

# HARRIS COUNTY CIVIC ENGAGEMENT POLICY AUDIT

*A project of the Harris County Civic Engagement Initiative's Policymaker  
Taskforce*

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# EXECUTIVE SUMMARY

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## Background

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Commissioned by Houston Endowment, this report assesses systemic barriers and opportunities for civic engagement in Harris County, examining both political and social arenas of civic action. It provides a systematic audit of federal, state and local statutes and other policy statements pertaining to civic engagement in Harris County. It also reports data from a variety of sources to paint a comprehensive picture of what participation looks like on the ground, where potential barriers to political and social engagement are found, and what community leaders think about the civic attitudes and behaviors of the residents and constituents they serve. The objective of this report is to frame discussions with community residents, leaders, and local policymakers about how to address specific barriers to participation in Harris County in order to strengthen and improve the civic health of Greater Houston.

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## Data Sources

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One-on-one exploratory conversations were conducted with grassroots and nonprofit community leaders both in person and by telephone from June 2018 to September 2018. These conversations examined leaders' perceptions of civic life, such as voting activity and community engagement, as well as perceptions about barriers to civic engagement in Harris County. Findings from these conversations, as well as extensive discussions with the Houston in Action Policymaker Taskforce, guided selection of core areas of study. We utilized a wide range of sources to conduct research for this report. These included statutes, government websites, newspapers, research reports, academic papers, as well as policy analyses and state-level comparisons produced by reputable policy organizations.

In addition, this study relies primarily on two data sources. The first is the Election Administration and Voting Surveys (EAVS) compiled by the U.S. Election Assistance Commission (EAC) (2010, 2012, 2014 and 2016). These biennial surveys include state-by-state and jurisdiction-by-jurisdiction data on a wide variety of topics related to election policy, including voter registration, military and overseas voting, domestic civilian by-mail voting, polling operations, provisional ballots, voter participation, and election technology. For this report, we extracted and summarized responses for all Texas counties and compared them with responses both for all electoral jurisdictions in the U.S. and for Harris County. The second data source is election results from the Harris County Clerk's office and the Texas Secretary of State, which have been collected and processed by the Center for Local Elections in American Politics (LEAP).

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## Key Findings

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- **Public Expression and Participation:** Across the U.S., a relatively small percentage of respondents contact officials to bring a specific problem to their attention or to express their opinion on an issue. While about one in ten residents of the U.S. report contacting a public official at least once every year, about half as many, one in 20 residents of Greater Houston report doing so, according to the 2018 Houston Civic Health Index. In Houston and Harris County, as with many municipalities around the country, laws guiding public participation predate recent participatory innovations. Municipal bodies within the metropolitan area vary widely in how they structure participation and public comment, each with distinct limitations on when and how long the public may speak at government meetings.
  - 1.
- **Voter Registration:** Texas ranks 43<sup>rd</sup> among U.S. states in the percentage of its citizens registered to vote (78%). Harris County lags considerably behind the state, with only 66% of its citizens registered. Potential structural barriers that may contribute to these low registration rates include: lack of internet-based registration, the comparatively early voter registration deadline, failure of some Texas voter registration agencies to provide voter registration services outlined by federal and state law, lack or absence of Volunteer Deputy Voter Registrar (VDVR) trainings in Spanish, Vietnamese and Chinese, and lack of compliance with the state's high school voter registration law.
- **Casting a Ballot:** Voter turnout in Harris County was 61% in the 2016 Presidential Election, putting it one percentage point ahead of Texas, which ranked 47<sup>th</sup> out of 50 states in turnout. Structural barriers to electoral participation in Harris County may include: Texas' voter ID law, disenfranchisement of convicted felons on parole or serving probation, challenges surrounding access to translators, limited hours for early voting, placement of and/or last-minute changes to polling locations (e.g., not accessible or near campuses)
- **Election Administration:** Election administration involves a complex set of federal, state, and local laws that play a fundamental role in determining when, where, and how Harris County residents register to vote and cast their ballots. While Texas has been an early adopter of some reforms that seek to reduce the costs of voting (e.g., Texas was the first state to implement early in-person voting in the 1980s and approved county-wide vote centers in 2005), it also has a long history of diluting and disenfranchising minority votes and voters. Our review of the evidence suggests that in recent years Harris County has not taken significant steps to increase voter participation and engagement, and has instead, made decisions that sometimes limit residents' opportunities to register and vote, and/or increase the costs of electoral participation.

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- **Running for Office:** Barriers to running for office are fairly low in Harris County, with minimal age and residency requirements, and the statewide option to submit petition signatures instead of paying filing fees. Women and Hispanics continue to be underrepresented as candidates in nearly all elected offices. Consequently, both groups are also underrepresented in elected office.

