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# Election and Voting Law: Resources for Congressional Staff

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## **Election and Voting Law: Resources for Congressional Staff**

This report is intended to serve as a starting point for congressional staff covering voting and elections. It focuses on resources related to laws governing federal elections and voting. It outlines and describes some of the key sources of laws, pending legislation, regulations, cases, CRS Products, and federal agencies working in this subject area. It also contains sections dedicated to the voting process, voting rights, campaign finance, and presidential elections.

## Contents

Introduction .....	1
Election and Voting Law Resources .....	1
United States Constitution.....	1
United States Code.....	1
Legislation.....	1
Regulations.....	2
State Resources .....	2
Federal Agencies .....	2
Additional Resources .....	3
Selected Topics.....	3
Voting Processes and Election Administration.....	3
Laws.....	3
<i>Regulations</i> .....	3
CRS Products.....	4
Additional Resources .....	4
Voting Rights.....	5
Laws.....	5
<i>Cases</i> .....	5
<i>Legislation</i> .....	5
<i>Regulations</i> .....	5
CRS Products.....	5
Additional Resources.....	6
Campaign Finance.....	6
Laws.....	6
<i>Cases</i> .....	6
Legislation .....	7
<i>Regulations</i> .....	7
CRS Products.....	7
Additional Resources .....	8
Presidential Elections .....	8
Laws.....	8
CRS Products.....	8
Additional Resources.....	9

## Contacts

Author Information.....	9
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## Introduction

This report is intended to serve as a starting point for congressional staff covering voting and elections. It focuses on resources related to laws governing federal elections and voting. It outlines and describes some of the key sources of laws, pending legislation, regulations, cases, the Congressional Research Service (CRS) products, and federal agencies working in this subject area. This report also contains sections dedicated to the voting process, voting rights, campaign finance, and presidential elections.<sup>1</sup>

## Election and Voting Law Resources

Election law in the United States is composed of limits and powers defined in the U.S. Constitution, as well as federal and state statutes, regulations, and court cases. This section identifies some of the major resources in each category.

### United States Constitution

The U.S. Constitution serves as the framework under which other election and voting laws operate.

CRS provides information about the Constitution in *The Constitution of the United States of America: Analysis and Interpretation* (CONAN).<sup>2</sup> The CONAN website presents the text of the Constitution along with analysis by CRS attorneys, including commentary on Supreme Court decisions that have interpreted the text.

### United States Code

The *United States Code* is a consolidation and codification of the general and permanent laws of the United States, organized by subject matter. The *Code* is prepared by the Office of the Law Revision Counsel of the United States House of Representatives (OLRC).

In September of 2014, OLRC reorganized the provisions related to voting and elections, creating the new Title 52, Voting and Elections. For more information about this change, see the OLRC website, “Editorial Reclassification: Title 52, United States Code.”

Please note that because of this reclassification, researchers may encounter references to outdated citations. OLRC provides a table with former and current classifications side-by-side.

## Legislation

Congress.gov is the official website for U.S. federal legislative information. Congress.gov coverage of bills begins in 1973, with full bill text beginning in 1993. Congress.gov categorizes legislation into policy areas and legislative subjects. For example, a search of the legislative subject “Elections, voting, political campaign regulation” will return a list of bills that can then be

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<sup>1</sup> CRS Video WVB00691, *Election 2024: A Discussion of Hot Legal Topics*, by Jimmy Balser, Juria L. Jones, and L. Paige Whitaker, provides an overview of several legal issues and topics affecting federal, state and local elections in 2024.

<sup>2</sup> Congressional Research Service (CRS), *Constitution of the United States of America: Analysis and Interpretation* (Washington, DC: U.S. GPO, 2013).

filtered by additional criteria. To filter by facets, such as Congress and Status of Legislation, use the tool along the left-hand side of the results' list.

