

# REPORT THE VOTE

## ELECTION 2020

A project of the Freedom Forum and Fors Marsh Group,  
providing resources for journalists reporting on registration and voting  
in the 2020 elections

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The “Report the Vote: Election 2020” project and guide is supported in part by a grant to the Freedom Forum Institute by the Scripps Howard Foundation.

# THE COVID-19 PANDEMIC AND THE 2020 ELECTIONS

by Gene Policinski

The upcoming 2020 local, state and federal elections — including the presidential contest — will be unique in U.S. history if only because of the ongoing impact of the COVID-19 pandemic on *how* we vote.

In state after state this spring, primary elections were delayed, while in those that went ahead, the process of voting often changed dramatically. In many places, voters saw reduced numbers of locations with resulting long lines. Some localities had fewer poll workers on the job, and many state and local officials were inundated with record numbers of absentee or mail-in ballots.

A number of states have passed or are considering election-related proposals, some limiting new ballot methods to those most susceptible to COVID-19 (such as those over 60 years old) or extending mail-in balloting to all voters, according to the National Conference of State Legislatures (NCSL), which offers state-by-state round ups of legislative moves, decisions by elected officials and election supervisors titled:

- [COVID-19 and Elections](#);
- [2020 Executive Actions Relating to Public Health and Elections](#);
- [State Election Official Actions](#).

In Colorado, Hawaii, Oregon, Utah and Washington (so-called “universal vote-by-mail” states, meaning their entire elections are conducted through mail-in ballots, according to the American Bar Association, or ABA), a ballot is automatically mailed to every eligible voter, with no requirement to ask for one. Polling places may also be available for voters who would like to vote in person.

In 40 states, a qualified voter may cast a ballot in person during a designated period prior to Election Day. NCSL’s guide is at [State Laws Governing Early Voting](#).

The ABA notes that in these states, the “absentee ballot process can generally be divided into those that require voters to provide an excuse to vote absentee and those that do not. Already, we have seen two states — New Hampshire and New York — attempt to loosen their ‘excuse’ requirements by expressly providing for absentee ballots for anyone eligible due to COVID-19.”

In a June 29 article in the ABA’s *Human Rights Magazine*, Jason A. Abel writes that “Moving all states to a ‘no-excuse’ absentee balloting process for the November election would smooth the voting process. This would not be inexpensive or easy, but it is a necessity. In the Coronavirus Aid, Relief and Economic Security (CARES) Act, which became law on March 27, 2020, Congress appropriated \$400 million to the states that could be used to implement a vote-by-mail process.”

Abel notes that the appropriated amount falls well short of the estimated \$2 billion or more needed to “fully fund no-excuse absentee voting in all states.”

Abel also notes the significant infrastructure upgrades and processes needed to ensure each legal voter can participate and ballot security is in place.

To do so, he suggests pre-paid postage envelopes for applications and voting be provided, and a tracking system put in place to both guarantee vote integrity and that all cast ballots are counted.

“Additionally, requirements that may currently be included in states’ absentee ballot processing should be reformed to favor the voters during these difficult times,” he adds. “For instance, states that require notary or witness requirements simply do not work in an era of social distancing and self-quarantining. Certain identification and signature match requirements may lead to disenfranchisement if there is no viable way to cure any alleged discrepancies.”

Finally, he writes, “One of the biggest steps to ensure voter access is a requirement that any ballot postmarked by Election Day will be counted, regardless of the day it is received by the local jurisdiction. States that require *receipt* of ballots by Election Day have the tendency to severely disenfranchise voters, as many factors outside voters’ control can delay and prevent the ballot from being returned by that day. For instance, a backlog in processing absentee ballot delivery or stress on United States Postal Service (USPS) resources could prevent a ballot from being counted when the voter did everything correctly. In the Supreme Court’s opinion in Republican National Committee (RNC)

# THE COVID-19 PANDEMIC AND THE 2020 ELECTIONS

v. Democratic National Committee (DNC), the court appeared to endorse the position that any ballot *postmarked* by Election Day must be counted.”

News outlets tracking November election voting in the COVID-19-era have both the task of reporting on how voter registration and the process of voting in their area is being conducted and of protecting their reporters and correspondents in the field.

The nonpartisan Campus Democracy Challenge, a national coalition effort to increase civic engagement on college campuses, grew out of work in 2012 by the National Task Force on Civic Learning and Democratic Engagement. It offers resources that college journalists can use to both report on the voting processes in their areas, as well as information around which a campaign to encourage voting by students could be built. The group’s “Students Learn Students Vote” coalition has [produced a resource guide](#) to organizations and programs involved in voter education specifically targeted at the COVID-19 ballot experience.

There is evidence that most in the U.S. expect COVID-19 concerns to significantly affect the November elections and that a majority would be comfortable with election procedure changes to take the pandemic into account.

[In a report in late April by the Pew Research Center](#), a nonpartisan survey organization, found that “two-thirds of Americans (67 percent) — including 80 percent of Democrats and Democratic-leaning independents and half of Republicans and Republican leaners — say it is very or somewhat likely that the coronavirus outbreak will significantly disrupt people’s ability to vote in the presidential election.” The survey found “70 percent favor allowing any voter to vote by mail if they want to, including 44 percent who strongly support this policy. About half of the public (52 percent) favors conducting *all* elections by mail.” Pew said the number of those supporting that proposal has increased 18 percentage points since 2018.

The nonpartisan Fair Elections Center [offers recommendations to local and state governments](#) on new procedures for registration and voting in this year of COVID-19. Journalists reporting on registration and voting preparations in their communities could use those recommendations to quiz local election officials on how they are adapting to the pandemic’s circumstances. Among the group’s “key reminders:

- Policy changes to deadlines for ballot receipt, along with increased volume of mail ballots, may require changes to state deadlines and processes for canvassing of ballots and certification of results. The election calendar should be considered holistically when making these changes;
- For voting changes to be equitable, election officials must include language and disability access in their contingency and emergency planning. It is important that jurisdictions not make adjustments for only some voters due to COVID-19; otherwise, traditionally marginalized voters will become even more alienated from the process

Journalist safety in reporting on the election also is key to thorough news coverage. The Committee to Protect Journalists produced a [“Journalist Safety Kit,”](#) updated in June, specifically for political writers and others involved in election coverage.

