

# **Innovations in Election Administration 8**

**Election  
Document  
Retention  
in an Age  
of High  
Technology**



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# **Election Document Retention in an Age of High Technology**

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# Introduction by the Clearinghouse

This report is another in the series on *Innovations in Election Administration* being published by the FEC's National Clearinghouse on Election Administration.

The purpose of this series is to acquaint State and local election officials with innovative election procedures and technologies that have been successfully implemented by their colleagues around the country.

**Our reports on these innovations do not necessarily constitute an endorsement by the Federal Election Commission either of any specific procedures described or of any vendors or suppliers that might be listed within the report. Moreover, the views and opinions expressed in these reports are those of the authors and are not necessarily shared by the Federal Election Commission or any division thereof.**

We welcome your comments on these reports as well as any suggestions you may have for additional topics. You may mail these to us at:

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# Election Document Retention in an Age of High Technology

## Definitions

**Acknowledgment notice**—Notice sent to a voter registration applicant to inform him of the disposition of his application.

**Ballot image**—Record of all the votes cast by a single voter. Also called “ballot set.”

**Canvass sheet**—Record of the aggregation of the vote from a number of precincts to obtain totals for various constituencies or entire jurisdiction.

**Confirmation mailing**—Outgoing mailing from election office to registrants who may have changed their address, and which includes a postage pre-paid and pre-addressed return card by which the registrant may verify or correct the address, or confirm that he or she has moved outside of the jurisdiction.

**DRE**—Direct recording electronic voting machine.

**Election database**—Electronically created documentation which defines parameters of the election, contests, candidates, ballot styles, etc.

**Electronic medium**—Magnetic tape, magnetic or optical disk, removable data storage device, etc.

**List of voters**—List of those eligible to vote in a precinct. May be a computer-generated or other printed list, or a binder of original affidavits. Those who vote are checked off or marked in some other way. Also called “checklist,” “roster,” “precinct roster,” “master index,” “incoming voting list,” “list of voters book,” “roster index,” “polling

place roster,” “precinct register,” “election register,” “printout,” etc.

**Listing of those who voted**—Made by pollworkers. Also called “poll book,” “signature poll book,” “voters poll list,” etc.

**Machine-read ballot**—Individual document ballot marked by the voter and counted by computer. Includes punchcard and mark sense ballots.

**Original voter registration form**—Document filled out by or for the voter at time of applying for voter registration; usually signed by voter.

**Paper ballot**—Individual document ballot that is manually marked by the voter and manually counted by election officials.

**Pollwatcher**—One who observes the conduct of the election in the polling place as a representative of an entity other than the election authority. Usually must have credentials issued by a political party, a candidate or the election office. Also called “watcher” or “challenger.”

**Pollworkers**—Official staff who conduct the election in the polling places. Does not include campaign workers, watchers, challengers, etc., who represent entities other than the election authority. Also called “inspectors,” “officers of election,” “judges of election,” “election judges,” “precinct board,” “clerks,” “commissioners,” etc.

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**Precinct tabulator**—An electronic device on which votes are recorded and results reported in the polling place. Includes Precinct Ballot Counter (PBC); optical scanner; and Direct Recording Electronic (DRE) voting machine.

**Provisional ballot**—Used by a person whose qualification for voting is uncertain and must be confirmed in the central office before his ballot can be included in the vote count. Also called “special ballot” or “affidavit ballot.”

**Removable data storage device**—Read-only memory device which is programmed to record votes as they are cast on an electronic machine. The device is inserted into the machine before the polls open and removed after the polls close. It is computer-read along with other devices to obtain jurisdiction vote totals. Also called “memory pack,” “memory cartridge,” “EPROM,” “PROM,” “detachable recording compartment or unit.”

**Tally sheet**—A record of the manual tallying of ballots for a limited jurisdiction, usually a precinct.

**Test deck**—A pre-audited group of ballots voted with a pre-determined number of valid votes; used to test the correctness of electronic vote-counting software. Also called “certification deck.”

**Verification mailing**—Outgoing mailing from election office to applicant for voter registration to confirm the applicant’s eligibility before his name is added to the voter registry.

