent amendments), ensures that there is not discrimination in voting based on factors such as race, ethnicity, or language minority status. States and local election jurisdictions with a history of discrimination toward minorities prior to 1965 are required have all new election laws approved by the Justice Department. Similarly, jurisdictions with large language minority populations are required to provide ballots and election materials in other languages to facilitate participation (e.g., providing Spanish ballots in Miami, Florida).

The National Voter Registration Act of 1993 facilitates voter registration. It requires all states that do not have Election Day voter registration (where voters can register to vote at their polling place on Election

² http://www.senate.gov/artandhistory/history/common/contested_elections/intro.htm

³ <http://www.fec.gov/about.shtml>

⁴ http://www.eac.gov/about_the_eac/

⁵ <http://www.justice.gov/crt/about/vot/overview.php>

Day) to allow voters to register by-mail, when they apply for a driver's license and at state public assistance agencies. The law also governs how states and localities can make changes to the voter registration file. Registrants cannot be purged from the rolls without following certain procedures.

The Uniformed and Overseas Absentee Voting Act (UOCAVA) and subsequent amendments, such as the Military and Overseas Voting Enfranchisement (MOVE) Act, facilitate voting by people serving in the armed forces and citizens who live overseas. These laws streamline the registration process and require ballots to be sent to UOCAVA voters 45 days prior to the election, so that they have the ability to vote and return the ballot before the election. It also provides the ability of voters to cast a Federal write-in ballot if they do not receive their ballot in time.

The Help America Vote Act of 2002 provided funding to states for upgrading their voting systems and voter registration systems, including:

- Requiring states to have state-wide voter registration systems
- Establishing minimum voter identification standards for registering to vote
- Requiring voters with a registration problem the ability to cast a "provisional ballot" that will be counted if the voter was in fact registered
- Requiring voters to be informed of their voting rights at the polls, via signage.

The State Level

It is in the 50 states that elections are governed and election results are certified and finalized. In most states, elections are run by a state official – typically the Secretary of State or Lt. Governor – and this individual is also a partisan elected official. For example, Jon Husted is the Secretary of State in Ohio and is a Republican and, Debra Bowen is the Secretary of State of California and is a Democrat. They also provide guidance to local election jurisdictions in the state regarding how elections are to be administered. Under the HAVA, the state election official is in charge of managing the state's voter registration database and for facilitating voting by individuals covered by the UOCAVA statute.

The Local Level

It is at the local level, in the local election office (LEO), where elections are actually administered. The LEO is typically a part of a county or city and the county or city also is responsible for paying for the cost of the election. The LEO is the place where polling locations are selected, poll workers are hired and trained, ballots are created, voters vote, and votes are counted. After the election, local officials are the ones who conduct a canvass – a certification that all ballots were counted and that all vote counts are accurate. These results are communicated to the state, where all election results receive final certification.

In the U.S., there are approximately 10,499 local jurisdictions. The typical election jurisdiction has about 1,000 registered voters. However, in the 2008 election, almost two-thirds of all voters who cast ballots in the presidential election lived in the 457 largest election jurisdictions – that is only 4 percent of all

election jurisdictions in the U.S. For example, there are more registered voters in the Los Angeles County election jurisdiction than there are in all but eight states!⁶

In the U.S., elections are typically either run by a person elected by the voters or by an appointed individual or board. In smaller LEOs, the election official is typically elected and in larger LEOs there is a relatively even split between elected and appointed officials. For most election officials, running elections is just one of several programs and policies that they implement.

III. Conducting Elections

The federal government provides a basic framework for elections in the United States. However, the states provide the detailed legal framework that governs the implementation and administration of elections. In this section, we itemize several key aspects of elections governed by state laws.

Hours of Voting

State laws determine the hours that polls are open in the state. For example, in Maryland and Washington, D.C., voters will vote from 7:00 a.m. to 8:00 p.m. but in Virginia voters will vote from 6:00 a.m. to 7:00 p.m.

How Voters Can Vote

In general, voters in the U.S. can cast ballots in three ways:

- **Election Day Voting:** In all states but Oregon and Washington, voters can cast a ballot in-person at a polling place on Election Day. Nationally, this is the most common way in which voters cast ballots. Sixty-three percent of ballots cast in the 2008 presidential election were cast in-person on Election Day.
- **In-Person Early Voting:** In 32 states, voters can cast ballots at a small number of polling places in their electoral jurisdiction during the weeks prior to Election Day. This process is intended to make it easier for voters who may have difficulty voting on Election Day. In 2008, 18 percent of ballots in the presidential election were cast early.
- **By-Mail Early Voting:** In all states, voters can cast a ballot by-mail. However, in 29 states, voters do not have to provide an excuse – such as having a physical disability or by being out of town on Election Day – in order to obtain a by-mail ballot. In seven states, it is possible for a voter to sign up to be a permanent by-mail voter, meaning that the voter will automatically receive a ballot in the mail prior to Election Day.

⁶ David C. Kimball and Brady Baybeck. "Size Matters in Election Administration." 2012. Working Paper from the University of Missouri, St. Louis and David C. Kimball and Martha Kropf. 2006. "The Street-Level Bureaucrats of Elections: Selection Methods for Local Election Officials." *Review of Policy Research*, 23, 6: 1257-1268.