The CPJ toolkit also includes a checklist for editors to use when assigning staffers to election coverage, which it notes involves a range of possible circumstances from election-day polling places to potentially violent street demonstrations in the weeks leading up to the election.

The Society of Professional Journalists offers an updated [“Journalists’ Toolbox,”](#) which offers dozens of links to information and organizations related to the 2020 election. It also offers its [“Pandemic Field Reporting Safety Guide.”](#)

The Reporters Committee for Freedom of the Press has posted its [“Election Legal Guide”](#) to 2020 balloting and [also offers a variety of guides and advice on reporting issues](#) that may confront journalists gathering news in the pandemic era.

The Freedom Forum’s Power Shift Project conducted a May 27, 2020, town hall-style webinar hosted by the Power Shift Project, presented in cooperation with the [Radio Television Digital News Association](#), highlighting the impact of local journalism and sharing great ideas for coverage to serve communities during the coronavirus pandemic. The webinar featured journalists from Entravision, KBAK, KCBS, KING, KTVI, KWTX, KYW, NET, Nexstar Media Group, WJHG, WTIP, WUNC and WWL. You can watch the program at: [https://youtu.be/oa\\_qBxKwELk](https://youtu.be/oa_qBxKwELk).

# I. AMERICA'S ELECTION SYSTEMS

The United States, unlike many nations, does not have a single national system for conducting elections; rather, that responsibility rests in the 50 states and thousands of localities across the country.

The U.S. Constitution provides in Article I, Section 4 (the “Elections Clause”) that the “times, places and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof.”

While the federal government does make and enforce some rules designed to protect voters, the Elections Clause has long been interpreted to mean that state and local policymakers are responsible for establishing the rules regarding elections in their communities.

In this system, states are key players in the elections administration process. State legislatures are the primary sources of election law and policy, and a chief state election official (usually a secretary of state but sometimes a lieutenant governor or other state official) is given authority to implement and enforce state election laws. State election officials are usually aided in this effort by a state election office or board, led by a non-partisan state election director who manages the day-to-day conduct of elections within the state.

It is at the local level, however, where most election administration authority resides — and where the highly-decentralized American election system introduces the most variation. In most states, elections are administered at the county level; however, in New England and Wisconsin, elections are run at the township level. (Wisconsin alone has more than 1,800 local election jurisdictions.)

At the local level, a wide variety of officials serve as election administrators. In many places, it is a county or town clerk, but the role can also be held by auditors, recorders or even elected supervisors of elections.

In Alabama, the process involves the probate judge and the sheriff. It's worth noting that for the vast majority of local officials overseeing more than 8,000 jurisdictions, elections are not their only duties and often occupy a small portion of their overall time. This results in variation across communities in the nature of local officials' engagement with voters. [David Kimball and Brady Baybeck suggest that](#), depending on populations, local officials function with varying degrees of independence — and ability to introduce changes — like high school principals (1,000 or fewer voters), fast-food franchise owners (up to 50,000), or CEOs (more than 50,000). They also note that in the largest communities there is the least incentive to modernize given the cost and difficulty stemming from large numbers of voters.

In short, the United States election system is marked by a key factor — state and local officials largely operate according to their local laws, rather than a unified national procedure. Learning about those laws in each community is key to understanding election administration.

## RESOURCES

- National Constitution Center, “Elections Clause,” <https://constitutioncenter.org/interactive-constitution/interpretation/article-i/clauses/750>
- National Conference of State Legislatures, “Election Administration at State and Local Levels,” <http://www.ncsl.org/research/elections-and-campaigns/election-administration-at-state-and-local-levels.aspx>
- “Members,” National Association of Secretaries of State, <https://www.nass.org/membership>
- “Our Members,” National Association of State Election Directors, <https://www.nased.org/members>
- Election Official Directory, U.S. Vote Foundation, <https://www.usvotefoundation.org/vote/eoddomestic.htm>
- Kimball and Baybeck, “Are All Jurisdictions Equal? Size Disparity in Election Administration,” *Election Law Journal* (2013), <https://pdfs.semanticscholar.org/e12f/d6a7696c4b33c5d179d2eb6e20370f384d.pdf>

## HOW TO USE THIS CHAPTER

- Interview local registration and voting officials on their experiences in overseeing registration and balloting — combine that content with information for your audience on how to register, important deadlines in the voting process for 2020, and link to local and state information about registration and voting.

## II. THE RIGHT TO VOTE

Much of the discussion in both policy debates and media coverage of the nation's elections involves the "right to vote." But most Americans don't know there isn't an explicit right to vote in the U.S. Constitution — unlike, for example, the five freedoms (press, religion, speech, assembly, petition) guaranteed by the First Amendment.

That's not to say voting isn't constitutionally protected; for more than a century, federal courts have been asked to rule in cases on voting based on the idea, first expressed by the U.S. Supreme Court in *Yick Wo v. Hopkins* (1886), that voting is "a fundamental political right, because [it is] preservative of all rights." The idea, as Ohio State law professor Dan Tokaji [notes](#), is that:

None of our interests are [sic] safe unless we're able to vote. Whatever we want from our government — whether it's jobs, an education for our children, a safe place to live, health care, or protection for our civil liberties — ultimately depends on being able to vote and elect representatives of our choice who will stand up for these interests.

One major way the federal courts protect voting rights is through application of several key amendments [enacted over the years](#) to ensure that all citizens have the same opportunity to participate in the voting process:

- The 14<sup>th</sup> Amendment (also known as the Equal Protection Amendment), ratified in 1868, which among other things prohibits a state from "deny[ing] to any person within its jurisdiction the equal protection of the laws;"
- The 15<sup>th</sup> Amendment, ratified in 1870, which prohibited discrimination in voting based on race or previous servitude;
- The 19<sup>th</sup> Amendment, ratified in 1920, which granted women the vote by prohibiting states from denying or abridging the right to vote on account of sex;
- The 24<sup>th</sup> Amendment, ratified in 1964, which eliminated poll taxes (which operated to discriminate against minority voters in several states) in federal elections; and
- The 26<sup>th</sup> Amendment, ratified in 1971, which lowered the voting age in federal elections by prohibiting denial of the right to vote to anyone 18 or older.

In recent years, there has been a growing movement to push for another constitutional amendment explicitly granting the federal right to vote; materials on that effort, and some discussion of whether it's necessary, are included with the resources below.

