

Absentee Ballot Requirements in D.C. and the 50 States

Introduction

Election officials around the country are preparing for the 2020 election's unique challenges.¹ Many election officials have adjusted their general election plans to ensure timely processing and tabulating of ballots and meeting certification deadlines. A number of states have encouraged absentee voting to reduce the potential spread of coronavirus. States that allow election officials to begin processing and tabulating absentee ballots prior to Election Day are more likely to announce results quickly and with more certainty of a winner which can reduce the impact of disinformation.

This document begins with an overview of when the 50 states and D.C. allow absentee ballots to be processed and tabulated, and when elections are considered certified. This is followed by an explanation of how D.C. processes and tabulates absentee ballots and certifies elections. For more information on each state's laws, please refer to the attached chart.

(Note: All information provided is current as of September 30, 2020 and concerns the 2020 general election. Primaries and other elections may have different requirements.)

Processing Absentee Ballots

Forty-one states and D.C. allow absentee ballots to be processed before Election Day.

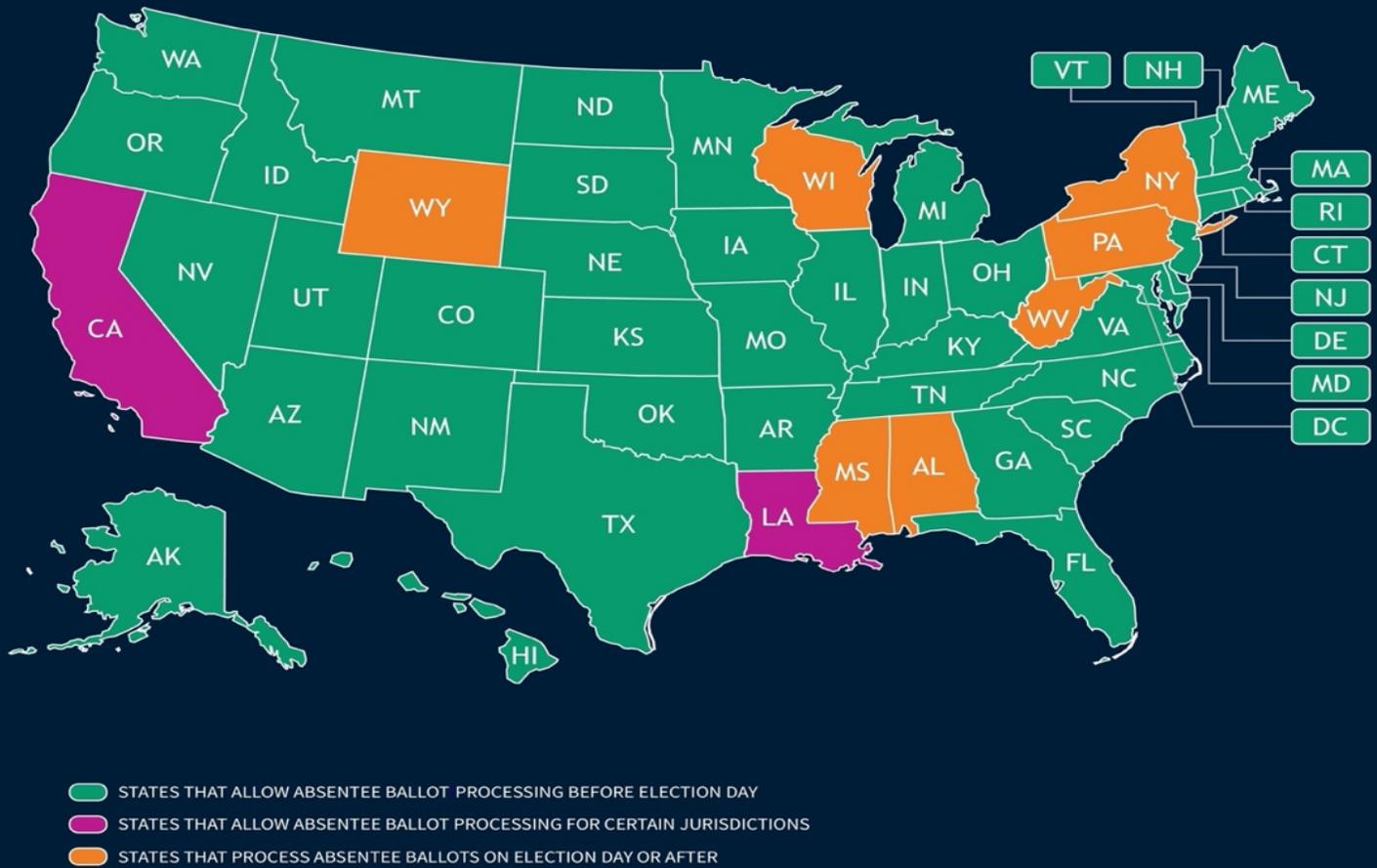
"Processing" has different meanings in different states but includes all actions to verify a voter's identity, a voter's eligibility, and the completeness of any documentation accompanying an absentee ballot. Processing does not include any actions that result in actual tabulation, or the totaling of each vote cast for each candidate.