**Voter registry**—File of all voters in the jurisdiction, kept current by the election office.

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# Election Document Retention in an Age of High Technology

What election documentation should be saved, why should it be saved, and for how long? That's one of the most vexing questions facing election officials. This report seeks to provide guidance to them in formulating an answer to it.

We define documentation broadly. It includes not only such historically obvious items as ballots and voter lists but also the output of the computer, which has become an essential part of election administration and which produces a much fuller record of election activity than was available when records were produced by pencil, pen, or typewriter.

The old documentation was almost always on paper, the one obvious exception being the mechanical lever machine itself, the counters of which record the vote cast on that machine.

The new kinds of documentation may also be on paper, output of the computer printer, or may be punchcards which input data into the computer. Or they may be stored on an electronic medium—magnetic tape, magnetic or optical disk, PROM or EPROM. These electronically based documents are as much a part of the record of an election as are paper documents, and no analysis of what should be saved would be meaningful and complete without including the new documentation.

New technology has made it possible to achieve enormous savings in storage facilities and improvements in retrieval capabilities by

transferring data from original paper documents to an electronic medium. Digitized images, sometimes including signatures, are stored on optical disk and utilized to produce facsimiles as needed. Microfilm and microfiche have made it possible to store documents as tiny photocopied images of the original and later to project or print them at full size for reference.

Thus technological miracles have enabled the election administration profession to make quantum-leap progress in efficiency, and to discard tons of paper that formerly filled a large portion of their offices. But new questions have arisen about uses of these substitute documents. The U. S. Department of Justice does not, in many instances, consider copies of original documents, however produced, to be adequate for their purposes of law enforcement.

So what and how much to save, in what format and on what medium, remains a difficult question. If all records received or created by an election office were permanently retained, it would be possible to answer any question raised about the agency's work and to cite a reference to support that answer. As a practical matter, however, such a policy would be impossible to implement. First, to retain and store all records produced, and to catalog them for identification and retrieval, would require resources much beyond those available to local and State government offices. Second, voting devices must be periodically cleared for use in

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subsequent elections. Finally, not everything is necessary or even desirable for retention. Election agencies produce mountains of documents. Many are repetitive or redundant, and some have no value once they have met the instant need for which they were created.

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# Kinds of Documentation

In the following listing, documentation produced in election administration is grouped under headings, each of which relates to an aspect of election activity. The term “record” is used interchangeably with “document” or “documentation.” Documentation can be either hard copy or on electronic medium. *Any and all election records should be dated; some should bear the time as well as the date.*

The list of kinds of documentation is lengthy, but even so it does not reflect the total dimension of election records. Excluded from this study are records for which retention requirements ordinarily are specified in State law, and records of a general management nature which are not unique to election administration. Among such documentation is that relating to

- Candidacy.
- Petitions and petition verification.
- Campaign finance; financial disclosure.
- Voting accessibility for elderly and handicapped persons; the biennial reporting requirements under this Act ended with the 1992 election.
- Publications and notices.
- Archives and reference materials.
- Budget; procurement; personnel; inventory; correspondence.
- Legislation; litigation; attorney general opinions.

## Voter Registration

Voter registration documentation—of which there is a great deal—details who applied for voter registration, who was accepted or rejected, who qualifies for voting, and activity undertaken to keep the registry current and accurate.

- The **original voter registration form** filled out by or for the voter at the time of registration. This is the primary evidence of registration. Besides data to establish identity, residence, etc., it usually contains an oath of the applicant and the signature, the latter used to establish authenticity of a signature submitted subsequently and purported to be that of the same voter, as in check-in at the polls, in absentee voting, or on a petition. Election authorities in some States now digitize the original signature and store the image in a computer database so that a facsimile signature is available for reference on a screen for use in petition verification, or is printed on a voter list for election day check-in, thus making it unnecessary to transport to the polls the bulky binders containing the original records. The same imaging technology also can be used to create a facsimile of the entire voter registration form which can be stored on and accessed from electronic medium; original documents then can be archived and rarely if ever referenced. In at least one State, the voter registration record is microfilmed, after which the original record is destroyed.