### STATE CONSTITUTIONS

The U.S. Constitution isn't the only place voting rights are protected, however. Every state has constitutional language that goes beyond implicit federal guarantees to confer explicit protections for qualified electors within the state. Advocates argue that such provisions are increasingly important when seeking to protect voting without relying solely on the so-called "negative" protections in the federal document. As Kentucky law professor Joshua A. Douglas [writes](#), "a renewed, independent focus on state constitutions and their explicit grant of the right to vote would restore the importance of the most foundational right in our democracy." [See the resources below for Prof. Douglas's detailed list of state constitutional voting right provisions.]

### RESOURCES

- Dan Tokaji, "The Right to Vote in an Age of Discontent," American Bar Association "We The People" 43:2 [https://www.americanbar.org/groups/crsj/publications/human\\_rights\\_magazine\\_home/we-the-people/right-to-vote-in-age-of-discontent/](https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/we-the-people/right-to-vote-in-age-of-discontent/)
- Video - Nicki Beaman Griffin, "The Fight for the Right to Vote in the United States," TED-Ed, <https://ed.ted.com/lessons/the-fight-for-the-right-to-vote-in-the-united-states-nicki-beaman-griffin>
- FairVote, "Right to Vote Amendment" (2014), [https://www.fairvote.org/right\\_to\\_vote\\_amendment](https://www.fairvote.org/right_to_vote_amendment)
- Heather Gerken, "Is it Possible to Be In Favor of a Right-to-Vote Amendment but Against Amending the Constitution? Yes," Election Law Blog (2015), <https://electionlawblog.org/?p=70486>
- Joshua A. Douglas, "State Constitutions: The Next Frontier in Voting Rights Protection," American Constitution Society (2015), <https://www.acslaw.org/expertforum/state-constitutions-the-next-frontier-in-voting-rights-protection/>
- Link to State constitutions (attached)

## HOW TO USE THIS CHAPTER

- Ask state officials about the history of voting in your state and ask local officials about the recent history of voting in your area (problems, new equipment, how they are dealing with any changes in state law).
- Ask local voting officials about the percentage of population that votes and any estimate (or hard number if available) on the numbers of students who vote locally.
- Any unique challenges for local voting officials — new voting methods or machines?
- Is there any campaign locally to encourage greater voter registration or voter participation in balloting?
- Check for local groups— such as local chapters of the League of Women Voters or Black Lives Matter — who will be working to increase the number of people who vote. Also, for your state, see <https://movement.vote/groups/>.

### III. VOTING OPTIONS

For most of American history, voting has taken place in person on Election Day in neighborhood polling places. The only exception was absentee voting, which began as a way to ensure the participation of Union troops in the field in the 1864 election and grew over time to include individuals with a reason for not physically coming to the polls on Election Day.

Beginning in the 1980s, states like California began to allow voters to vote by mail without requiring an excuse — and over time, some states including Arizona have given voters the option to become permanent absentee voters.

Other states, beginning with Oregon but now including Washington State and Colorado, conduct their elections entirely by mail, with voters mailed a ballot and given the option to return it by mail, drop it in a drop box or (in Colorado) bring it to a polling location on or before Election Day.

Other states have expanded the time when voters can cast ballots by offering early voting. In these states voters can go to a polling location before Election Day and cast a ballot in person — although in some of these states the ballot is considered an “in-person absentee” for which the voter submits an application. Such locations are especially popular on college campuses when offered.

The latest development in this area is the rise of “voting centers.” These locations are not limited to specific precincts but rather operate as jurisdiction-wide polling centers on and before Election Day. Harris County, Texas (Houston) has recently moved to voting centers and two Florida counties still recovering from Hurricane Michael have been granted permission to launch “mega-voting sites” that will serve all of their voters in 2020.

The rise in these alternatives to the Election Day polling place has had an impact on the way Americans vote; about one-third of Americans cast early votes in 2016 and 36 million did so in 2018. These trends could see traditional Election Day precincts become the exception rather than the rule.

#### RESOURCES

- Smithsonian Institution, “Absentee Voting in the Civil War,” <https://postalmuseum.si.edu/collections/object-spotlight/absentee-voting-in-the-civil-war-ohio-cover>
- *Time*, “This is How Early Voting Became a Thing,” <https://time.com/4539862/early-voting-history-first-states/>
- National Conference of State Legislatures, “Early and Absentee Voting,” <http://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx>
- Common Cause, “The Colorado Voting Experience: A Model That Encourages Full Participation,” <https://www.commoncause.org/resource/the-colorado-voting-experience-a-model-that-encourages-full-participation/>
- Harris County, “Countywide Voting Centers,” <https://www.harrisvotes.com/VotingCenters?lang=en-US>
- University of Minnesota Election Academy, “Fla. Governor Approves 2020 ‘Mega-Voting’ Sites For Hurricane-Ravaged Bay, Gulf Counties,” <https://editions.lib.umn.edu/electionacademy/2019/12/05/fl-governor-approves-2020-mega-voting-sites-for-hurricane-ravaged-bay-gulf-counties/>

#### HOW TO USE THIS CHAPTER

- Query local election officials on how voting in the community has changed over the years – in technology, but also locations (in early years, taverns were often polling places – offering convenience on the plus side, but opportunities for “buying” votes with free drinks and food, on the negative side).
- What’s the most unique place people in your area can vote? Schools, churches and public buildings are common. Any out of the ordinary places?
- Data project: Find out how has absentee and/or early voting increased or decreased in the last 20 years? Could be graphic along with/replacement for a story.

# IV. VOTING TECHNOLOGY

Ever since the disputed 2000 Presidential election, the issue of voting technology has been front and center in discussions about the conduct of elections in the United States.

In the last 20 years, the country has seen significant turnover in the types of voting technology used in the states. Many communities used federal funding from the Help America Vote Act of 2002 to replace lever and punch-card machines and purchase two general types of technology:

- Direct recording electronic (DRE) machines, also known as “touchscreens”, which allow voters to cast their ballots and have them recorded directly into the unit’s memory; and
- Optical scan machines, where a voter marks a paper ballot (which often looks like a standardized test) that is read and tabulated, either
  - At the polling place (precinct-count optical scan); or
  - At some central location (central-count optical scan).