Processing absentee ballots early reduces the number of ballots election officials must verify and tabulate on Election Day, allowing them to publish results earlier. Forty-one states and D.C. allow the processing of absentee ballots prior to Election Day.² California and Louisiana only allow certain local jurisdictions to process absentee ballots prior to Election Day.³ The remaining seven states do not allow absentee ballots to be processed until Election Day or later.

¹ Under Article 2 of the U.S. Constitution, only residents of states can vote for president in the general election. While considered U.S. citizens, residents of U.S. territories are unable to vote for president in the general election. This is because territories are not considered states and do not have presidential electors. Even though D.C. is not currently considered a state, residents are able to vote for president in the general election due to the passage of the 23rd Amendment in 1960.

² Maine, Montana, and North Carolina allow local election officials to decide whether to process absentee ballots before Election Day. Seven of these states temporarily increased the time for absentee ballot processing. Connecticut and North Carolina allow absentee ballots to be processed prior to Election Day but have increased the processing time for 2020 only. Idaho expanded the time period for absentee ballots to be opened and scanned. Kentucky, Michigan, New Hampshire, and South Carolina allowed processing prior to Election Day for 2020 only.

STATE ABSENTEE BALLOT PROCESSING DATES



Source: Office of The Budget Director, DC Council
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Tabulating Absentee Ballots

Tabulation is the totaling of all votes cast in an election for each candidate or issue.⁴ Tabulating can be conducted through a hand count, electronic tabulator, or electronic voting machine print outs. Methods vary by state and jurisdiction depending on laws and available equipment.

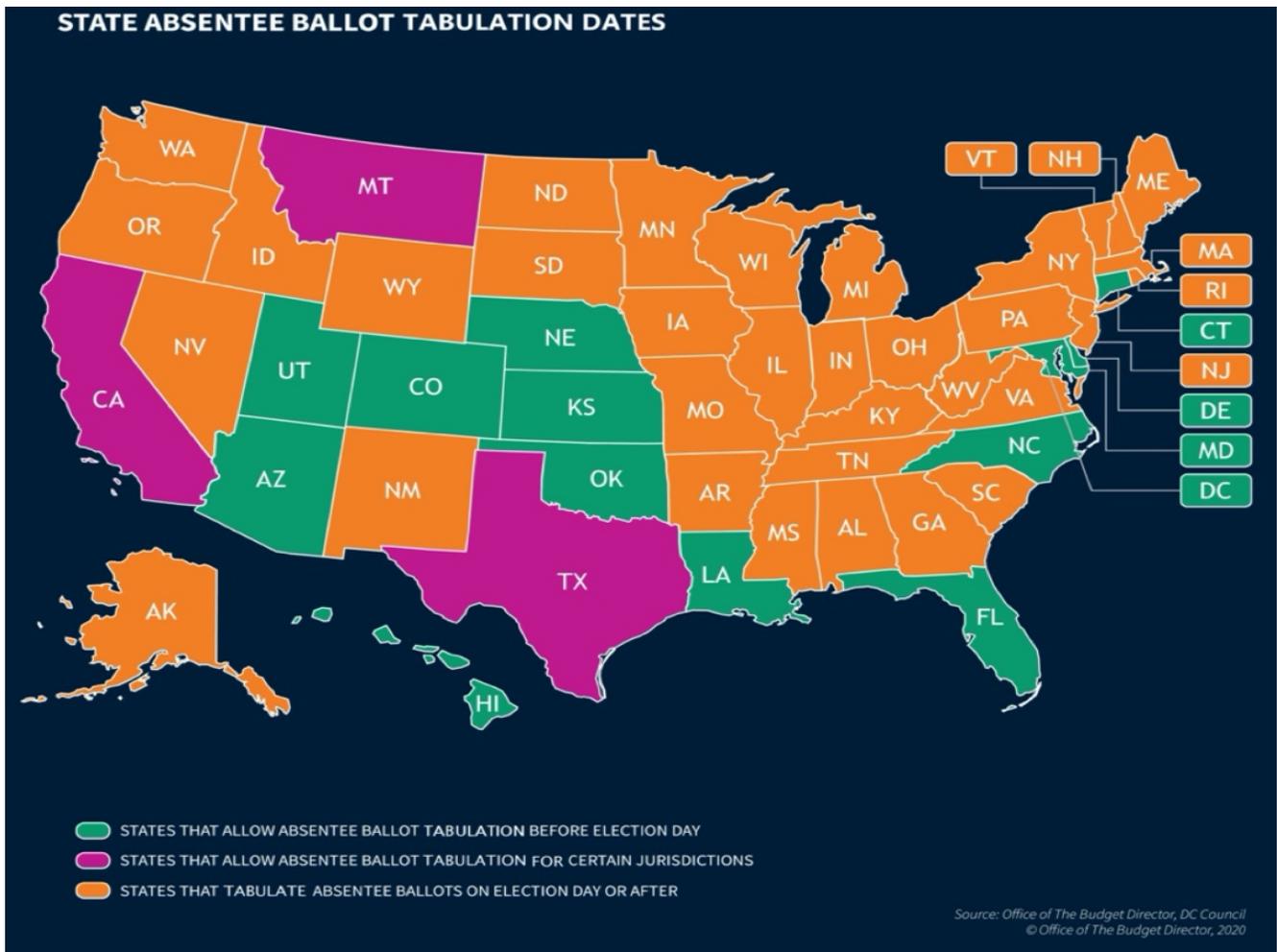
Election officials are under pressure, statutorily and from an inquiring public, to produce accurate and timely results. To ensure that they are able to meet their deadlines, 13 states and D.C. allow all jurisdictions to begin tabulating absentee ballots prior to Election Day.⁵ Due to temporary changes for the 2020 general election, Maryland has the earliest tabulation date for absentee ballots, October 1st.⁶ Three states,