Figure 1: Modes of Voting Across States

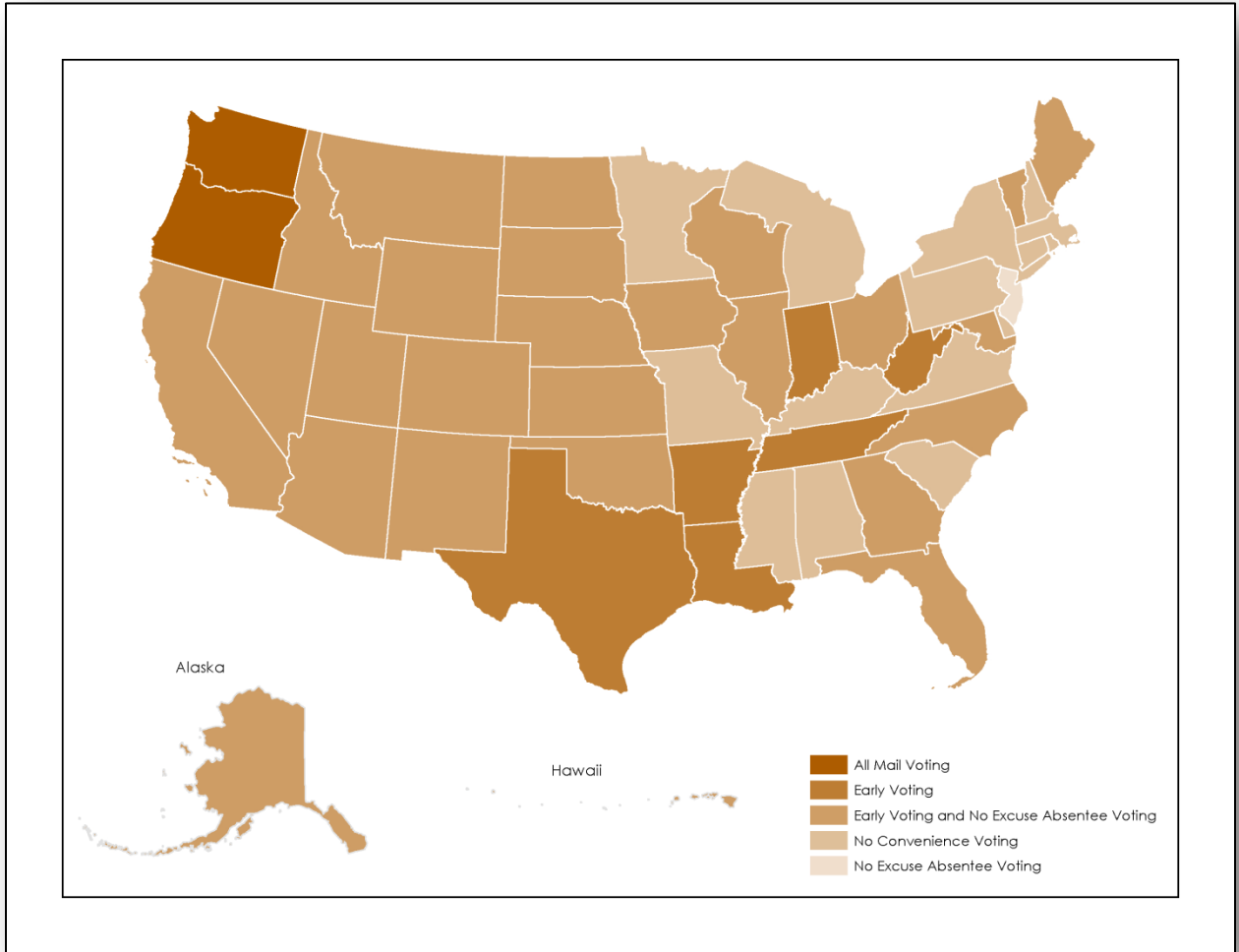


Figure 1 shows that 34 states allow some sort of convenience voting. In-person early voting is quite common, as is no-excuse absentee voting – where the voter does not have to explain why they want an absentee ballot. In seven states, voters can become a permanent absentee voter, which means that the voter is sent a ballot in the mail before every election, without having to request the ballot. In the states of Oregon and Washington, elections are conducted entirely by mail; there are no standard polling places on Election Day.⁷

⁷ Voters can vote in person in these states but they have to go to the central election offices to do so. This is in part allowed so that voters with disabilities can vote using accessible equipment if desired.

Ballot Design

The way in which ballots look in the United States vary across states. In all states, the ballot is divided into blocs, where each race has its own “bloc” on the ballot. However, in 16 states, a voter can cast a “straight-party” ballot. This means that the voter can make a single mark in a box at the top of the ballot and vote for the entire slate of candidates with that same party affiliation.

Voter Registration

In the United States, it is incumbent on the voter to register to vote. States and localities do not have any citizen or eligible voter registry they can use or rely on for voter registration. Although the basic framework for voter registration is set at the federal level, states can determine at what time to close their voter rolls to new applications. This timeframe varies from one month prior to the election to the day of the election. There are 10 states with same-day voter registration, which has been found to facilitate participation.⁸ Most states have minimal voter registration requirements. For example, in Utah, in order to be eligible to register to vote, a person must be, “at least 18 years-old on or before the next election, a citizen of the United States, and a resident of the State for at least 30 days before the election.”

Voter Identification

The way voters are identified and authenticated as qualified voters vary by state. The U.S. government does not provide a voter identification cards for the purpose of voting. Some states and localities provide voters with a registration card, which shows that they are registered to vote. However, in many states such cards do not satisfy the identification requirements for voter identification because these cards do not have a photo on them. In all states, voters who vote by mail are authenticated by some type of signature match between the signature on their voter registration card and the signature on the outer ballot envelope.