- **Records of sending acknowledgment notices** to applicants for voter registration, as required by the National Voter Registration Act (NVRA). The notice informs the applicant of the disposition of the application.
- **Rejected applications for voter registration** and documentation associated therewith reflect judgments made by the election agency that the applicant does not qualify for voting in the jurisdiction, with the reasons specified.
- **Records of declination to register** will be generated under NRVA at public assistance agencies. Such records confirm that it was the citizen's own choice not to apply for voter registration. Failure to sign the application also constitutes a declination.
- The **voter registry** is the file of all voters in the jurisdiction, maintained and kept current in the election office. From a computerized voter registry many different voter listings can be produced.
- Many **documents associated with maintenance of the registry**. It is impossible to list all the documents used in registration file maintenance, because of the varying traditions and practices that have evolved in the States and have been incorporated into their statutes. The following listing is general, and each State can place its own particular documents in the broad categories. Records relating to file maintenance both authorize the actions taken to keep the voter registry accurate and current, and demonstrate that such activities do not compromise fairness and equity. The latter purpose has taken on greater significance with the enactment of the National Voter Registration Act of 1993 (NVRA), which will be effective starting January 1 1995.
  - Authorizations and/or requests for changes of address, name, party. Some change of address information may come from State drivers license authorities or from the U. S. Postal Service; the information may be on paper or electronic medium.
  - Authorizations to cancel (remove the voter from the registry), because of death, moving out of the jurisdiction, criminal offense, declaration of mental incompetence, request of the voter, etc. Reason for removal should be part of the record.
  - Records generated in mail verification or confirmation of voter status, including but not limited to lists of names and addresses of those to whom confirmation mailings were sent and whether or not each responded.
  - Notices returned to the election office by those responding to confirmation mailing.
- **Statistical and other information** necessary for the Federal Election Commission (FEC) to make the biennial report to Congress mandated by NVRA. The information required from the States will be specified to them in detail by the FEC well before the Act's implementation date. It will include voter registration as of election day; the number of new registrations since the previous federal general election; registration activity at various public agencies, and at other participating agencies; applications by mail, in person, and through community volunteers and organizations; file maintenance activity; and postal costs.

## Ballots

Retention of **voted ballots and ballot-related documentation** is essential both to confirm correctness of the vote count and to detect corruption or other manipulation of the election. Ballots are specific to the type of voting system used. The category includes both ballots voted at the polls and absentee ballots; a single jurisdiction may use one kind of ballot at the polls and another for absentee voting, or may use more than one kind of voting system and therefore more than one kind of ballots in its polling places.

- **Paper ballots.**
- **Machine-read ballots**, punchcard or mark sense.

- **Strips or sheets placed on voting machines**, both lever and DRE, each annotated to indicate machine number and precinct where it was used. These are also called “ballot faces.”
- **Sets of assembled vote recorder pages**, each annotated to indicate precinct where it was used.
- **Provisional ballots**, and all documentation associated therewith. Also called “special” or “affidavit” ballots. Used to permit a person to vote when his qualification for voting is uncertain and must be established after election in the central office before his ballot can be included in the vote count.
- **Spoiled ballots.**
- **Disallowed ballots**, and all documentation associated therewith.
- **Ballot accounting reports**, documenting disposition of and accounting for all ballots printed.

## **Polling Place Records Other Than Ballots**

Most of the records listed are created for and used in the polling place on election day. Their range is extensive, and all serve a purpose for applying various provisions of law and carrying out directives of election authorities. Some are associated with qualifying the voter at check-in; some with vote-counting; others with special circumstances that occur in the course of the voting day. All are necessary to reconstruct the election and provide an audit trail for election day activity at the polls.

Some polling place documentation is created in the between-election periods; e.g., records of recruitment and assignment of pollworkers, and credentials issued to poll watchers.