Thirteen states and D.C. allow all jurisdiction to tabulate absentee ballots before Election Day.

³ California allows all-mail jurisdictions to process mail-in ballots 29 days before Election Day but requires all other jurisdictions to wait until 5pm on Election Day. Louisiana allows parishes with 1,000 or more absentee ballots to begin processing such ballots the day before Election Day. However, parishes with fewer than 1,000 absentee ballots must wait until Election Day.

⁴ Many states use the term "canvassing" to refer to the tabulation of votes. Canvass, tabulate, tally, total, and their respective variations will have the same meaning in this document.

⁵ Of these states, Connecticut, Kansas, Louisiana, Nebraska, and North Carolina allow local election officials to determine when to tabulate absentee ballots. However, Nebraska and North Carolina have limits on how far in advance of the election such tabulations can be made. ⁶ Processing of absentee ballots may also begin October 1st. Typically, processing and tabulating of mail-in ballots could not begin until after Election Day.



California, Montana, and Texas only allow certain jurisdictions to tabulate absentee ballots prior to Election Day.⁷ Thirty-four states do not allow absentee ballots to be tabulated until Election Day or later. Regardless of when tabulation begins, voting results are typically only released either at the close of the polls on Election Day or after all ballots for that election have been tabulated.

Certifying an Election

Even though preliminary results are released on election night, they are not considered the official results. An election is considered official, or “certified,” when the appropriate official verifies the results and issues a certificate to the winning candidate. Forty-six states have a statutorily set date when the election must be certified.ⁱⁱ Alaska, D.C., Pennsylvania, Rhode Island, and Tennessee do not have a statutory deadline.

Forty-six states have a statutorily set date when the election must be certified. Alaska, D.C., Pennsylvania, Rhode Island, and Tennessee do not have a statutory deadline.

⁷ Absentee ballots in Montana can be tabulated one day before the election if counted by automatic tabulation, but absentee ballots tabulated by hand counting must wait until Election Day. In Texas, any jurisdiction with more than 100,000 people can begin tabulating absentee ballots at the end of in-person early voting. In typical years, California jurisdictions that are all mail can tally ballots 10 business days prior to Election Day; all other jurisdictions must wait until 5pm on the day before Election Day. For the 2020 general election only, California permitted any jurisdiction that is able, to tally ballots 29 days before the election, but jurisdictions without the necessary equipment must still wait until 5pm on the day before the election.

Absentee Voting in D.C.