## **Regulations**

Regulations, along with notices, proposed rules, and presidential documents, are published daily in the *Federal Register*. General and permanent rules are published annually in the *Code of Federal Regulations*, which is organized into titles according to subject area. The Government Publishing Office maintains the “Electronic Code of Federal Regulations,” or e-CFR, an electronic version of the *Code of Federal Regulations*. The e-CFR is updated frequently; the currency of the information is stated clearly on the homepage. Title 11 contains regulations about federal elections.

## **State Resources**

This CRS report does not provide resources on voting laws for each individual state. Instead, it directs users to resources for compilations of state laws. For an overview of issues related to elections and voting in the states, the National Conference of State Legislatures (NCSL) maintains an “Elections and Campaigns” website.

HeinOnline, a subscription resource available to congressional staff through the CRS La Follette Congressional Reading Room, provides numerous Subject Compilations of State Laws categorized with the subject heading “Voters and Voting.”

## **Federal Agencies**

The Federal Election Commission (FEC) is an independent regulatory agency created by Congress in 1975 to administer and enforce the Federal Election Campaign Act (FECA). The FEC’s duties include disclosing public finance information, enforcing provisions of the FECA, and overseeing public funding of presidential elections.<sup>3</sup>

The Voting Section of the Civil Rights Division of the U.S. Department of Justice (DOJ) enforces the civil provisions of federal laws that protect the right to vote, including the Voting Rights Act (VRA), the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), the National Voter Registration Act (NVRA), the Help America Vote Act of 2002 (HAVA), and the Civil Rights Act (CRA). The DOJ website provides a list and summary of “Statutes Enforced by the Voting Section.”

The United States Election Assistance Commission (EAC) is an independent, bipartisan commission established by HAVA.<sup>4</sup> The EAC administers grant programs, provides for testing and certification of voting systems, and studies election issues. The EAC also assists election officials by issuing guidelines for voting systems and advice on implementing the act’s requirements.<sup>5</sup>

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<sup>3</sup> Federal Election Commission (FEC), “About the FEC,” at <http://www.fec.gov/about.shtml>.

<sup>4</sup> Help America Vote Act, P.L. 107-252, codified at 52 U.S.C. §§20901-21145 (2002); CRS Report R46949, *The Help America Vote Act of 2002 (HAVA): Overview and Ongoing Role in Election Administration Policy*, by Karen L. Shanton.

<sup>5</sup> CRS In Focus IF12033, *The Help America Vote Act of 2002 (HAVA): An Overview*, by Karen L. Shanton.

## **Additional Resources**

Law Library of Congress, “Election Law”

Library of Congress, “U.S. Election Statistics: A Resource Guide”

National Archives and Records Administration, “U.S. Voting & Election Resources”

Cornell University Legal Information Institute, “Election Law: An Overview”

Georgetown Law Library, “Election Law Research Guide”

Ohio State University Moritz College of Law, “Major Pending Election Cases” and “Election Law @ Moritz—Archives”

University of California at Irvine, “Starting Points—Election Law”

Pace Law Library, “Election Law: States”

## **Selected Topics**

### **Voting Processes and Election Administration**

This section includes resources related to laws governing voter registration, ID requirements, and other logistics of election administration.

#### **Laws**

##### ***U.S. Constitution***

Constitutional provisions providing federal authority to regulate federal elections:

Article I, Section 4, cl. 1 (text | analysis)

Article II, Section 1, cl. 4 (text | analysis)

##### ***Federal Statutes***

Electoral Count Reform and Presidential Transition Improvement Act of 2022 (ECRA) (P.L. 117-328)

Help America Vote Act of 2002 (P.L. 107-25)

National Voter Registration Act of 1993 (P.L. 103-31)

##### ***State Statutes***

NCSL’s website “Election Laws and Procedures Overview” provides 50-State Data Resources on topics including voter registration, voter ID, absentee and early voting, and voting equipment.

##### ***Regulations***

Regulations promulgated by the EAC are published throughout the year in the *Federal Register* and once a year in the annual update of the *Code of Federal Regulations*. Regulations promulgated by the EAC are located in Title 11, Chapter 2.