In polling place voting, there are three types of voter authentication:

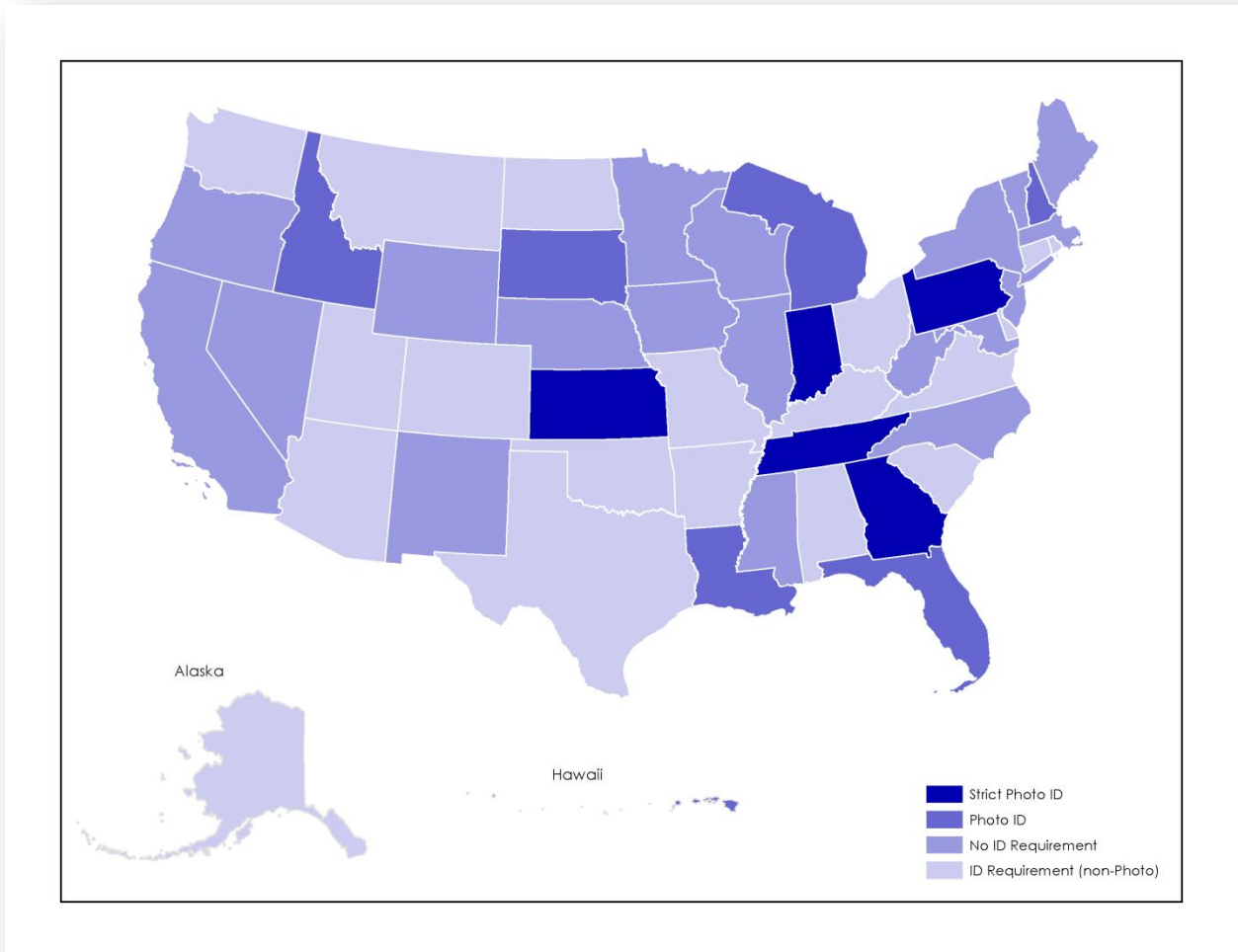
- In all states, first-time voters who have not voted previously in a federal election in the state are required to present one of the following forms of identification to election officials: a current and valid photo identification, utility bill, bank statement, government check, paycheck or government document that shows the voter’s name and address.
- In 30 states, voters are required to show some form of government-issued photo identification at the polls to authenticate themselves.
- In some states, voters are required to state their name and some other basic information to authenticate themselves at the polls but not show photo identification.

Voter identification laws can be characterized as "strict" or "not strict."

⁸ The 10 states with same-day voter registration are Idaho, Iowa, Maine, Minnesota, Montana, New Hampshire, North Carolina, North Dakota, Wisconsin, and Wyoming.

In the 17 states with a "strict" law, a voter who does not present a photo ID cannot cast a regular ballot. Instead, these voters are allowed to cast a provisional ballot. If the voter presents the appropriate identification to the election officials in a specified timeframe after the election, then the voter's provisional ballot is counted.

Figure 2: Voter ID Requirements



In the 13 "non-strict states," voters who do not present a photo ID may be able to cast a regular ballot if they complete specific administrative actions. For example, they may be required to sign an affidavit verifying their identity or a third party may vouch for their identity. Once the voter completes the administrative task, they can cast a traditional ballot. If they do not complete the task, they can cast a provisional ballot.

The 2008 *Survey of the Performance of American Elections* found that there was variation in implementation of voter identification laws across states. The survey found that one-quarter of voters in states that require voters to show a photo ID before voting did so not because it was required but

because it was convenient. A similar number of voters in states that do not have a photo ID requirement said that they would not have been allowed to vote if they not shown a photo ID. The survey found that African American and Hispanic voters were asked to show “picture ID” more often than were Caucasian voters.

Rule for Recounts and Challenges

States vary in the circumstances under which they will recount ballots and when they allow legal challenges to election results. State recount laws fall into four general categories:

- Close Outcome recounts are conducted when election results for a given race is very close, often when the candidates are separated by one-half of 1 percent of the vote.
- Candidate-Initiated recounts are allowed in several states. Often, the candidate’s campaign is responsible for paying for such a recount.
- Citizen-Initiated recounts are much less common in state law. Again, the citizen is often required to pay for such a recount.
- Automatic recounts are conducted in several states for a sample of precincts to ensure that the vote counts are accurate.