- **List of voters** eligible to vote in the precinct at that election. May be a computer-generated or other printed list, or a binder of original affidavits. The names of those who vote are checked off, or marked in some other way.
- Records containing **voter signatures** signed at the polls (if signature is other than on the list of voters), such as voting authority cards or signature cards.
- **Listing of those who voted** made by pollworkers.
- **Any other oaths executed by voters.**
- Any other **record reflecting identity of those who cast ballots.**
- Records of **challenges to any person’s right to vote.**
- Records of **implementation of “fail safe” provisions of NVRA**, including information to be used to update the voter registration record.
- **Pollworker attestations of status of premises and equipment at opening and closing of polls.**
- **Documentation produced by poll-workers in counting the vote**, such as tally sheets, canvass reports, statements of votes, etc.
- **Output of voting devices**, both hard copy and electronic:
  - AVM print-o-matic sheets, both zero reports at opening of polls and vote totals at end of the day.
  - The lever machine itself (except for print-o-matic machines, see preceding), locked at the end of election day with the counters showing the number of votes cast.
  - Reports produced before opening polls as electronic tabulators (DREs, scanners, PBCs, etc.) are set up and prepared for voting. Includes logic and accuracy tests and zero reports.
  - Reports produced by voting device at close of polls, including vote totals or results tape.

- Removable data storage device (memory pack, PROM or EPROM, memory cartridge) intact as removed from machine at close of polls. (See Appendix 1 for alternative requirement recently defined by the U. S. Department of Justice.)
- Write-in votes cast if recorded other than on ballots. May be on paper roll from lever machine, or printed as part of the results tape as on DRE machine.
- **Records of maintenance to voting equipment during election day.**
- **Records of appointment of pollworkers serving.**
- **Records of appointment of poll watchers present in polls.**
- **Records of assistance to voters, including identity of persons rendering assistance and of voters assisted.**
- **Records of assignment and delivery of voting equipment to polling places.**
- **Envelopes** in which ballots are returned by the voter—usually two for each ballot, the **return envelope** and the inner **ballot envelope**. By postmark and/or date stamp, envelopes document the time of return, and one or both of them usually contain an oath of the voter and his signature. Includes envelopes containing ballots returned too late to be counted. Does not include blank secrecy envelopes, if such are used.
- **Records of challenges to and rejection of absentee ballots**—because they were received late; because the voter did not sign the oath or otherwise fill out affidavit on envelope; because the person does not qualify for absentee voting; etc.
- **Election office record or log of the steps in administering absentee voting.** In its simplest form, notations are made on the application forms, or on a list of applicants, of the date of application, the type of ballot sent and the date sent, receipt of voted ballot, etc. Identity of person who keeps the record also should be indicated.

## Absentee Voting, Records Other Than Ballots

Documentation produced to administer absentee voting is designed to assure that a person qualifies for voting and for voting absentee; that a person voting an absentee ballot, or one purporting to be him, will not be able both to vote that ballot and also vote at the polls; and that the correct ballot is sent to the person in a timely manner and returned to the election agency no later than the deadline set by law. Moreover, documentation should demonstrate that if a request for absentee voting is rejected, or if a voted absentee ballot is disallowed, such actions of the election authorities are justified.

- **Application** or request from the voter, which starts the process. Election officials review the application and then respond to the applicant, either by dispatching a ballot or informing him why a ballot cannot be sent.

In a computerized election management system, there may be an absentee voting module which includes this information and more. Commonly these systems create and maintain (1) an activity log for each individual absentee applicant, linked to his record in the registry; (2) a roster of all applications received, where status of each is indicated; and (3) activity reports, such as applications received, approved and rejected; ballots dispatched and returned; etc. The end result is a complete history of the administration of absentee voting for that election.

## Voting System Preparation

Whether voting is by manually counted paper ballots or the most sophisticated electronic system, certain basics of the preparation of the system are critical to the integrity of the election. These processes should be documented in order to confirm that integrity. When preparation steps

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are computerized, a hard copy record should be produced and retained.

