



U.S. Election Assistance Commission
633 3rd Street NW, Suite 200
Washington, DC 20001
Submitted electronically

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Docket ID: EAC-2021-0002

Dear U.S. Election Assistance Commissioners,

Verified Voting appreciates the opportunity to comment on the 2022 Election Administration Voting Survey (EAVS) and Election Administration Policy Survey drafts. Verified Voting is a nonpartisan nonprofit organization whose mission is to strengthen democracy for all voters by promoting the responsible use of technology in elections. We have used data from the surveys for many years and are grateful for the Election Assistance Commission's willingness to incorporate public comments to enhance the quality, utility, and clarity of the information collected.

Verified Voting recognizes the significant changes in election technology since the passage of the Help America Vote Act (HAVA) of 2002 (52 U.S.C. 20901) and the Overseas Citizens Absentee Voters Act (UOCAVA) (52 U.S.C. 20301). Consequently, we suggest the Election Assistance Commission (EAC) consider the following changes and additions to the 2022 EAVS and Election Administration Policy Survey.

2022 Election Administration and Voting Survey (EAVS)

Use of Electronic and Paper Poll Books: Verified Voting strongly suggests the EAVS include an opportunity for election jurisdictions to record which electronic poll book systems they use. As of January 2022, approximately 82.5% of registered voters live in jurisdictions fielding electronic poll books on Election Day.¹ In 2016, this figure was only 17% and in 2012 just 8%. Because electronic poll books are a crucial part of election systems, we suggest the EAVS include a question regarding the specific make, model, and version number of the electronic poll book system each election jurisdiction uses on Election Day and during Early Voting, including those systems developed in-house by states or counties. Electronic poll books were covered in media

¹ Verified Voting, The Verifier — Poll Books — November 2022, <https://verifiedvoting.org/verifier/#mode/navigate/map/epbEquip/mapType/normal/year/2022>.

stories during the 2020 and 2021 elections,² demonstrating the value of this data for election officials, researchers, and the general public. Verified Voting proposes the EAVS provide a space under Question F3 for respondents to list the make, model, and version number of the electronic poll book system used in their jurisdictions.

Ballot Marking Devices for All In-Person Voters: Verified Voting recommends clarifying the question about ballot marking device (BMD) usage to better allow for the distinction between BMDs fielded primarily as assistive devices and those fielded for use by all in-person voters (also called “universal BMDs”). Beginning in 2014, election jurisdictions began deploying BMDs for use by all in-person voters (as opposed to primarily as assistive devices).³ In November 2020, 19.3% of registered voters lived in jurisdictions in which all in-person Election Day voters used BMDs — up from just 2.1% in 2018.⁴ In 2022, this figure will rise to at least 21.9%.⁵ The current EAVS questionnaire obscures whether all in-person voters in an election jurisdiction use BMDs or whether most voters handmark paper ballots, with BMDs being deployed primarily as assistive devices. This distinction could be clarified by adjusting the text of the first and second selections for subquestion F7.d “Equipment Use” to “In-precinct Election Day regular balloting (used by all voters)” and “Primarily used as a special device accessible to voters with a disability.” If the EAVS questionnaire is updated in this manner, as we suggest, the instructions to questions F5–F9 should be updated accordingly.

Hybrid Ballot Marking Device/Tabulators: Verified Voting recognizes the important distinction between ballot marking devices and hybrid ballot marking device/tabulators, which both print and tabulate ballots and which do not properly fit within any existing category. Hybrid BMD/tabulators contain an internal tabulating functionality and may be capable of marking a voter’s ballot after voter verification. We suggest the EAVS include a separate equipment category for these systems. As of January 2022, 2.4% of registered voters live in jurisdictions fielding this newer election equipment for all in-person Election Day voters.⁶ This figure has increased from 1.8% in

² See e.g. Kartikay Mehrotra and Margaret Newkirk, “Digital Poll Book Failures Slowed Voting in Several States,” *Bloomberg News* (Nov. 4, 2020), <https://www.govtech.com/security/digital-poll-book-failures-slowed-voting-in-several-states.html>; Kim Zetter, “The election security hole everyone ignores,” *Politico* (Aug. 31, 2020), <https://www.politico.com/news/2020/08/31/election-security-hole-406471>.

³ Verified Voting, The Verifier — Election Day Equipment — November 2016, <https://verifiedvoting.org/verifier/#mode/navigate/map/ppEquip/mapType/normal/year/2016>.

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>.

⁵ Verified Voting, Election Day Equipment November 2022, <https://verifiedvoting.org/verifier/#mode/navigate/map/ppEquip/mapType/normal/year/2022>.

⁶ *Id.*

2020 and 0.2% in 2018.⁷ We recommend the EAVS include a separate equipment category in the “Voting Technologies” section for hybrid systems that both print and tabulate ballots, with the instructions updated accordingly.

Voting System Versions: Verified Voting encourages the EAVS request voting system version information from election jurisdictions in addition to make and model. 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.⁸ In the past, 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. Verified Voting proposes the 2022 EAVS include a place for election jurisdictions to enter version information on both the printed and web-based data entry form of the EAVS.

2022 Election Administration Policy Survey

Domestic Civilian (non-UOCAVA) Voters: In 2020, some states allowed domestic civilian (non-UOCAVA) voters to return their voted ballots electronically. Verified Voting recognizes the benefits of allowing voters to receive blank ballots electronically; however, we and other security experts have noted the dangers inherent in the electronic return of voted ballots.⁹ We suggest the Policy Survey either include two sub-questions to Q24 to ascertain which non-UOCAVA voters are allowed to return voted ballots electronically and by which methods they are allowed to do so or, alternatively, add two separate questions following Q24. For example, the Policy Survey could duplicate Q24 (“For the November 2022 election, under which circumstances will domestic civilian (non-UOCAVA) voters be able to receive their ballots through an electronic format, such as email, fax, online via your state’s online voter registration portal, or through a mobile phone app? (Select all that apply)”), replacing “receive” with “return,” and Q28 (“By which of the following methods does your state allow UOCAVA voters to return their voted UOCAVA ballots?”), replacing

⁷ *Supra*, note 4.

⁸ National Institute of Standards and Technology (NIST), “Appendix A: Definitions of Words with Special Meanings in the VVSG,” <https://www.nist.gov/itl/voting/appendix-definitions-words-special-meanings-vvsg>.

⁹ See e.g. Verified Voting, Resources: Internet Voting, <https://verifiedvoting.org/resources/#internet-voting>; NIST, RISK MANAGEMENT FOR ELECTRONIC BALLOT DELIVERY, MARKING, AND RETURN (May 2020), available at <https://www.politico.com/f/?id=00000172-9406-dd0c-ab73-fe6e10070001>; American Association for the Advancement of Science, Online Voting Threatens the Security of Elections (April 2021), available at https://www.aaas.org/sites/default/files/2021-04/EPI-Center_FactSheet_Online-Voting.pdf?adobe_mc=MCMID%3D84712083012667683580030770450220718795%7CMCORGID%3D242B6472541199F70A4C98A6%2540AdobeOrg%7CTS%3D1641402909.

“UOCAVA” with “non-UOCAVA.” There is value in investigating which and how many jurisdictions allow some form of electronic transmission for voted ballots, and we recommend the Policy Survey include these questions.

Verified Voting appreciates the EAC’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. Thank you for considering our comments.

Respectfully submitted,
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Director