The state laws that govern elections are ultimately implemented in local polling places. Local election officials hire and train the poll workers who ultimately are responsible for how elections are administered.

Where Voters Vote

The type of polling place in which people vote vary by jurisdiction.⁹ In Table 1, we see the distribution of types of polling places. Most voters cast ballots in a social building, such as a school, church or community center. Almost 9 percent of voters cast ballots in private buildings.

⁹ The data on polling places and poll workers come from the *2008 Survey of the Performance of American Elections*. <http://www.vote.caltech.edu/sites/default/files/Final%20report20090218.pdf>

Table 1: Where We Vote

	Percent of In-Person Voters, Nationally in 2008
Private Business, Home, Shopping Mall	8.92
School, Church Senior/Community Center	62.15
Court House, Fire Station, Library, Government Building	28.93

Who Runs Elections

At the local level – which are typically either counties or cities – election officials are chosen through one of four methods:

- In 61 percent of jurisdictions (serving 45% of all voters nationally), local election officials are an **elected individual**.
- In 22 percent of jurisdictions (serving 31% of all voters nationally), local election officials are an **appointed Board of Election**.
- In 15 percent of jurisdictions (serving 22% of all voters nationally), local election officials are an **appointed Individual**.
- In 2 percent of jurisdictions (serving 1% of voters nationally), local election officials are an **elected Board of Elections**.

Elections are implemented in polling places by poll workers, who are also sometimes referred to as election judges. Poll workers in the U.S. tend to be between the ages of 50 to 70, although 36 percent of poll workers were estimated to be 18 to 50. Poll workers were typically racially representative of the population that they serve. People often assume that voters will know their poll worker but, nationally, only 17 percent of voters said they knew their poll worker. Poll workers receive training before an election, which can vary in quality and content.

Voting Technology Used

Because of the length of ballots in the U.S., hand counting ballots in the polling place on Election Day is not generally feasible. Instead, in almost all jurisdictions, ballots are tabulated electronically. Either the voter casts a ballot on a computer, which also tabulates the ballot instantaneously, or they vote on a paper ballot that is then scanned and the votes on that ballot are tabulated by the scanner. The 2000 election brought to the fore how some voting technologies are more effective than others in capturing a voter’s choices on a ballot.

In 2008, 58 percent of voters voted using optical scan technology, 30 percent of voters cast ballots of direct-recording electronic devices, and 11 percent used some other form of technology, including punch cards, lever machines and hand-counted paper ballots. We see most notably that almost 6 percent of voters – but only 2 percent of election jurisdictions – used lever machines. The State of New York used lever machines in 2008.

In 2012, there are three primary types of voting technology that a voter can use: (1) paper ballots that are electronically counted, (2) electronic ballots that are electronically tabulated and (3) electronic ballot marking devices.

All states use some form of paper ballot for voting, even if it is only used for absentee voting. However, because the ballots are so long, voters who cast a paper ballot then have the ballot counted using an electronic scanner. Voters in the U.S. vote on a paper ballot by filling in an oval with a pencil or pen next to the candidate they want to select for each race on the ballot. These ballots are then scanned by an electronic scanner, which “reads” the ovals and counts a vote for the candidate with the filled oval. The electronic counts are the initial results reported on election night. In some states, the electronic results produced by scanning the ballots are then compared to a hand-recount to ensure that the tabulator counted the votes correctly.

Since the 2000 election, there has been increased use in Direct Recording Electronic voting machines (DREs), which are sometimes referred to as touch-screen voting machines. A DRE is activated for each voter individually, often by using a card the voter places into the machine or a code the voter enters into the machine. The machine electronically displays the various races and referenda to the voter, and the voter typically touches the screen to fill an oval next to their candidate choice. There are two types of DREs. One type of DRE prints a paper audit trail – displayed to the voter under a glass pane to the side of the DRE screen – that the voter can review to ensure that the voter’s choices marked on the machine are accurate. The other type of DRE allows a voter to cast a ballot electronically but does not produce a paper audit trail.

An electronic ballot marking device is like a DRE, in that voters make their choices on a touch screen. However, the electronic marks are then transferred onto a paper optical scan ballot, which is then tabulated using a scanner, just as described above. These machines allow individuals with disabilities to cast a paper ballot.

IV. Parties, Campaigns, Candidate Selection and Winning

Political Parties

In the United States there are two political parties. The Democratic Party is generally considered to be the more left-of-center party and the Republican Party is considered to be the more right-of-center party. Because the U.S. does not have any sort of proportional representation, there are not meaningful third parties in the United States. When third parties do arise – such as in 1992, when billionaire candidate Ross Perot ran for president – one of the two political parties tend to adopt their positions and the third party fades from interest. In the case of Perot, both Democrats and Republicans adopted his anti-deficit rhetoric and his support declined. Additionally, states often have laws that create barriers for third-parties to get candidates on the ballot.

Elections

In the United States, we have a two-part election process. First, political parties hold elections to choose their candidates for the November general election. These elections are typically run by local election officials but are, in fact, typically considered to be private elections (because political parties are private organizations). Second, the November general elections have rules that differ for selecting the president and the selection of other candidates.

Congressional Races

Winning and Losing Congressional Races

For congressional races and for almost all state and local election races, the winning candidate is the voter who receives the most votes in the election. There is no proportional distribution of seats based on how parties perform in an election. All federal offices are single-member races.