## **CRS Products**

CRS Legal Sidebar LSB10781, *Overview of Federal Criminal Laws Prohibiting Threats and Harassment of Election Workers*, by Jimmy Balsler

CRS Legal Sidebar LSB11125, *Overview of Federal Criminal Laws Prohibiting Interference with Voting*, by Jimmy Balsler

CRS In Focus IF12767, *Immigration Consequences of Unlawful Voting by Aliens*, by Hillel R. Smith

CRS In Focus IF12245, *Voting Systems and Federal Law*, by Jimmy Balsler

CRS Report WPD00099, *Elections Podcast: Federal Standards and Guidelines for Voting Systems*, by Karen L. Shanton

CRS Report R45030, *Federal Role in Voter Registration: The National Voter Registration Act of 1993 (NVRA) and Subsequent Developments*, by Sarah J. Eckman

CRS Insight IN11831, *Election Worker Safety and Privacy*, by Sarah J. Eckman and Karen L. Shanton

CRS Video WVB00652, *Election Administration: Recent Policy Developments*, by Sarah J. Eckman, R. Sam Garrett, and Karen L. Shanton

CRS In Focus IF11477, *Early Voting and Mail Voting: Overview & Issues for Congress*, by Sarah J. Eckman and Karen L. Shanton

CRS Insight IN12280, *Federal Guidelines, Testing, and Certification for Electronic Poll Books (E-Poll Books)*, by Karen L. Shanton

CRS Legal Sidebar LSB10470, *Election 2020 and the COVID-19 Pandemic: Legal Issues in Absentee and All-Mail Voting*, by L. Paige Whitaker

CRS Report RL30747, *Congressional Authority to Direct How States Administer Elections*, by Kenneth R. Thomas

CRS Report R44675, *Recent State Election Law Challenges: In Brief*, by L. Paige Whitaker

CRS Report R42806, *State Voter Identification Requirements: Analysis, Legal Issues, and Policy Considerations*, by Eric A. Fischer, R. Sam Garrett, and L. Paige Whitaker

CRS Report R46949, *The Help America Vote Act of 2002 (HAVA): Overview and Ongoing Role in Election Administration Policy*, by Karen L. Shanton

## **Additional Resources**

U.S. Department of Justice, “The National Voter Registration Act of 1993 (NVRA): Questions and Answers”

U.S. Election Assistance Commission, “Election Management Guidelines”

National Conference of State Legislatures, “Enactments Relating to the Electoral Count Reform Act”

The Federal Voting Assistance Program supports servicemembers, their families, and overseas citizens and their right to vote.

## **Voting Rights**

This section contains resources related to laws protecting the right to vote, including preventing discrimination in voter registration and voting procedures and poll access for individuals with disabilities and senior citizens.

### **Laws**

#### ***Constitutional Amendments***

Fourteenth Amendment

Fifteenth Amendment

Nineteenth Amendment

Twenty-Fourth Amendment

Twenty-Sixth Amendment

#### ***Federal Statutes***

Civil Rights Acts of 1957, 1960, and 1964 (CRA)

    Civil Rights Act of 1957 (P.L. 85-315)

    Civil Rights Act of 1960 (P.L. 86-449)

    Civil Rights Act of 1964 (P.L. 88-352)

Voting Rights Act of 1965 (VRA) (P.L. 89-110)

Voting Accessibility for the Elderly and Handicapped Act (VAEHA) (P.L. 98-435)

#### ***Cases***

The DOJ Voting Section maintains a list of cases in “Voting Section Litigation,” sorted by section and act under which the claim arose.

#### ***Legislation***

Congress.gov tracks relevant bills with the legislative subject “Voting Rights.”

#### ***Regulations***

Implementation of the Provisions of the Voting Rights Act Regarding Language Minority Groups, 28 C.F.R., Part 55.