DRE machines have been criticized by security advocates because they do not create an independent record of the voter’s choices and are thus vulnerable to tampering. As a result, many jurisdictions have been transitioning away from DREs toward optical scan machines. In addition, jurisdictions have begun to purchase machines, known as “hybrids” or “ballot marking devices” that combine the touchscreen interface with the paper ballot.

## AUDITING

One benefit of this increasing trend toward paper ballots is the ability of state to conduct post-election audits. Increasingly, states and some localities are requiring (or choosing) an audit after Election Day to ensure ballots were properly counted as cast. These audits usually take one of two forms:

- A fixed-percentage audit, where a standard number of precincts or machines is randomly selected to compare the ballot cast with the ballots counted; and
- Risk-limiting audits, which selects a number of ballots to be audited based on the margin of a given race (i.e., more ballots audited as the margin narrows). The goal, as the name suggests, is to limit the risk that balloting problems affected the outcome.

These audits are usually open to the public. Some jurisdictions also conduct procedural audits, which involves reconciling all of the records and forms associated with the election to ensure that nothing is missed. These audit are not always public but the results of the audit is usually available in the final report for the election in the jurisdiction.

## RESOURCES

- Doug Jones, “A Brief Illustrated History of Voting”, <http://homepage.divms.uiowa.edu/~jones/voting/pictures/>
- Verified Voting Foundation, “Verifier – Polling Place Equipment – November 2020”, <https://www.verified-voting.org/verifier/>
- Verified Voting Foundation, “Ballot Marking Devices”, <https://www.verifiedvoting.org/ballot-marking-devices/>
- National Conference of State Legislatures, “Post-Election Audits”, <http://www.ncsl.org/research/elections-and-campaigns/post-election-audits635926066.aspx>
- Democracy Fund, “Knowing It’s Right: Limiting the Risk of Certifying Elections”, <https://www.democracy-fund.org/blog/entry/knowning-its-right-limiting-the-risk-of-certifying-elections> [full report [here](#)]
- U.S. Election Assistance Commission, “Six Tips for Conducting Election Audits”, <https://www.eac.gov/documents/2017/08/03/six-tips-for-conducting-election-audits-from-eac-audit-election-administration/>

## HOW TO USE THIS CHAPTER

- Interview local or state officials on what kind of voting machines will be used locally in 2020. If the same as in 2016, what was learned from voting in the last presidential election? If new, why was there a change – and what problems in 2016, if any, is the change designed to remedy?
- Produce a photo series or video or audio report a “walk-through” on how voting with the old or new equipment will work, from a voter’s view.
- Ask to be an observer in the vote-totaling process, for a story.

# V. CYBERSECURITY

One of the biggest issues to emerge from the 2016 elections was awareness of, and concerns about, the cybersecurity of the nation's election system. After campaign email hacks of high-profile business and political targets — and the public release of many of these — there were post-election reports of outside attempts to access sensitive information on state election websites.

At least one of those attempts, in Illinois, was successful.

In response to these reports — and growing concern about continued attacks on the nation's voting system — the U.S. Secretary of Homeland Security designated the election system part of the nation's "critical infrastructure." This designation initially was resisted by states as federal overreach, but over time federal, state and local governments have established an ongoing partnership of coordinating bodies aimed at protecting the nation's election sector. They include:

- A government coordinating council of federal, state, local and tribal governments;
- A sector coordinating council comprised of private sector and organizational representatives;
- The Elections Infrastructure Information Sharing and Analysis Center (EI-ISAC), which provides cybersecurity updates and information to election officials nationwide.

These groups, along with the Department of Homeland Security's Cybersecurity and Infrastructure Security Agency (CISA), work together to identify potential threats to the nation's voting systems and share information on best approaches to protecting the nation's elections against these threats.

State and local election officials have repeatedly noted the high cost of implementing safeguards identified as part of the push for election cybersecurity.

According to a December report in TheHill.com, House and Senate budget negotiators included \$425 million for states to improve their election security. Citing two sources, the report said that appropriations deal will also include a requirement for states to match 20 percent of the federal funds, meaning the eventual amount given to election officials to improve election security would reach \$510 million.

The federal funds would be sent to states through the Election Assistance Commission (EAC)

States have spent previously allocated funds on everything from new voting equipment to staffing aimed at boosting cybersecurity.

Recent attention has shifted from a sole focus on election cybersecurity to the role misinformation can play in disrupting voting. The National Association of Election Officials is partnering with federal officials and others to promote **#TrustedInfo2020**, an effort to alert Americans of the need to verify that the election information they receive is from an official source. Election offices across the nation are using the hashtag and other methods to ensure that voters are using reliable information when seeking answers to questions about voting.

## RESOURCES

- U.S. Department of Homeland Security, "Election Security," <https://www.dhs.gov/topic/election-security>
- U.S. Election Assistance Commission, "U.S. Election Systems as Critical Infrastructure," <https://www.eac.gov/eac-is-starting-point-for-those-seeking-a-critical-infrastructure-primer>
- University of Minnesota Election Academy, "Omnibus Budget to Include \$380M for Election Security," <https://editions.lib.umn.edu/electionacademy/2018/03/22/omnibus-budget-to-include-380m-for-election-security/>
- U.S. Election Assistance Commission, "Report on Impact of 2018 Help America Vote Act (HAVA) Funds," <https://www.eac.gov/news/2019/04/04/2019-hava-arkansas-colorado-delaware-indiana-massachusetts-new-mexico-rhode-island-washington-vermont-iowa-form---federal-financial-report-media/>
- National Association of Secretaries of State, "#TrustedInfo2020," <https://www.nass.org/initiatives/trusted-info-2020>
- VIDEO – EAC cybersecurity video - <https://www.eac.gov/videos/election-security/>

## HOW TO USE THIS CHAPTER

- Ask local election officials if they have any reason to believe local voting is being targeted (or has been targeted) by hackers.
- Ask what — if any — new safeguards are in place, at what new cost, to ensure the integrity of the local voting process.
- Are local officials using all available state and federal funds intended to help them boost the security of the voting process and defend against cyber attacks?

# VI. VOTER REGISTRATION

Few aspects of American elections have seen as much transformation in recent years as voter registration.