Congressional Districts

Members of the House of Representatives represent single-member districts; every voter has only one representative. Congressional district constituencies are established every 10 years, after the census is held. In the first stage of the process, each state is apportioned a number of representatives based on the state's population. Small population states receive a single representative. Larger states receive members based on the concept that, as closely as possible, all congressional districts in the United States are as similar in size as possible.

Once districts are apportioned to the states, the state legislatures then draw maps for the constituencies within their state. Each constituency has to have the same number of voters. However, legislatures can take into account issues such as the partisan leaning of voters in drawing the districts. In general, the majority party in the state legislature attempts to maximize the number of districts in the state that will maximize the likelihood that their party candidates will win the election in the various congressional districts. In states covered by the VRA, these congressional district maps have to be reviewed by the Justice Department, to ensure that the rights of minority voters have not been violated. In these VRA covered states, legislators are often required to create "minority-majority" districts, where the majority of the population of voters in the district is of a minority population (e.g., creating a district where 60% of the population is African American).

Primary Elections

Primary election races for Congress – for the U.S. House and U.S. Senate – are races in which all of the members of one party run in an election to determine who will be the party's nominee.¹⁰ The candidate receiving the most votes in the election wins. In some states, if no candidate receives a majority of the votes (50% +1 of all valid votes cast) in a primary election, a run-off election is held two to three weeks later between the two candidates who placed first and second in the initial round of voting. The candidate, who receives the majority of votes in round two, will compete in the general election.

¹⁰ In one state – Utah – the two parties select delegates in local party meetings and these individuals choose the candidates for office. If no candidate receives 60 percent of the vote in the party's state convention, only then is a primary election held.

There are, generally speaking, three kinds of primary elections:

- **Closed primary:** only members who have declared affiliation with a given party can vote in that party's primary election. So a voter who is a registered Republican can vote in the Republican primary election, but a registered Democrat or a voter who declined to state a party affiliation cannot vote. Instead, the Democrat would only be allowed to vote in the Democratic Party primary. The only way the decline-to-state voter could vote is if one of party adopts a rule allowing such voters to participate in their primary election.
- **Open primary:** all voters can vote in either primary election. This type of primary election occurs in states that do not have voters state a preference for a party in a primary election.
- **Jungle primary:** which is used in the states of California, Louisiana and Washington – have all candidates, regardless of party affiliation, listed on one primary election ballot. The top two vote getters then compete in the general election. In such an election, the top two candidates could both be from the same political party. In Louisiana, if the top candidate receives a majority of the votes, no run-off election is held.

General Elections

In the general election, the two party's candidates compete on the ballot. The candidate who receives the most votes wins.

Presidential Elections

How the Electoral College Selects a President

The election for president is not a national election. Instead, it is a state-by-state election because the president is the candidate who receives a majority of the electoral votes in the Electoral College. The process of winning the majority of the electoral votes through the Electoral College is as follows:

- First, each state has a number of electoral votes equal to the number of U.S. Senators in the state plus the number of U.S. House members in the state. For example, Maryland has eight House members and two Senators, so it has 10 electoral votes. Virginia has 11 House members and two senators, so has 13 electoral votes.
- Second, in almost all states, the candidate who receives the majority of the votes in that state receives all of the state's electoral votes.¹¹ There are 538 electoral votes in the Electoral College. Therefore, 270 votes are necessary to win the presidency. If no one gets a majority of the votes, the U.S. House of Representatives would break the tie, with each state having a single vote to cast for their presidential choice.

In 1800 and in 1824, the House of Representatives selected the president. In the years 1824, 1876, 1888 and 2000, the candidate who won the presidency lost the popular vote nationwide but won enough states to win the Electoral College vote.

¹¹ In Maine and Nebraska, the members of the Electoral College are allocated based on the candidate who wins the most votes in each of the state's congressional districts. Then, the candidate who wins the most votes in the state wins the state's remaining two electoral votes.

Selecting the Presidential Candidates

Presidential candidates are selected in a special presidential selection process. Similar to the presidential election Electoral College process, the process of winning the presidential nomination revolves around winning delegates, who then attend the party's convention and vote for the nomination of that candidate. Each state is allotted a number of delegates. The number is derived from on a formula that takes into account the state's population and other factors, such as how well the party did in that state in the last election.

There are two types of presidential selection events held to select delegates: a primary election or a caucus. A presidential primary is just like a primary election for congress, except that candidates are awarded delegates based on their relative performance in the state. For example, if a state has 10 delegates and a candidate received 40 percent of the vote – the candidate might receive four delegates. A caucus is a set of local meetings that are open to all registered members of the party. At the caucus, people speak in favor of each candidate and then the caucus members divide into groups supporting each candidate. At the end of the caucus, the numbers of supporters in each candidate's group are counted and the numbers are totaled to allocate delegates.

In the late summer, the two parties have national conventions and the candidates are formally nominated. However, since the 1960s, the outcome of the contests has been known well in advance of Election Day.

Money in Politics

In the United States, there is a principle in the First Amendment to the United States Constitution that people have the right to free speech. One way in which people speak is through the media – through advertising, statements on radio and television, and through printed speech. The Supreme Court, in several decisions, has ruled that the government can restrict the amount of money that any individual or organization can give to a campaign or political party. The rationale for such limits is that limitations on individual contributions can reduce the perception of election fraud and electoral manipulation.

As we see in Table 2, the FEC provides data on the limits set in statute and in regulation on contributions to campaigns and political party committees. Individuals have relatively strict limits, as do Political Action Committees – a committee consisting of a group of donors who bundle funds and then give those funds to candidates.