Background

Since its establishment, D.C. residents have experienced various degrees of enfranchisement and self-governance.ⁱⁱⁱ With the passage of the 23rd constitutional amendment, D.C. residents were able to vote in presidential elections for the first time in 1964. Almost a decade later, in 1973, residents gained some control of local governance with the passage of the "District of Columbia Home Rule Act." This Act allowed residents to elect a 13-person legislature called the Council of the District of Columbia, a mayor, and advisory neighborhood commissioners.⁸ The Act also established an independent Board of Elections (BOE) and gave the Council the authority to enact laws and resolutions governing elections in the D.C.

D.C., like many states, has had to adjust to the realities imposed by the coronavirus pandemic, including how it conducts elections. The Council and BOE have made several adjustments to voting laws and regulations for the 2020 elections. Voters have also adapted to these changes. Over 70 percent of 2020 primary election voters submitted an absentee or special ballot.^{9iv} That is a significant increase compared to the 2016 primary (7.3 percent) and general (8 percent) elections.^v (**Note:** To provide a more complete overview of such relevant laws and regulations, this document outlines both the requirements for 2020 elections and elections held in more typical years.)

Who Qualifies for an Absentee Ballot and When Are They Sent

In a typical election, any qualified D.C. voter may request an absentee ballot.^{10vi} A resident must also be registered to vote to cast a valid vote, either absentee or in-person.^{11vii} D.C. allows same day voter registration during the period of early voting and on Election Day, but applicants must apply in-person.^{12viii} Unique to the 2020 general election, BOE mailed every registered qualified elector an absentee ballot, regardless of whether they requested one or not.^{ix} Absentee ballots began arriving in residents' mailboxes the last week of September and continued to arrive through mid-October.^{13x}

D.C. residents gained the right to vote for president with the passage of the 23rd Amendment in 1960.

Any qualifying D.C. resident can request an absentee ballot. For the 2020 general election only, BOE sent all registered voters an absentee ballot.

⁸ D.C. voters elected their first Mayor and Council in 1974. However, residents do not have voting representation in Congress and the Council must transmit all legislation to Congress for passive review prior to becoming effective.

⁹ A special ballot is for voters who vote outside their intended polling place or have registered to vote that day, also called provisional ballots.

¹⁰ A qualified voter is someone who is 18 years old, or will be 18 by the next general election day; a U.S. citizen; has lived in D.C. for at least 30 days before the date of the next election; does not claim voting residence or right to vote in any other state or territory; and has not been found by a court of law to be legally incompetent to vote. Requests can be made electronically, in-person, or in-writing to BOE no later than the 15th day before an election.

¹¹ To register to vote, a resident must meet all the requirements of a qualified voter, complete the registration form or applies for D.C. driver's license or identity card, and such application is approved by BOE. The period when a resident can register to vote electronically, in-person, or by mail closes 21 days before the election, October 13th for the 2020 general election.

¹² Same day voter registration allows qualified residents to register to vote and cast a vote on the same day. Early voting is permitted for no more than 12 days before the election, October 27 - November 2 for the 2020 general election.

¹³ However, if for some reason, a resident does not receive a ballot in the mail, BOE will not be able to mail another ballot. If the resident wishes to vote, they must do so in person.

How and When Must Voters Return Absentee Ballots

Absentee ballots can be returned to BOE in several ways: mail; dropped off at any voting place or in a ballot drop box; or delivered to BOE's office.^{14 xi} Uniformed services and overseas voters may submit electronically or by fax.^{xii} All absentee ballots, except those mailed, must be received by 8pm on Election Day to be included in the tabulation.^{15 xiii}

D.C. Absentee Ballot Processing and Tabulation

Processing of absentee ballots begins as soon as they are received.¹⁶ When absentee ballots arrive at BOE, they are transported to a warehouse, where they are logged before being transferred to the processing team. The processing team verifies that each absentee ballot is a D.C. ballot. The team then removes the signature flap from outer envelope and the outer envelope is scanned through an automatic sorter. Signature verification is then conducted by comparing the signature on the outer envelope to the signature in the BOE database. After this, the secrecy sleeve, which contains the cast ballot, is removed, and the ballot is unfolded, flattened, and scanned through the tabulator. BOE can begin tabulating votes 15 days before Election Day but cannot release any results before 8pm on Election Day.^{xiv} Absentee ballots are tabulated separately from other ballots after polls close on Election Day.^{17 xv}

D.C. Election Certification

There is no set date for when elections held in D.C. must be certified.^{18 xvi} Currently, BOE has a tentative certification date of November 24.

