

WHAT ELECTION ADMINISTRATION IN 2020 REVEALS ABOUT AREAS FOR IMPROVEMENT

Campaign Legal Center's analysis of what the 2020 U.S. Election Administration and Voting Survey tells us about the state of our elections in the run up to the 2022 midterms

What is the Election Administration and Voting Survey?

The U.S. Election Assistance Commission (EAC) conducts the Election Administration and Voting Survey (EAVS) every two years, after each federal general election. All 50 states, the District of Columbia, and five U.S. territories are asked to provide data about how their elections were administered. Each state's chief election officer collects information from election officials throughout their state related to voter registrations, voter lists, mail ballots, and provisional ballots, and reports that information to the EAC.

The EAVS data is intended to help election officials, policymakers, and other stakeholders identify trends, challenges, and the changing needs of voters. The EAC published its comprehensive report of the data collected from its 2020 survey on August 16, 2021. CLC has identified noteworthy trends and state-specific outliers in advance of the 2022 elections.¹

¹ CLC's assessment of trends and outliers in 2020 election administration relies on data from the Election Administration and Voting Survey, which is self-reported by state and local election administrators. This data is not independently verified, and some outliers could be explained by faulty reporting.

VOTER REGISTRATION

In the run-up to the 2020 general election, there was a huge spike in voter registration—election officials reported a 33.8% increase in the number of registration applications received between the 2018 and 2020 elections compared to the same period leading up to the 2016 general election. But some states had unusually high rates of rejection for applications that are worth exploring further.

Election officials were asked, among other things, to report how many voter registration applications they received, where these applications were received, and how many they rejected and for what reasons. The National Voter Registration Act (NVRA)—which applies to most, but not all, states—requires states to offer voter registration at their motor vehicle departments, at offices that provide public assistance or state-funded programs that primarily engage in providing services to people with disabilities, and at armed services recruitment offices.

- The states with the highest reported rates of rejection for new voter registration applications² received between the 2018 and 2020 elections were Kentucky (rejecting 60% of new registration applications), followed by Utah, Pennsylvania, and American Samoa (which each reported rejecting about 25% of new registration forms). Only four other states had overall rejection rates in the double digits: Alaska (11.9%), Ohio (10.9%), Tennessee (10.4%), and Florida (10%). The national average rate of rejection for new voter registration applications was 7.8%.
- Kentucky's reported 60% rejection rate for new registrations makes it a wild outlier—but it could be the result of the way that Kentucky collected and reported data on voter registrations. Kentucky did not separately report the number of duplicates of existing valid registrations, but instead included them in the number of new registrations, which may have artificially increased its rejection rate. This rate could also have been exacerbated by the state's implementation of Real ID between 2018 and 2020, which caused clerks to receive high numbers of duplicate applications.
- Digging in further to Utah's 25% rejection rate for new registration applications, Utah reported rejecting 31% of all new registrations submitted at its motor vehicle department (the DMV accounted for 24% of all new registrations). Utah also reported rejecting 91.8% of the new registration applications submitted in-person at election offices between 2018 and 2020 (in-person registrations

² The following states did not report enough data to accurately estimate their rejection rates: California, Connecticut, Hawaii, Idaho, Illinois, Kansas, Missouri, New York, North Dakota (no voter registration), Oregon, Puerto Rico, South Carolina, U.S. Virgin Islands, Wisconsin, Wyoming.

accounted for 18.5% of all new registrations in Utah during this period). Finally, Utah reported rejecting 84% of new registrations submitted at public assistance offices, but more importantly, it reported receiving only 36 registration forms at those offices.

- Pennsylvania reported rejecting 25% of new registration applications overall. The state reported rejecting 51% of all new registrations submitted at its motor vehicle department (the DMV accounted for 35% of all new registrations). Pennsylvania also reported rejecting 17% of new registration application applications submitted at public assistance offices, and 11.5% of registrations from its online voter registration system.
- Rates of rejection for new voter registration applications submitted at public assistance offices were high across the board. Of the states that reported data, the average rejection rate for applications received through public assistance offices was 15.7% (for comparison, the overall rejection rate for new voter registration applications was 7.8%). Rejection rates at public assistance agencies were particularly high in Kentucky (93%), Ohio (50%), Alaska (36%), Florida (33%), Tennessee (31.8%), Nevada (29.7%), Louisiana (20.7%), Indiana (17.6%), Pennsylvania (17%), and Virginia (10%). The COVID-19 pandemic provides one possible explanation for these high rates of rejection, as it led to fewer in-person transactions at public assistance offices and more transactions taking place by mail or online. The lack of assistance for applicants filling out voter registration applications received by mail could have led to higher error rates in completing the forms. However, it's difficult to determine the precise impact of these circumstances on rejection rates.
- Aside from voter registration forms received through public assistance offices having higher rejection rates, public assistance offices also received relatively low numbers of voter registration forms in the first place. For example, Florida received only 31,752 forms through its public assistance offices, which does not seem to reflect the number of Floridians who interact with those offices (in 2020, more than 1.7 million households in Florida received SNAP benefits³). Similar low numbers can be seen in Arizona (5,971 forms submitted in a state where 396,269 households received SNAP benefits⁴), Virginia (6,677 forms submitted in a state where 360,337 households received SNAP benefits⁵), and New Jersey (5,650 forms submitted in a state where 356,251 households received SNAP