Originally, registration was exclusively an in-person, handwritten process. But passage of the National Voter Registration Act of 1993, also known as “motor voter,” created a national mail registration form and directed states to make voter registration available at public agencies like state motor vehicle offices and public assistance agencies. The Help America Vote Act of 2002 required states to establish statewide voter databases to compile and manage this information.

In the last decade or so, voter registration has moved increasingly online, as states offer voters the opportunity to join the rolls or update their records using public-facing portals. Voters can verify their citizenship (usually using driver license information) and then either complete the process online or print out a form for submission to the appropriate election office. About two-thirds of the states now offer this in some form.

As registration data is increasingly computerized, there have been opportunities for greater sharing between agencies as part of the election process. Indeed, some states now offer a process called automatic voter registration (AVR), where individuals who interact with motor vehicle or some other agency can automatically be added to the voter rolls unless they opt out. AVR is believed to lower barriers to voting and is intended to identify individuals eligible to vote but who are unregistered.

This information sharing happens between states as well. Twenty-nine states and the District of Columbia have joined the Electronic Registration Data Exchange (ERIC), which pools registration data of member states and matches it against other files to identify individuals who have died or moved between states or are eligible but unregistered. ERIC members then use this data for list maintenance as well as outreach to potential new registrants.

Voter list maintenance is a key task in every state and locality. Election offices should be constantly monitoring available data, including voting records, to flag individuals who may no longer be at their listed address. Such voters are designated as “inactive” and can be subject to removal if efforts to reach them to confirm or update their information is unsuccessful. [IMPORTANT NOTE: Federal law prohibits removing any voter for any reason within 90 days of a federal election.]

This process was a source of recent controversy in some states, including Ohio, where a state policy of marking voters for removal after failure to vote for six years was upheld by the U.S. Supreme Court in 2018’s *Husted v. A. Philip Randolph Institute*. A similar effort is currently under way in Georgia.

## RESOURCES

- U.S. Department of Justice, “About National Voter Registration Act,” <https://www.justice.gov/crt/about-national-voter-registration-act>
- National Conference of State Legislatures, “Online Voter Registration,” <http://www.ncsl.org/research/elections-and-campaigns/electronic-or-online-voter-registration.aspx>
- Brennan Center, “Automatic Voter Registration,” <https://www.brennancenter.org/our-work/research-reports/automatic-voter-registration-summary>
- Electronic Registration Information Center, <https://ericstates.org/> (plus video at <https://youtu.be/O8lSoeO1hjw>)
- Oyez, “*Husted v. A. Philip Randolph Institute*,” <https://www.oyez.org/cases/2017/16-980>
- University of Minnesota Election Academy, “SCOTUS Rules For Ohio In *Husted v. Philip Randolph Institute*,” <https://editions.lib.umn.edu/electionacademy/2018/06/12/scotus-rules-for-ohio-in-husted-v-philip-randolph-institute/>
- Associated Press, “Georgia begins process of purging 300,000 voters from rolls,” <https://apnews.com/b1dd5f1eb78c4d63b8f62b41c96a3dca>

## HOW TO USE THIS CHAPTER

- Ask if your state provides online voter registration (OVR) and report the web address.
- Ask if your local, county or state’s voting authority has purged large numbers of voters since the last election.
- Interview local, state and national groups working in your community to increase voter registration; and those who are concerned about voter fraud.

# VII. FEDERAL ELECTION LAWS

The Constitution isn't the only source of federal voting rights. Over the years, Congress has enacted legislation intended to protect voting in different ways. These initiatives include:

- The Voting Rights Act (VRA), first enacted in 1965 and amended several times, protects the right to vote in minority communities by:
  - Prohibiting voting changes enacted with an explicit intent to discriminate OR changes that have a discriminatory impact (see “Shelby County and Recent Changes to the VRA” for recent developments: <https://www.brennancenter.org/our-work/policy-solutions/effects-shelby-county-v-holder>);
  - Requiring states and localities to provide election materials in alternate languages for voters with limited proficiency in English;
  - Authorizing appointment of federal observers to monitor elections to assess compliance with voting rights laws.
- The Voting Assistance for the Elderly and Handicapped (VAEHA), enacted in 1984 to encourage states to provide voting accessibility to people with disabilities.
- The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), enacted in 1986, which aims to ensure the voting rights of military and overseas citizens. UOCAVA was amended in 2009 by the Military and Overseas Voter Empowerment (MOVE) Act, which required states and localities to send UOCAVA ballots no less than 45 days before a federal election in order to ensure that voters were able to cast a timely ballot.
- The National Voter Registration Act, also known as “motor voter,” enacted in 1993, which created mail-in registration and required states to make voter registration available at public agencies like DMVs and public assistance agencies.
- The Help America Vote Act (HAVA), enacted in 2002, which made funds available to states and localities for voting improvements and imposed standards for voting technology, including a requirement that voting be accessible to voters with disabilities.

All of these laws are to be enforced by the U.S. Department of Justice. Also, the Department of Defense’s Federal Voting Assistance Program (FVAP) is responsible for outreach to military and overseas voters worldwide and the U.S. Election Assistance Commission (EAC) is responsible for overseeing state and local implementation of the Help America Vote Act.

## RESOURCES

- U.S. Department of Justice, “Statutes Enforced by the Voting Section,” <https://www.justice.gov/crt/statutes-enforced-voting-section>
- U.S. Department of Justice, “Language Minority Citizens,” <https://www.justice.gov/crt/language-minority-citizens>
- U.S. Election Assistance Commission, “Language Accessibility,” <https://www.eac.gov/election-officials/language-access>
- U.S. Election Assistance Commission, “Voting Accessibility,” <https://www.eac.gov/voters/voting-accessibility/>
- Federal Voting Assistance Program, <https://FVAP.gov>
- U.S. Election Assistance Commission, <https://www.eac.gov>

## HOW TO USE THIS CHAPTER

- Interview local officials with direct responsibility for dealing with voters in the “language minority citizen” category? What special forms, tools or assistance at the polling places is available? At all polling places, or a few (or one)?
- How big a factor in your local elections is the military or overseas vote?
- Where possible, interview a military or overseas citizen who intends to vote – asking: Why? Have they used these special voter provisions before?

# VIII. STUDENT VOTING

Because American elections are locally controlled, one key aspect of eligibility is geography — namely, whether or not the voter is a resident of the community where he or she seeks to vote.