Table 2: Campaign Finance Limits: Contributions to Campaigns

Donor Type	To each candidate or candidate committee per election	To national party committee per calendar year	To state, district & local party committee per calendar year	To any other political committee per calendar year	Special Limits	
Individual	\$2,500	\$30,800	\$10,000	\$5,000	\$117,000	Overall 2-year limit
National Party Committee	\$5,000	No limit	No limit	\$5,000	\$43,100	to Senate candidate per campaign
State, District & Local Party Committee	\$5,000	No limit	No limit	\$5,000	No limit	
PAC (Multi-Candidate)	\$5,000	\$15,000	\$5,000	\$5,000	No limit	
PAC (Not Multi-Candidate)	\$2,500	\$30,800	\$10,000	\$5,000	No limit	
Authorized Campaign Committee	\$2,000	No limit	No limit	\$5,000	No limit	

However, individuals have the right to engage in as much speech as they want, as long as they do not directly coordinate that speech with a campaign. In the United States, there is also a legal concept that corporations and similar entities are “persons” in certain ways under the law and therefore corporations and trade unions are also allowed to engage in as much speech as they want. In practical terms, there are two implications that arise from this free speech right.

First, individuals can spend as much money as they want on their own campaign. If Governor Mitt Romney or President Barack Obama want to spend \$5 million (USD) of their own money on their campaign, there is no law that would prevent this.

Second, in the Supreme Court Case *Citizens United v. Federal Election Commission*, the court ruled that corporations and unions have the right to make unlimited independent political expenditures. For example, if a corporation wants to run advertisements criticizing a candidate or advocating a policy position, they can generally do so without limits. Individuals and corporations often engage in this speech using what are referred to as “Super PACs.” As OpenSecrets.org¹² describes them,

Technically known as independent expenditure-only committees, Super PACs may raise unlimited sums of money from corporations, unions, associations and individuals, then spend unlimited sums to overtly advocate for or against political candidates. Super PACs must, however, report their donors to the Federal Election Commission on a monthly or quarterly basis – the Super PAC’s choice – as a traditional PAC would. Unlike traditional PACs, Super PACs are prohibited from donating money directly to political candidates.¹³

Campaign Tactics and Strategies

Candidates attempt to mobilize their supporters, de-mobilize the supporters of their opponents and sway the allegiances of individuals who do not have strong party preferences. Campaigns engage in an array of activities to achieve these goals, including:

- Running advertising on radio, television, in newspapers and magazines, and on the Internet. This advertising may tout the positive attributes of a candidate and the candidate’s policies or expose negative aspects of a candidate or her policies.
- Contacting likely voters by going door-to-door, using email, twitter, Facebook, telephone calls or direct mail. Campaigns often know quite a bit about the types of people who vote for or against their party. Campaigns use this information to target specific messages to voters, based on the issues of interest to that voter.. For example, an individual who belongs to an environmental group may receive direct mail touting how one candidate is pro-environment and how the other candidate is anti-environment.

¹² OpenSecrets.org is run by the Center for Responsive Politics, a non-partisan organization that tracks money in politics. Its website and online databases related to money in politics have won numerous awards and are regularly cited in mainstream media.

¹³ <http://www.opensecrets.org/pacs/superpacs.php>

- Campaigns also attempt to mobilize voters using “free” media, which involves getting the local or national media to cover events or issues of interest to one of the parties. For example, campaigns will hold large rallies in a city, hoping that voters will attend the rally but also hoping that the rally will be shown on the local or national news.

Debates

Candidates in elections often engage in face-to-face debates, where a moderator and/or a panel of individuals ask the candidates questions about policies and issues. In 2012, three presidential debates were held, from October 3-22, 2012. Two debates focused on both domestic and foreign policy and one debate focused solely on foreign policy. In one debate, the members of the audience asked questions of the candidates. There was also one debate held between the vice-presidential candidates.

The first televised presidential debates were held during the 1960 election between John F. Kennedy and Richard M. Nixon. No debates were held again until the 1976 election and, since then, debates have been held in every presidential election.