³ Food and Nutrition Service. *Supplemental Nutritional Assistance Program State Activity Report: Fiscal Year 2020*. March 2022. Available at: <https://fns-prod.azureedge.us/sites/default/files/resource-files/FY20-state-activity-report.pdf>

⁴ *Id.*

⁵ *Id.*

benefits⁶). As mentioned above, these low numbers could potentially be attributed to the COVID-19 pandemic, as applicants for public assistance might be more likely to fill out a voter registration form during an in-person transaction with a public assistance office as opposed to when they receive the form by mail. It is also possible that the low numbers are the result of public assistance offices in some states increasingly directing public assistance applicants to online voter registration portals—applications submitted in this manner wouldn't necessarily be tracked as applications submitted through public assistance offices but might instead simply be reported as online applications. Nevertheless, the reported low numbers of registrations submitted via public assistance offices are concerning; the NVRA obligates public assistance offices to provide the same assistance for voter registration as they do for benefit applications, which usually entails more than merely providing a copy of or link to a form.

PURGES

While keeping registration lists up-to-date is an important part of election administration, list maintenance that is performed overzealously or with inaccurate data has the potential to disenfranchise eligible voters by mistakenly removing them from the rolls with little notice. Between 2018 and 2020, states removed almost 19 million voters from the rolls, or 8.2% of all registered voters. With the exception of the outliers discussed below, most states had purge rates of less than 10%.

The EAC asked election administrators to report the number of voters removed from the rolls in each state between the close of registration for the November 2018 general election and the close of registration for the November 2020 general election, as well as the reasons for those removals. The NVRA establishes that a voter can only be purged for a failure to vote if the voter is sent a notice that they fail to respond to, and then fails to vote in the next two general elections.

- The states with the highest voter purge rates were Indiana (which removed 18% of eligible voters from the rolls between the 2018 and 2020 elections), North Carolina (15%), Massachusetts (14%), Wyoming (13%), Virginia (13%), Maine (12%), New Hampshire (12%), Ohio (11%), and Tennessee (10%). All of these states but Wyoming must comply with the NVRA.
- Almost all of the U.S. territories had high purge rates: the Northern Mariana Islands (21% of eligible voters removed from the rolls between the 2018 and 2020 elections), Puerto Rico (20%), Guam (14%), and American Samoa (10%). None of

⁶ *Id.*

the U.S. territories are required to comply with the NVRA.

- The following NVRA states had generally high purge rates that were frequently reported as due to a voter's failure to respond to notices and vote in the last two general elections: North Carolina (7% of eligible voters were removed from the rolls for this reason, accounting for 47% of all removals in the state), Ohio (5% of eligible voters were removed from the rolls for this reason, accounting for 45% of all removals), Tennessee (4% of eligible voters were removed from the rolls for this reason, accounting for 43% of all removals).
- Rates of removal from the rolls due to a felony conviction were relatively low: with one exception, no state removed more than 0.5% of voters due to a disqualifying felony conviction. The exception and outlier in terms of total numbers was Georgia, which reported removing 0.67% of voters from its rolls due to a disqualifying felony conviction, or 54,730 voters.
- Three New England states reported unusually high numbers of removals due to the voter moving outside the jurisdiction. Maine reported 9.5% of registered voters removed for this reason (comprising 80% of its total removals), Massachusetts reported 9.4% of registered voters removed for moving (68% of its total removals), and New Hampshire reported 10.5% of registered voters removed for moving (92% of its total removals). To compare, Vermont, Rhode Island, Connecticut, and New York report no more than 2% of voters removed for moving. Virginia reported also reported high moving rates, with 8% of voters removed for moving out of jurisdiction, comprising 65% of its removals. All of these states except for New Hampshire must comply with the NVRA.

MAIL BALLOT REJECTIONS

Despite the COVID-19 pandemic, turnout for the 2020 general election reached the highest levels ever documented, in large part due to voters taking advantage of vote-by-mail options. Slightly more than 43% of voters participated in the election with a mailed ballot. While this report delves into the data regarding rejected mail ballots, it's worth noting that nationwide over 69 million mail ballots, or 98.8% of all returned mail ballots, were counted during the 2020 election.

Voting by mail may have surged during the 2020 election, but even outside the context of the pandemic, it is an increasingly popular option for voters across the political spectrum, as it gives voters more time to consider the issues and candidates on their ballots and accommodates voters who have disabilities, lack easy access to transportation, or are away from home on Election Day. The EAVS collected data from election officials on how many mail ballots were returned to them, as well as how many

were rejected and for what reasons.