#### **CRS Products**

CRS In Focus IF12291, *Elections and Voting: Policy and Legal Issues for the 118th Congress*, by R. Sam Garrett and L. Paige Whitaker

CRS Legal Sidebar LSB10954, *Recent Developments in the Rights of Private Individuals to Enforce Section 2 of the Voting Rights Act*, by L. Paige Whitaker



CRS Report R47520, *The Voting Rights Act: Historical Development and Policy Background*, by R. Sam Garrett

CRS In Focus IF12015, *The John R. Lewis Voting Rights Advancement Act of 2021, S. 4 (117th Congress): Legal Overview*, by L. Paige Whitaker

CRS Legal Sidebar LSB10771, *Voting Rights Act: Section 3(c) “Bail-In” Provision*, by L. Paige Whitaker

CRS Insight IN12343, *Election Systems: Recent Action by the Election Assistance Commission*, by Karen L. Shanton

CRS Insight IN12389, *Election Policy Fundamentals: The Secret Ballot*, by Karen L. Shanton and Tyler L. Wolanin

CRS Report R46413, *Election Day: Frequently Asked Questions*, by Caitlin Curran

CRS Legal Sidebar WSLG1350, *The 50th Anniversary of the Voting Rights Act*, by L. Paige Whitaker

CRS Report R43626, *The Voting Rights Act of 1965: Background and Overview*, by Kevin J. Coleman

## **Additional Resources**

U.S. Department of Justice, “History of Federal Voting Rights Laws”

U.S. Department of Justice, “Statutes Enforced by the Voting Section”

U.S. Department of Justice, “Voting Rights Policy and Guidance”

## **Campaign Finance**

Campaign finance law addresses issues including fundraising, spending, and reporting. This section contains resources for conducting legal research on those topics.

## **Laws**

### ***Federal Statutes***

Federal Election Campaign Act of 1971 (FECA) (P.L. 92-225)

Bipartisan Campaign Reform Act of 2002 (BCRA) (P.L. 107-155)

Presidential Election Campaign Fund Act of 1966 (PECA) (P.L. 89-809)

Presidential Primary Matching Payment Account Act of 1974 (P.L. 93-443)

### ***Cases***

Federal courts have played a significant role in shaping campaign finance law, including invalidating portions of the Bipartisan Campaign Reform Act. The FEC maintains websites on “Selected Campaign Finance Law Court Cases” and a “Court Case Alphabetical Index.”

CRS Report R45320, *Campaign Finance Law: An Analysis of Key Issues, Recent Developments, and Constitutional Considerations for Legislation*, by L. Paige Whitaker, discusses provisions of the Federal Election Campaign Act (FECA) and Supreme Court decisions relevant to campaign

finance law and legislation. CRS Legislative Attorney L. Paige Whitaker also authored CRS Infographic IG10054, *Campaign Finance Law and the U.S. Supreme Court*.

## **Legislation**

### ***Federal Legislation***

CRS Report R41542, *The State of Campaign Finance Policy: Recent Developments and Issues for Congress*, by R. Sam Garrett, discusses recent legislative activity on campaign finance from the 115<sup>th</sup> through the 118<sup>th</sup> Congresses. CRS Analyst R. Sam Garrett also authored CRS Insight IN12198, *Federal Election Commission Administrative Fine Program*, which discusses recent legislative activity extending that program's expiration date.

Updated information on the status of the bills mentioned in these products is available from Congress.gov.

### ***State Legislation***

NCSL maintains a Campaign Finance Legislation Database that contains state legislation from 2015 onward. NCSL also maintains a database of archived state campaign finance legislation from 1993 to 2013.

### ***Regulations***

Title 11, Chapter 1 of the *Code of Federal Regulations* contains regulations promulgated by the FEC.

The FEC also maintains its own site for regulatory information, "Commission Regulations." This includes the text of Title 11 of the C.F.R., the Searchable Electronic Rulemaking System, and an index of *Federal Register* notices.

NCSL maintains on its website a Campaign Finance Regulation: State Comparisons site that tracks state regulations on contributions to PACs, disclosure requirements, public financing, restrictions on use of campaign funds, and finance reporting and enforcement requirements.