For most people, who have been at the same address for years, this isn't an issue. For those who move around or who, like students, could be considered to have multiple addresses, it can be a challenge.

In 1972, in *Dunn v. Blumstein* the U.S. Supreme Court struck down most so-called “durational residency” requirements for voting. As a result, states are prohibited from requiring a new resident to wait more than 30 days before registering to vote.

For purposes of voting, residence is defined by a concept called “domicile,” which includes two key components: an address within the jurisdiction and the intent to remain (or return) there. The important thing to know about domicile is that **the voter** gets to determine where it is and that decision is accepted unless challenged.

Thus, a student attending college out of state could either choose to keep his/her home address (under the notion he/she intends to return there once school is finished) or use the school address (because it's considered “home” and the intent is to remain there for the time being).

Sometimes, state or local officials argue that a student voter is not properly domiciled and thus is ineligible to vote. The state of New Hampshire, in particular, has been particularly active in seeking to formally link voting residence established through domicile to legal residence by requiring out-of-state student voters to register vehicles and even pay in-state taxes. These efforts have been repeatedly challenged in court. There have also been disagreements over students' use of dorm addresses on voter registration applications, though these have generally been resolved in the students' favor.

Recently, there have also been disputes in university communities about whether or not student IDs qualify under voter ID laws — with state and local election officials generally working toward ensuring that such identification does permit a student to vote.

## RESOURCES

- Oyez, “Dunn v. Blumstein,” <https://www.oyez.org/cases/1971/70-13>
- Infoplease, “Residency Requirements for Voting,” <https://www.infoplease.com/us/government/elections/residency-requirements-for-voting>
- National Conference of State Legislatures, “Voter Registration is All About Residency (and Domicile),” [http://www.ncsl.org/Documents/Elections/The\\_Canvass\\_May\\_2016.pdf](http://www.ncsl.org/Documents/Elections/The_Canvass_May_2016.pdf)
- BestColleges.com, “How to Vote in College,” <https://www.bestcolleges.com/resources/voting-in-college/>
- WBUR, “New Residency Law In N.H. Sparks Charges Of Voter Suppression And A Lawsuit,” <https://www.wbur.org/news/2019/11/08/new-hampshire-voting-law>
- University of Minnesota Election Academy, “Purdue To Modify Student ID Cards To Address Voter ID Concerns,” <https://editions.lib.umn.edu/electionacademy/2019/07/24/purdue-to-modify-student-id-cards-to-address-voter-id-concerns/>

## HOW TO USE THIS CHAPTER

- Ask local voting officials if students are able to register to vote in your community without challenge as to residence;
- Send in students who wish to vote locally to register and report their experiences;
- Check with local groups working to increase voter participation about their views and experiences with students voting in local elections;
- Analyze the potential impact on local elections if large numbers of students were to vote locally. In some cases, the student vote — if large enough — could determine election outcomes, which may frighten candidates and local officials;
- Ask students why they would or would not want to vote in local elections vs. the places in which they lived prior to enrolling in school.

# IX. VOTING ISSUES, WHAT TO ASK

## AS YOU START

- Make sure you **talk to the appropriate state or local election officials** (or both). You would be amazed how many stories are ABOUT elections, voter registration, or even about the officials that don't actually include them.
- Determine what is **exactly** the issue. Very often, people will say, "My voting rights are being denied" or make other general statements about the election process. But the nature of the problem — and thus the questions to ask — varies depending on what type of problem you're talking about. [More on that below.]
- Try to **avoid the easy partisan angle**. It's definitely true that political parties have different approaches to election administration, but not every election problem boils down neatly to "us versus them."
- Similarly, try to **avoid or overemphasizing the "Who will it benefit?"** question. Election problems are worthy of coverage no matter what the potential impact on the outcome.
- Some jurisdictions will allow you to **observe voting** (provided you don't interfere with the process or voters). Usually, all that is needed is a written request to the election office in advance. It's worth a try and a good Election Day story that isn't about exit polls or handicapping the election outcome.

### If the problem involves voter registration, ask:

- Does it involve a new registration or an updated registration?
- Does the election office have any discretion on the matter, or is the issue tied to applicable law or the result of a decision or action by another state or local agency? If either or both of the last two apply, get the specifics — in writing or (if a law) the exact citation.
- Is this a problem the voter can cure before/on Election Day? How (particularly, what person or what office do they need to contact)?
- Was the voter able to cast a provisional ballot? If so, does s/he need to do anything to ensure it counts?

### If the problem involves vote tabulation (the process of counting votes):

- Are there questions about certain ballots being missed or ignored? If so, why?
- If there were technology problems (broken/malfunctioning machines, etc.), what did the jurisdiction do to address the problems?
- What is the jurisdiction's process for testing machines before an election?
- Does the jurisdiction conduct a post-election audit? (If so, get the specific date when the audit is completed and how soon after that date it will be made public.)

### If there are long lines or people being turned away:

- Are voters being sent away permanently, or is this a temporary issue?
- Do voters have an alternative to this polling place?
- Is the election office providing written instructions on the alternative polling place? Are election officials providing free transportation to a new polling location for those unable to vote in their proper location?
- Do election officials have any idea how much it costs voters turned away from their polling place to use commercial/public transportation to reach the alternative polling location?
- Are there any plans to extend polling hours to accommodate those standing in line at the official poll-closing hour? Will newly arriving voters be able to join those standing in line when polls close, or are the extended hours limited to those waiting to vote when the polls close?
- Has the election office done anything to shift resources (people, machines, ballots, etc.) to the affected polling locations?

### If students are experiencing voting issues:

- Is the problem unique to students or a larger problem affecting more voters?
- Is there some state or local law that affects the issue?
- Do students, if denied an opportunity at their polling places, have an opportunity to cast a provisional ballot should the decision to deny voting be overturned later?

- Are students being told to vote elsewhere, such as where their parents reside or where s/he visits/lives when not in school?
- What's the plan for addressing this going forward?

# X. ONLINE RESOURCES

## FOR REPORTING ELECTIONS

Scan elections expert Tammy Patrick’s “Eight tips for covering U.S. elections from a former elections administrator” with invaluable advice for anyone seeking to talk with local election offices, from Journalist Resource — <https://journalistsresource.org/studies/politics/elections/covering-us-elections-journalism-tips/>.