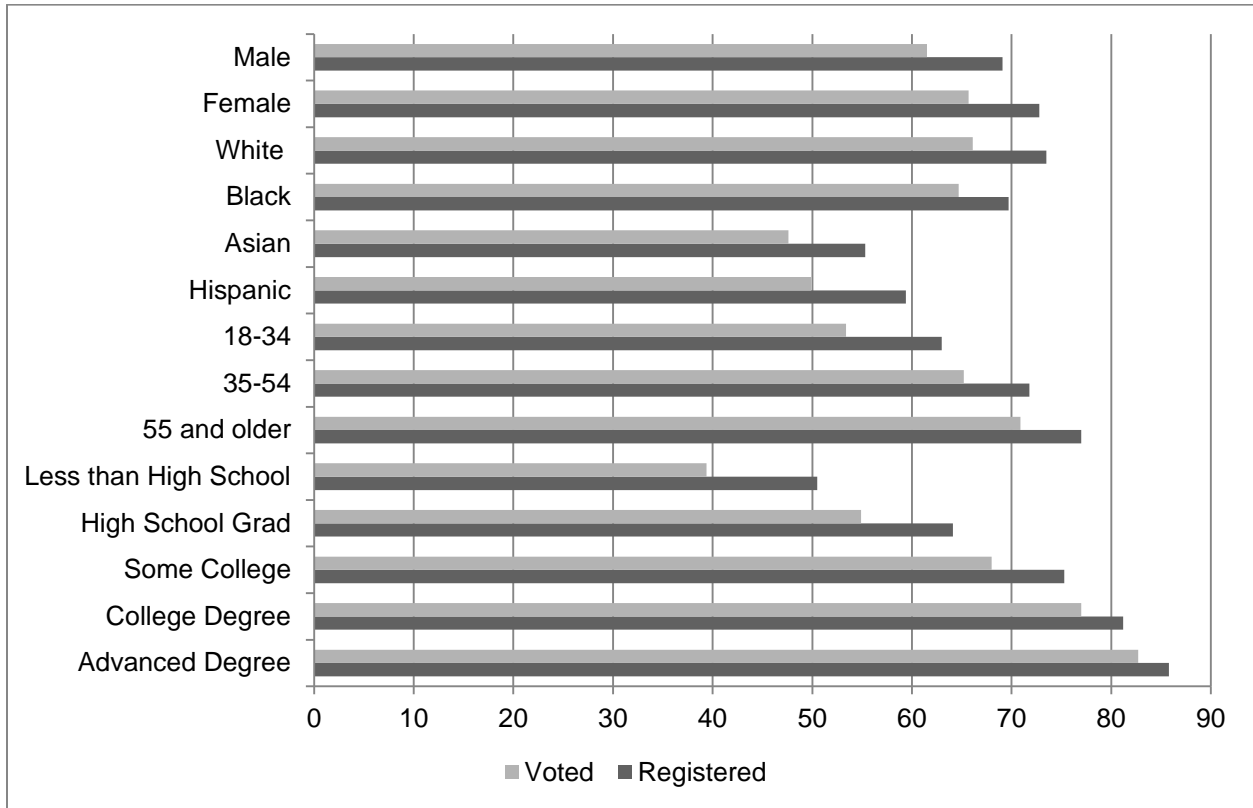
V. Who Votes

In the United States, all citizens over 18 years of age are potentially eligible to vote. Table 3 shows that the United States Constitution contains four amendments that expanded the franchise of voters by ensuring they cannot be discriminated against based on race, ethnicity, gender, economic status or age.

Table 3: Constitutional Amendments Related to Voting

Amendment	Subject of Amendment
15	Prohibits the denial of suffrage based on race, color, or previous condition of servitude
19	Establishes Women's Suffrage
24	Prohibits the revocation of voting rights due to the non-payment of poll taxes
26	Establishes the official voting age as 18 years of age

Figure 3: Voter Turnout by Demographics



States can still exclude certain people from voting. All states exclude non-citizens from voting although, in the 1800s, non-citizens were able to vote in many states. In addition, all but two states restrict felons from voting. As we see in Figure 4, some states give a felon the right to vote once they have completed their time in prison, some require a felon to have completed all probation and parole, and some states ban felons from voting unless the state actively restores their right to vote.

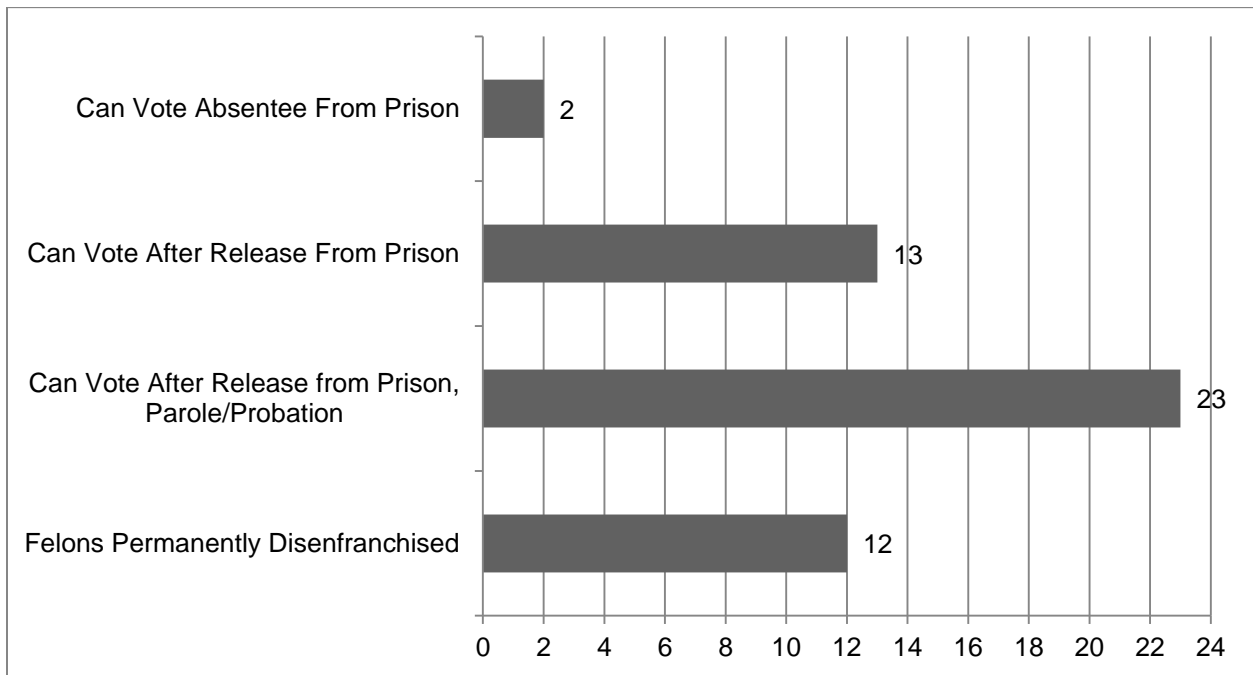
When we examine who votes (see Table 4), we see that most people who register to vote actually vote. In 2008, 89.6 percent of people who were registered to vote cast their ballot. However, only 71 percent of eligible citizens are registered to vote. So, when we look at the percentage of eligible voters who voted, we see that only 63.6 percent of eligible citizens voted in 2008.