- The states with the highest mail ballot rejection rates in 2020 were Arkansas (rejecting 6.4% of the mail ballots returned, or 7,561 ballots), New Mexico (rejecting 5% of the mail ballots returned, or 17,008 ballots), and New York (rejecting 3.64% of the mail ballots it received, or 66,746 ballots).⁷
- Arkansas' and New Mexico's rates of mail ballot rejection increased from 2018 to 2020, but both states provided no reason for most of these rejections. Arkansas rejected 7,561 ballots but did not report a reason for rejecting 5,784—a vast majority—of these ballots. New Mexico saw a nearly 5% increase in the rate of mail ballot rejections from 2018 to 2020, rejecting only 0.05% of all returned mail ballots (240 out of 44,0138) in 2018 and 5% (17,008 out of 339,906) in 2020. The state reported that no data was available documenting the reasons for these rejections.
- Overall, the most commonly reported reason for rejecting mail ballots was for non-matching signatures, accounting for 32.8% of all mail ballots rejected in 2020. Rejection rates for this reason increased in 15 states between 2018 and 2020—the most dramatic increases were in Oregon, which went from rejecting 62 ballots for signature mismatch in 2018 to 12,743 ballots in 2020, and in Utah, which reported rejecting 3,215 ballots for signature mismatch in 2018 and 6,837 ballots in 2020.
- Despite fears about postal delays, rejection rates due to late delivery, as a percentage of all mail ballots returned, were relatively low in 2020 and in virtually every state lower than in 2018. This may have had to do with heightened awareness of mail voting deadlines, deadline extensions, and expanded drop box availability due to concentrated GOTV efforts around voting by mail and election officials expanding access to vote by mail because of the pandemic. Nationally, states and territories reported rejecting a total of 66,957 ballots for this reason, accounting for 12% of mail ballot rejections and 0.09% of the mail ballots returned.
- Rejections for mail ballots being returned in unofficial envelopes were uncommon, with the exception of three outliers: New Jersey rejected 11,700 ballots for this reason (0.28% of the mail ballots it received); Oklahoma rejected 612 ballots for this reason (0.22% of the mail ballots it received), and Virginia rejected 2,065 ballots for this reason (0.21% of the mail ballots it received).

⁷ Although numerically small, the greatest outliers for mail ballot rejection rates were actually the territories of Guam and Northern Mariana, having rejected 16.28% (21 ballots) and 8.62% (144) of returned mail ballots respectively.

- Rejections of mail ballots for missing witness signatures were significant in many of the states that required those signatures: in Oklahoma, missing witness signatures accounted for the rejection of 2,248 ballots (0.80%), in South Carolina, 3,150 ballots (0.73%), in Mississippi, 1,492 ballots (0.62%), in Louisiana, 1,012 ballots (0.62%), and in North Carolina, 5,935 ballots (0.60%).

PROVISIONAL BALLOT REJECTIONS

Provisional ballots are a safeguard to ensure that voters whose eligibility to vote is uncertain on Election Day are not excluded from the voting process. Nationwide, 78.3% of the provisional ballots cast were counted either in part or in full, amounting to a little more than 1.3 million counted provisional ballots.

In nearly all states, after being cast, the provisional ballot is kept separate from other ballots until after the election. A determination is then made as to whether the voter was eligible to vote, and therefore whether the ballot should be counted or rejected. The EAVS collected data from election officials on how many of these ballots were cast, as well as how many were rejected and for what reasons.

- Although provisional rejection rates can climb high—for example, 92% in Kentucky—provisional ballots often account for a small portion of the total ballots cast in an election. In Kentucky, provisional votes accounted for only 0.05% of all ballots cast (925 ballots). In every state with a provisional ballot rejection rate greater than 44%, provisional ballots accounted for less than 1% of all ballots cast. But even margins this small can make a difference in close races.
- The most commonly reported reason for states to reject provisional ballots in 2020 was that the voter was not registered. This reason accounted for more than 50% of provisional ballot rejections in 19 states. The data does not make clear how many of these rejections were because the voter was ineligible, registered in another state, or eligible but did not register by the registration deadline.
- Kansas is noteworthy for rejecting a large number of provisional ballots in both proportional and absolute terms (it rejected 25% of the provisional ballots cast, or 12,033 ballots) and those ballots accounted for a relatively large proportion of ballots cast (provisional ballots accounted for 4.9% of all ballots cast). More than half, 55%, of the rejected provisional ballots in Kansas were due to the voter not being registered, 23% were due to the voter being in the wrong jurisdiction, and 4% were due to the voter having already voted.
- Missouri rejected the most provisional ballots for voters being in the wrong jurisdiction: 56% of all provisional ballots cast, or 2,407 ballots, accounting for 90% of all provisional ballot rejections in the state.

- Mississippi rejected the most provisional ballots because the voter was in the wrong precinct: 15.8% of provisional ballots cast, or 2,738 ballots, accounting for 46% of all provisional ballot rejections in the state.
- Pennsylvania rejected the most provisional ballots for non-matching signatures: 4% of all provisional ballots cast, or 4,974 ballots, accounting for 23% of the state's provisional ballot rejections. Pennsylvania also rejected 4,154 provisional ballots for incomplete or illegible envelopes or ballots, more than any other state. This accounted for 3.2% of provisional ballots rejections, or one in five rejections.

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