- **Election definition records.** These specify offices and questions that will be on the ballot, candidates for each office, number to vote for in each contest, precincts or precinct portions that comprise each constituency, cross-filing, etc. With non-electronic systems, or even early electronic systems, this process is often a manual one.
- **Ballot design records.** Utilizing information from the election definition process, such documents define and identify the various ballot styles and placement of contests and candidates in positions on the ballot, thus providing copy and layout for ballot printing. For non-electronic systems and some early electronic systems, ballot design is done manually.
- **Election database.** Electronically created documentation which encompasses both election definition and ballot design (see preceding) as well as other election-specific data.
- **Records of programming lever machines and testing correctness of the set-up.** Such programming is done manually, drawing on the election definition and ballot design processes, and then tested to confirm the reliability of the machine and that it is set up to accurately reflect votes cast on it.
- **Records of specializing vote-counting software for the particular election.** Includes "coding the program" for the mainframe or microcomputer in the central office, as well as preparing or "burning" the removable data storage devices for polling place tabulators.
- **Records of pre-election testing of electronic vote-counting systems.** The in-house testing done in the weeks before election to ensure that the programs have been correctly specialized.
- **Test deck.** A pre-audited group of ballots voted with a pre-determined number of valid

votes, used in testing electronic systems to confirm the correctness of the vote-counting program. Also called "certification deck."

## Vote Count in Central Office

Both to resolve disputed elections and to respond to allegations of fraud, the documentation of vote count and canvass activity in the central office is critical. When the precinct totals are produced at the polling place, the central office count is limited to aggregating precinct results, manually or by machine, to obtain totals for the jurisdiction. When ballots are brought directly from the polls, the entire process from tally to canvass and certification takes place in the central office, and again may be manual or by machine.

- **Tally sheets.**
- **Canvass sheets** and other tabulations.
- **All computer software used in vote-counting.**
- **Output of the computer printer.** From the time the system is deemed ready for vote-counting on election day and starting with the testing done immediately before counting, through the last tabulation and post-count testing, one copy of each report printed should be compiled sequentially.
- **System log.** A sequential record of all entries to the system made through the console, from the time the system is readied for testing just prior to tabulation until after the count has been completed, the system is tested again, and results are ready for certification. Each entry should include date, time, person executing, and action(s) taken. May be either a manual listing or computer-produced.
- **Ballot images.** Records of votes cast on individual ballots; also called ballot sets. Particularly important with DRE machines where there is no paper ballot for each voter. Hard copy or electronic medium.

- **Verification of the count before certification.** If such verification is done, it should be documented. Examples of such verification include recounting all or a portion of the computerized ballots; re-reading and proofing lever machine vote totals; conducting an “automatic recount” (usually with a very close result); and the scrutiny by the State election authority of canvass documents submitted by local election boards, and retabulation of local results.
- **Security plan.** Arrangements for ensuring security of all appropriate election materials and premises, and documentation to demonstrate that the plan was carried out. Should also include record of any breaches of security.
- Records reflecting **certification of the outcome of the election, and notifications sent to winning candidates.**

## Contested Elections and Recounts

Because federal officials have found that evidence of civil rights abuse and other election fraud often comes to light when an election result is challenged, the conduct of a recount or other means of resolving a contest should be documented. State regulations governing contested elections and recounts should require such documentation.

The obligations cited here will fall on the election office, State or local, if it is the authority responsible for resolving the dispute. Often the forum for resolution is a court or a quasi-judicial authority, where a full record is kept as a matter of course.

A contest or recount will utilize some of the documentation of the original election. In addition, there are certain records that are created anew, or specific to, the contest/recount. For example,

- **Procedures and guidelines.** These detail how, when and where the contest or recount

is to be conducted, and by whom; provisions for notice to parties and for observers; standards for disallowance of ballots; etc. May be in the form of State rules or regulations.

- **Log or diary** recording the activity.
- **Records created in the recount.** Some will document repetition of the processes of the original election such as pre-count testing of vote-counting equipment; output of voting devices; tally sheets; statements of votes; canvass reports; output of computer printer; system log; etc.

## Redistricting

If a redistricting plan is challenged—and such challenges are not uncommon—election office data will be important in defending it. Accordingly, a cumulative file of the following should be maintained:

- **Election results by precinct** for each election;
- **Voter registration statistics by precinct** for each election;
- **Voter turnout statistics by precinct** for each election;
- **Precinct map or maps** defining boundaries at time of each election;
- **Computerized file of the voter registry** at time of each election.