Table 4: Percent of Americans Registered to Vote, and Percent Voting, 2008

	Population	Percentage
Total Eligible Population (Citizens over 18 years)	206,072,000	100%
Registered Voters	146,311,000	71% of Eligible Citizens
Voters	131,144,000	89.6% of Registered Voters
		63.6% of Eligible Citizens

In Figure 4, we see voting is highly related to age and education. Older voters and better-educated voters are more likely to be registered and more likely to vote compared to younger and more poorly educated voters. Women are more likely to be registered and more likely to vote compared to men. We also see that Caucasian, non-Hispanic voters turn out at higher levels compared to African Americans, Hispanics and Asian voters. Although not shown in the figure, higher income voters register and vote at much higher rates compared to low income voters.

Figure 4: Felons and Voting

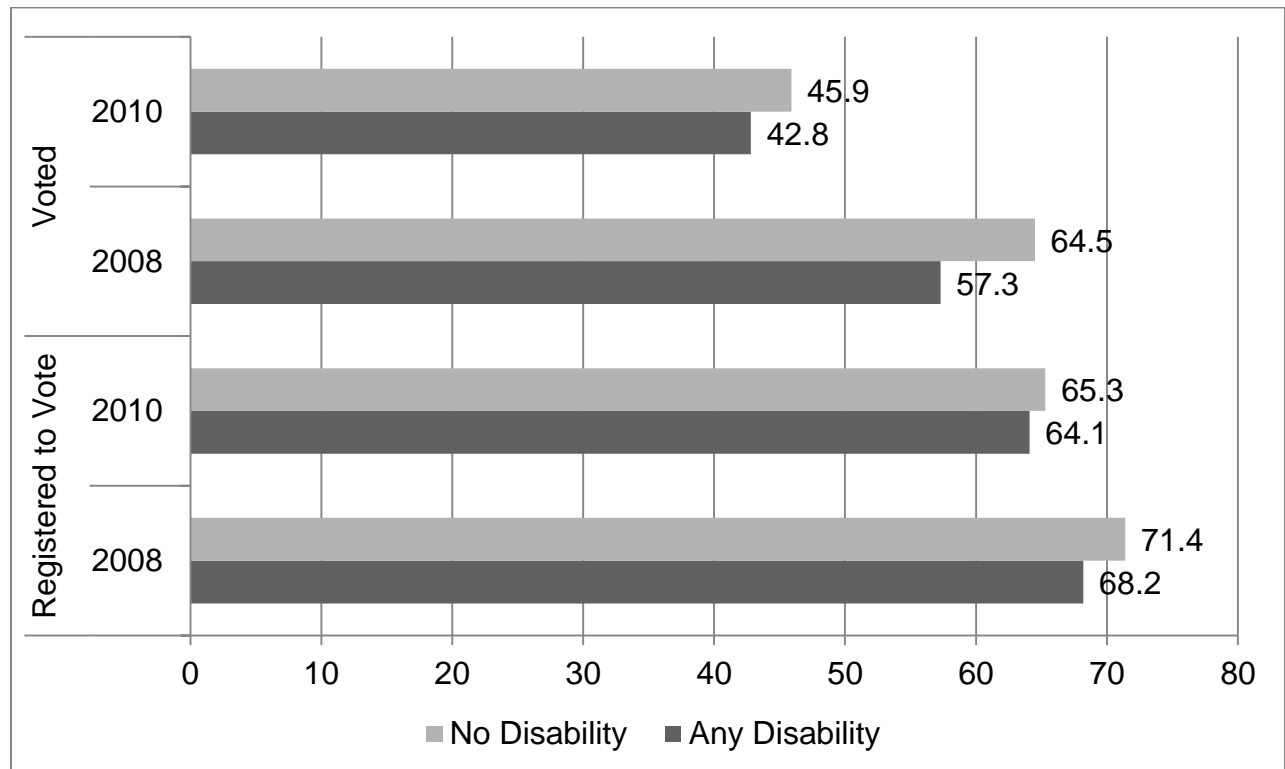


We also can examine the reasons given for why they are not registered to vote and why they do not vote. For why they are not registered, we see that half of all citizens are not registered to vote because they are not interested in elections or politics, or state that they do not think that their vote would make a difference. For why registered voters did not vote, one-quarter of voters did not vote because they were not interested in the election.

Participation Among People With Disabilities

The HAVA specifically sought to enfranchise individuals with disabilities by allowing them to cast an independent ballot. Individuals with disabilities have various barriers to registration and voting, arising from many different issues. In Figure 5, we see that there are differences between registration rates and voting rates for people with disabilities and those not stating a disability. We see that, although the registration gaps between these two groups are relatively small in both 2008 and 2010, the gap in voting is relatively large, especially in 2008.

Figure 5: Registration and Voting Comparing People with Disabilities and Those Stating No Disability, 2008 and 2010



Author Biography

Thad Hall is an associate professor of political science at the University of Utah. His primary research is in the area of public administration and public policy, with a focus on election administration and policy development in legislatures.

Hall has conducted many studies on election administration and reform, including studies on Internet voting, electronic voting, election auditing, public attitudes toward various aspects of the voting process, poll worker attitudes toward the election process, and observational studies of election administration in the United States and abroad.

Hall has authored, coauthored, or edited seven books, five of which are on election administration and policy: *Point, Click, and Vote: The Future of Internet Voting* (2004, Brookings Institution Press); *Election Fraud: Detecting and Deterring Electoral Manipulation* (2008, Brookings Institution Press); *Electronic Elections: The Perils and Promise of Digital Democracy* (2008, Princeton University Press); *Evaluating Elections: A Handbook of Methods and Standards* (2012, Cambridge University Press); and *Confirming Elections: Creating Confidence and Integrity Through Election Auditing* (2012, Palgrave). His research has been funded by numerous organizations, including Carnegie Corporation of New York, the Pew Charitable Trusts, the United States Election Assistance Commission and the United States Department of Defense.

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