Get an insider’s look at advice and examples for election officials, from the Center for Civic Design’s “Field Guides for Ensuring Voter Intent” — <https://civicdesign.org/fieldguides/> — a quick introduction to key voter-related aspects of elections, which you can use to gauge how well your local office is serving voters.

Tap into the massive resources of “ElectionLand” — <https://www.propublica.org/electionland/> — Pro Publica’s online resource for journalists seeking to cover elections and democracy.

Use Electionline.org — <https://electionline.org> — for non-partisan information about the people and processes involved in elections, an absolutely vital resource with daily coverage of election news, a weekly newsletter and resources, including a 2020 election calendar.

Available as a resource is the Federal Voting Assistance Program — <https://FVAP.gov> — aimed at military and overseas voters, but a fantastic one-stop shop for data/information on federal elections, including the massive [Voter Assistance Guide](#).

Find your state’s information on the website of the National Association of Secretaries of State — <https://www.nass.org> — which hosts #TrustedInfo2020 as well as CanIVote.org, a state-by-state resource on voting rules and deadlines.

If you need to check state law, go to the National Conference of State Legislatures — <http://www.ncsl.org/research/elections-and-campaigns/election-laws-and-procedures-overview.aspx> — an encyclopedic resource of state laws and policies on elections.

Got a voting tech question? Find the answer at the Center for Technology and Civic Life — <https://www.techandciv-iclif.org/> — a non-partisan organization living at the intersection of technology and elections with a regular newsletter and tons of training opportunities.

See the resources of Democracy Works — <https://www.democracy.works/> — a non-partisan home of TurboVote and the Voting Information Project.

Got a project for which you need financial help? Democracy Fund — <https://www.democracyfund.org/electionsmap> — is a non-partisan funder making significant investments in election administration.

For cutting edge analysis and research on election topics: MIT Election Data and Science Lab — <https://electionlab.mit.edu/> — home of the Election Performance Index.

Interested in the “Vote at Home” movement? Visit <https://www.voteathome.org/> — a new organization led by a former Denver election administrator dedicated to increasing awareness of “vote at home” options.

For daily posts on the election process, visit the University of Minnesota Election Academy — <https://editions.lib.umn.edu/electionacademy/> — blog home for UMN’s certificate in Election Administration.

# XI. CHANGES TO THE VOTING RIGHTS ACT

In 2013, the U.S. Supreme Court decision in *Shelby County v. Holder* significantly reshaped the federal system for enforcing the Voting Rights Act (VRA). Prior to *Shelby*, certain jurisdictions with a history of racial voting discrimination (“covered jurisdictions”) were required by Section 5 of the VRA to submit their voting changes for approval (“preclearance”) by the U.S. Department of Justice or a federal court.

Because of the breadth of this provision, virtually every election law or policy change in covered jurisdictions, including matters like voting eligibility requirements or polling place locations, was subject to pre-clearance. If DOJ or the court determined that protected minority voters would be worse off under the change, it would not be precleared and thus would not be enforceable.

As part of this process, members of the affected community were given an opportunity to weigh in on proposed changes; this gave these communities tremendous leverage over election changes they viewed as potentially harmful.

*Shelby County* sued to invalidate this requirement, arguing that Section 5 and the formula for identifying “covered jurisdictions,” initially included in the 1965 enactment, was out of date and as such swept in communities that were no longer in danger of engaging in voting rights discrimination. In a narrow 5-4 decision, the Supreme Court agreed; while it did not invalidate the Section 5 preclearance requirement, it did strike down the coverage formula, effectively ending preclearance nationwide.

Since then, many formerly covered jurisdictions have enacted election policies like voter ID that advocates claim violate the VRA and would never have survived the preclearance process. In recent years, voting rights supporters have lobbied to re-establish the coverage formula and thus revive preclearance; however, to date these efforts have been unsuccessful.

## RESOURCES

- U.S. Department of Justice, “About Section 5 of the Voting Rights Act,” <https://www.justice.gov/crt/about-section-5-voting-rights-act>
- Oyez, “*Shelby County v. Holder*,” <https://www.oyez.org/cases/2012/12-96>
- Vox.com, “How *Shelby County v. Holder* upended voting rights in America” (2019), <https://www.vox.com/policy-and-politics/2019/6/25/18701277/shelby-county-v-holder-anniversary-voting-rights-suppression-congress>
- Voting Rights Advancement Act of 2019, <https://www.leahy.senate.gov/imo/media/doc/VRAA%20of%202019%20one%20pager.pdf>
- *Atlanta Journal Constitution*, “U.S. House bill would restore Voting Rights Act protections” (Dec. 13, 2019), <https://www.ajc.com/news/national-govt--politics/house-bill-would-restore-voting-rights-act-protections/a8puSjWxWtjhUPS4TwDogO/>

## HOW TO USE THIS CHAPTER

- Ask if your local voting jurisdiction was once determined to have a history of voter discrimination.
- If your area has a history of voter discrimination, what steps were taken – and are being taken in this election – to remedy that history?
- Check with local organizations that are involved in voter registration or voter turnout efforts about the legacy of voter discrimination in your area – and if there are such concerns today.
- Locate and interview those on all sides of today’s voter registration/voter fraud issues.

# XII. VIDEO AND AUDIO RESOURCES

## VIDEO

- WITH CHAPTER TWO: Expansion of Franchise/Voting Amendments - <https://ed.ted.com/lessons/the-fight-for-the-right-to-vote-in-the-united-states-nicki-beaman-griffin> (Voting Rights)
- WITH CHAPTER SEVEN: Automatic Voter Registration - <https://youtu.be/3dKEIT-LUag> (Voter Registration)
- WITH CHAPTER SEVEN: ERIC System - <https://youtu.be/O8ISoeO1hjw> (Voter Registration)
- WITH CHAPTER SIX: EAC Cybersecurity - <https://www.eac.gov/videos/election-security/> (Cybersecurity)
- WITH CHAPTER FIVE: FOR YOUR INFORMATION - In Ontario, Canada, online voting was used in 2018 municipal and school board elections. <https://www.youtube.com/watch?v=JXLdPfn5jU>

## AUDIO

- NPR: Seattle voters and 2020 online voting - <https://www.npr.org/2020/01/22/798126153/exclusive-seattle-area-voters-to-vote-by-smartphone-in-1st-for-u-s-elections>
- NPR: In 2020 and beyond, will we vote by smart phone? <https://www.npr.org/2019/11/07/776403310/in-2020-some-americans-will-vote-on-their-phones-is-that-the-future>
- NPR: Online voting – why not? - <https://www.npr.org/2019/11/05/776270539/major-questions-surround-the-issue-of-voting-online>

# XIII. ABOUT THE PROJECT

**Report the Vote: Election 2020** is a resource for journalists, particularly at the collegiate level, in reporting on the process of voter registration and election voting.