BOE can process absentee ballots as soon as they arrive and can tabulate absentee ballots 15 days before Election Day. However, results cannot be released before 8pm on Election Day.

¹⁴ BOE introduced ballot drop boxes for the 2020 general election.

¹⁵ BOE requires mailed absentee ballots be postmarked or proven to have been sent by Election Day. Mailed ballots, in typical years, must be received no later than the seventh day following an election. However, for 2020 elections, this was extended to the 10th day following an election.

¹⁶ While cast ballots are scanned into the tabulator before Election Day, vote totals for each candidate are not tabulated until after the polls close on Election Day.

¹⁷ Absentee The ballots are grouped and tabulated by ward and precinct. After the election, BOE must store cast ballots for 22 months, after which they may be destroyed.

¹⁸ D.C. requires that election results be certified with sufficient time to comply with the Uniformed and Overseas Citizens Absentee Voter Act, which requires a report be filed with the Election Assistance Commission within 90 days of a general election. BOE must also publish a post general election summary report within 90 days of the general election.

References

- ⁱ Maryland State Board of Elections, (Aug. 19, 2020), Maryland State Board of Elections Increases Ballot Drop Boxes for General Election. Retrieved from https://elections.maryland.gov/press_room/documents/Additional%20Ballot%20Drop%20Boxes.pdf
- ⁱⁱ *Thirty-two have November deadlines: Alabama, Arizona, Arkansas, Colorado, Delaware, Florida, Georgia, Hawaii, Idaho, Indiana, Iowa, Kentucky, Louisiana, Maine, Massachusetts, Michigan Minnesota, Mississippi, Montana, Nebraska, New Hampshire, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Utah, Vermont, Virginia, and Wyoming. Fourteen have December deadlines: California, Connecticut, Illinois, Kansas, Maryland, Missouri, Nevada, New Jersey, New York, Oregon, Texas, Washington, West Virginia, and Wisconsin.*
- ⁱⁱⁱ Council of the District of Columbia, D.C. Home Rule. Retrieved from <https://dccouncil.us/dc-home-rule/#:~:text=The%20Council%20of%20the%20District,and%20ratified%20by%20District%20voters.&text=The%20people%20living%20in%20the,in%20Maryland%20and%20Virginia%20respectively>
- ^{iv} 3 DCMR § 807; D.C. Board of Elections, (June 17, 2020). Primary Election 2020 – Certified Results. Retrieved from https://electionresults.dcboe.org/election_statistics/2020-Primary-Election
- ^v Board of Elections, (June 19, 2018). Primary Election 2016 – Certified Results. Retrieved from https://electionresults.dcboe.org/election_statistics/2016-Primary-Election; Board of Elections, (June 18, 2018). General Election 2016 – Certified Results. Retrieved from https://electionresults.dcboe.org/election_statistics/2016-General-Election
- ^{vi} 3 DCMR § 720.2, 720.3, 720.5; D.C. Official Code § 1–1001.02(2); D.C. Act 23-336; D.C. Register (September 11, 2020) Volume 67, Number 38. Retrieved from file:///Users/katelinpunelli/Downloads/01_Cover_and_Table_of_Content_s_Vol_67_No_38_September_11_2020.pdf
- ^{vii} D.C. Official Code § 1–1001.07; 3 DCMR § 504.3
- ^{viii} D.C. Official Code §§ 1- 1001.09(b-1)(2); 3 DCMR §§ 700.4, 702.2
- ^{ix} D.C. Official Code §1–1001.05(9A-i)
- ^x Brice-Saddler, M. (September 18, 2020). D.C. voting guide: What you need to know about early voting, mail-in ballots. Retrieved from <https://www.washingtonpost.com/dc-md-va/2020/08/20/dc-voting-guide-faq/>
- ^{xi} 3 DCMR § 720.12; D.C. Board of Elections. (2020). Mail-in-Ballot Drop Box Locations. Retrieved from <https://www.dcboe.org/Voters/Where-to-Vote/Mail-Ballot-Drop-Sites>
- ^{xii} 3 DCMR § 720.12
- ^{xiii} D.C. Official Code § 1-1001.05(a)(10A); 3 DCMR § 720.5, 720.14
- ^{xiv} D.C. Official Code § 1-1001.05(a)(4)
- ^{xv} D.C. Official Code § 1–1001.09; 3 DCMR § 808.2(a), 808.3, 808.6, 808.7
- ^{xvi} 52 U.S.C. §20302(c); D.C. Official Code § 1-1001.05; 3 DCMR § 813.1; 3 DCMR § 817.1