## **CRS Products**

CRS Video WVB00644, *Campaign Finance: Introduction and Recent Developments*, by R. Sam Garrett and L. Paige Whitaker

CRS Insight IN12037, *Elections and Campaign Finance Policy: A CRS Podcast Series*, by Karen L. Shanton

CRS Report WPD00034, *Elections Podcast: Federal Role in Campaign Finance*, by Karen L. Shanton and R. Sam Garrett

CRS Report WPD00076, *CRS Case Method: Citizens United v. FEC and First Amendment Protection for Political Speech*, by David Gunter and L. Paige Whitaker

CRS Report R45320, *Campaign Finance Law: An Analysis of Key Issues, Recent Developments, and Constitutional Considerations for Legislation*, by L. Paige Whitaker

CRS In Focus IF12691, *PACs and Super PACs in Federal Election Campaigns: Legal Framework*, by L. Paige Whitaker

CRS In Focus IF12468, *Artificial Intelligence (AI) in Federal Election Campaigns: Legal Background and Constitutional Considerations for Legislation*, by L. Paige Whitaker

CRS Insight IN12222, *Artificial Intelligence (AI) and Campaign Finance Policy: Recent Developments*, by R. Sam Garrett

CRS Report R41604, *Proposals to Eliminate Public Financing of Presidential Campaigns*, by R. Sam Garrett

CRS Report R44447, *Campaign Contributions and the Ethics of Elected Officials: Regulation Under Federal Law*, by Cynthia Brown, Jack Maskell, and L. Paige Whitaker

CRS Report R43719, *Campaign Finance: Constitutionality of Limits on Contributions and Expenditures*, by L. Paige Whitaker

CRS In Focus IF10277, *Candidates, Groups, and the Campaign Finance Environment: A Brief Overview*, by R. Sam Garrett

CRS Report R41542, *The State of Campaign Finance Policy: Recent Developments and Issues for Congress*, by R. Sam Garrett

## **Additional Resources**

Federal Election Commission, “Campaign Finance Reports and Data”

Federal Election Commission, “Policy Statements, Interpretive Rules, and Other Guidance”

Federal Election Commission, “Presidential Election Campaign Fund Tax Check-Off Chart”

## **Presidential Elections**

This section contains constitutional provisions, statutes, and resources for other aspects of presidential elections, including information on the Electoral College.

### **Laws**

#### ***U.S. Constitution***

Article II, Section 1, cl. 2-4 (text | analysis)

#### ***Constitutional Amendments***

Twelfth Amendment

Twenty-Third Amendment

#### ***Federal Statutes***

Title 3, Chapter 1 of the *U.S. Code* covers “Presidential Elections and Vacancies.” The Electoral Count Reform Act amended several sections of Title 3 in 2022.

### **CRS Products**

CRS In Focus IF12682, *Electoral College Overview*, by R. Sam Garrett

CRS Legal Sidebar LSB11096, *Disqualification of a Candidate for the Presidency, Part II: Examining Section 3 of the Fourteenth Amendment as It Applies to Ballot Access*, by L. Paige Whitaker, Jennifer K. Elsea, and Juria L. Jones

CRS In Focus IF11555, *Presidential Candidate and Nominating Convention Security*, by Shawn Reese

CRS Insight IN12396, *Recent Developments in the Democratic Presidential Nominating Process*, by R. Sam Garrett

CRS In Focus IF12489, *Election Administration: Overview of FY2024 Financial Services and General Government (FSGG) Appropriations*, by Karen L. Shanton

CRS Legal Sidebar WSLG1650, *How Can the Results of a Presidential Election Be Contested?*, by L. Paige Whitaker and Jack Maskell

## **Additional Resources**

USA.gov, “Presidential Election Process”

National Archives and Records Administration, “The Electoral College”

Federal Election Commission, “Election Results and Voting Information”

University of California at Santa Barbara, The American Presidency Project, “Presidential Elections Data”

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