The report was prepared by the nonpartisan Freedom Forum and the Fors Marsh Group, a national market and consumer research and strategy company.

While candidates and issues are the major components of election news coverage, the process by which citizens register and then cast ballots has become a significant element in virtually every election this century — starting with the delayed results and recounts in the 2000 presidential election.

In particular, students will be faced with significant barriers to navigating the 2020 elections, including attempts at voter suppression and changes to how votes are cast. In the past, some local election officials have attempted to block or divert student voting in towns where universities and colleges are located, given the potential impact of a sizeable voter bloc in relation to others in the community.

Students — and all voters — need reliable, clear and credible information about registration and voting from local, familiar and trusted news sources focused on communities and on local election news.

As traditional news media outsource, abandon or simply no longer have the resources to provide significant election coverage, particularly in low-density and rural areas of the United States, college student-run publications can provide an accessible means of locally focused, independent, objective news reporting in those areas.

According to a University of North Carolina School of Media and Journalism study in 2018, more than 1,300 U.S. communities have lost news coverage. These communities may be able to turn to college media to fill gaps in local election reporting — if journalists for those university news outlets have knowledge of how registration and voting work, what problems may arise and who to contact about registration and voting procedures and discrepancies.

To that end, **Report the Vote: Election 2020** is intended as a primer and resource guide on the registration and voting process, to help journalists as they perform the “watchdog” role envisioned by the nation’s founders in creating First Amendment protection for a free press. **RTV 2020** includes overview articles and online resources on:

- The history of the right to vote;
- The ways citizens may register to vote;
- How our election system is rooted in state and local laws, unlike many nations;
- Sources of information and possible questions to ask if registration or voting issues arise;
- The cybersecurity challenges in guaranteeing free and fair elections in the 21<sup>st</sup> century;
- The changing technology of voting;
- Student voting and the “domicile concept;”
- How election results are tabulated, reported and sometimes challenged, leading to recounts;
- Federal election laws, including recent changes to the landmark Voting Rights Act of 1965;
- Different options in voting, from Election Day precincts to absentee ballots.

*Materials in this project are intended for publication or background information. If quoted or republished, credit should be given to “Report the Vote: Election 2020,” a project of the Freedom Forum and Fors Marsh Group (FMG).*

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# BALLOT TRACKING

A majority of states have systems to confirm your mail-in ballot has been received (delivered), but a system for determining electronically whether your ballot has been counted (or rejected) is available only in a few states, and sometimes only in a few counties within a state.

In California, Nevada, Colorado, Georgia and North Carolina, you can use a system called BallotTrax to determine if your ballot has been counted. Within Oregon, Arizona, Michigan, Ohio, Tennessee and Florida, some counties offer the BallotTrax system.

## TRACKING DELIVERY – LINKS FOR YOUR STATE:

**Alabama:** (Track [here](#))

**Alaska:** (Track [here](#))

**Arizona:** (Track [here](#)) Use BallotTrax in some counties to determine if your vote has been counted.

**Arkansas:** (Track [here](#))

**California:** (Track [here](#)) Use BallotTrax to determine if your vote has been counted.

**Colorado:** (Track [here](#)) Use BallotTrax to determine if your vote has been counted.

**Connecticut:** No ballot tracking available

**Delaware:** (Track [here](#))

**District of Columbia:** (Track [here](#))

**Florida:** (Track [here](#)) Use BallotTrax in some counties to determine if your vote has been counted.

**Georgia:** (Track [here](#)) Use BallotTrax to determine if your vote has been counted.

**Hawaii:** (Track [here](#))

**Idaho:** (Track [here](#))

**Illinois:** No ballot tracking available

**Indiana:** (Track [here](#))

**Iowa:** (Track [here](#))

**Kansas:** (Track [here](#))

**Kentucky:** (Track [here](#))

**Louisiana:** (Track [here](#))

**Maine:** (Track [here](#))

**Maryland:** (Track [here](#))

**Massachusetts:** (Track [here](#))

**Michigan:** (Track [here](#)) Use BallotTrax in some counties to determine if your vote has been counted.

**Minnesota:** (Track [here](#))

**Mississippi:** No ballot tracking available

**Missouri:** No ballot tracking available

**Montana:** (Track [here](#))

**Nebraska:** (Track [here](#))

**Nevada:** (Track [here](#)) Use BallotTrax to determine if your vote has been counted.

**New Hampshire:** (Track [here](#))

**New Jersey:** (Track [here](#))

**New Mexico:** (Track [here](#))

**New York:** (Track [here](#))

**North Carolina:** (Track [here](#)) Use BallotTrax to determine if your vote has been counted.

**North Dakota:** (Track [here](#))

**Ohio:** (Track [here](#)) Use BallotTrax in some counties to determine if your vote has been counted.

**Oklahoma:** (Track [here](#))

**Oregon:** (Track [here](#)) Use BallotTrax in some counties to determine if your vote has been counted.

**Pennsylvania:** (Track [here](#))

**Rhode Island:** (Track [here](#))

**South Carolina:** (Track [here](#))

**South Dakota:** (Track [here](#))

**Tennessee:** (Track [here](#)) Use BallotTrax in some counties to determine if your vote has been counted.

**Texas:** No ballot tracking available

**Utah:** (Track [here](#))

**Vermont:** (Track [here](#))

**Virginia:** (Track [here](#))

**Washington:** (Track [here](#))

**West Virginia:** (Track [here](#))

**Wisconsin:** (Track [here](#))

**Wyoming:** (Track [here](#))

# REPORT THE VOTE

## ELECTION 2020

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The “Report the Vote: Election 2020” project and guide is supported in part by a grant to the Freedom Forum Institute by the Scripps Howard Foundation.