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- **Volunteering and Charitable Giving:** On par, most government action to support volunteerism in Harris County comes from federal rather than state or local statutes, and most volunteerism to date in Texas is of a voluntary nature. Only a small portion of Greater Houston respondents report traditional volunteering through an organization or engaging in more informal volunteerism (e.g., doing favors frequently for a neighbor). A larger percentage of area respondents, just under half, reported donating at least \$25 to charity. Overall, the 2018 Houston Civic Health Index Report found that despite Greater Houston's economic and cultural vibrancy, it ranks on average 36th out of the 50 largest metropolitan areas in the country on 21 indicators of civic health. That said, the Houston region saw extensive informal volunteering in the wake of Hurricane Harvey, and its experience with volunteerism around national disasters has helped it become a leader in making national change in how FEMA counts volunteerism in supporting regions through crisis and recovery.
- **Youth Civic Engagement:** Extensive research finds that civic engagement is habitual, with young people who are civically engaged remaining involved as they move forward into adulthood. However, Greater Houston sees stark differences in civic participation on the basis of age, with young adults voting, contacting and visiting public officials, and attending public meetings at much lower rates than their older counterparts. Few higher education institutions in the Houston area host voting locations on campus, limiting voting accessibility to college students. Texas offers engagement opportunities to high school youth to serve as election poll workers, and allows youth 17 years and 10 months to preregister to vote; though 19 states allow young people to preregister to vote as early as 16 or 17 years old. Statewide (and in Harris County) opportunities to increase young people's civic engagement laws often are not fully implemented. For example, while Texas law requires high schools to register young voters, the majority of Harris County high schools do not appear to do so. While Texas law provides procedures that allow elementary and secondary students to participate in mock elections held in conjunction with official elections, this opportunity appears rarely used in Harris County.

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# **POLICIES ON PUBLIC EXPRESSION AND PARTICIPATION**

## WHY IT MATTERS

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The First Amendment of the U.S. Constitution explicitly itemizes the rights of individuals to speak freely, to peacefully assemble, and to petition the government in support or opposition of government action. The ability and opportunity for individuals to speak up and engage with each other and with public officials around issues that matter to them, therefore, is critical to civic engagement.

Yet, in the U.S., low turnout at meetings of governmental bodies – a place where individuals and groups are invited to speak directly regarding government action – is common, except when controversial issues are on the agenda. A 2013 publication by the National Civic League suggests that governments tend to offer limited ways for the public to feel that they can effectively engage with their elected officials and participate in public decision-making.

Survey data indicate that both in Harris County and nationwide, a relatively small percentage of respondents contact officials to express their opinion on an issue or simply to bring a specific problem, such as a pothole, to their attention. In 2016, just over one in 20 residents in Greater Houston contacted a public official at least once every year. Nationwide, about twice as many (one in ten) residents reported doing so (Lappie 2018).

Exploratory conversations with Harris County community leaders indicated that they perceive that some community members try to impact local politics. While not all of these stakeholders were able to estimate a percentage of community members who had contacted an elected official or attended a government meeting, those who did reported that fewer than half of community members had done so. One prominent exception to this: stakeholders described community members reaching out to elected officials or attending community meetings in order to communicate with FEMA in the aftermath of Hurricane Harvey.

### References:

- 1) National Civic League. 2013. “Making Public Participation Legal.” Retrieved from <http://ncdd.org/main/wp-content/uploads/MakingP2Legal.pdf>
- 2) Lappie, J. 2018. “2018 Houston Civic Health Index.” Kinder Institute for Urban Research and the Center for Local Elections in American Politics. Retrieved from <https://www.ncoc.org/wp-content/uploads/2018/05/2018-Houston-CHI-Draft.pdf>

## POLICY: IN STATUTE AND ON THE GROUND

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### Public Access and Participation in Government Processes

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#### MEETINGS OPEN TO THE PUBLIC

Whenever a quorum of any state or municipal governmental body meets to consider public business, the meeting must be open to the public. Per this handbook, a “walking quorum” – when members of a government body intentionally consider public business without a physical quorum in one single place – violates this law.

This applies for both regular and special meetings, unless otherwise outlined by state law, of government bodies including, but not limited to: state, city, and county governing bodies; school district boards; other municipal governing bodies; and any executive and legislative boards, commissions, agencies, departments, and committees, whether led by an elected or appointed member.

Governing bodies are not permitted to consider any matter unless it has been listed on a publicly-available agenda. If anyone present – whether a member of the governing body or the public – raises a topic not on the agenda, only factual information can be provided in response; deliberations are prohibited.

*Texas policy sources: **TEX. GOVT. §551.001-.002, §551.042, §551.127-.128 (TEXAS OPEN MEETINGS ACT); TEX. OFFICE OF THE ATTORNEY GENERAL, 2018 OPEN MEETINGS HANDBOOK***

#### PUBLIC MEETINGS: LOCATIONS, RECORDS, AND VIDEOCONFERENCING

All votes by a state or municipal governing body must take place in an open meeting. Minutes from open meetings are public records. Audience members may record any or all of an open meeting, and open meetings are permitted to be broadcast on the internet.

State law allows open meetings to be held by videoconference. To do so, a quorum must be physically present in a single location, and the videoconference must be publicly visible and audible at that location.

If the governing body includes 3 or more counties, a quorum does not have to be at one single location, but the individual presiding over the meeting must be physically present in a meeting location that is open to the public.

The physical location must be specified in all meeting notices, and a recording of the meeting must be made available to the public.

*Texas policy sources: **TEX. GOVT. §551.021-.023, §551.102; §551.127 (TEXAS OPEN MEETINGS ACT)***

### **PUBLIC MEETINGS: WRITTEN NOTICE REQUIREMENTS**

Written notice of all meetings of a governmental body must be provided to the public. Typically, this notice must be provided at least 72 hours in advance, “in a place readily accessible to the general public.”

Statewide agencies must provide notice at least 7 days in advance. The state House of Representatives and Senate may set their own requirements for public notice of legislative committee meetings.

In the case of a catastrophic emergency, only 2 hours advance notice is required; this notice must be provided to all news media outlets that have requested to be notified about emergency meetings.

In an emergency, state law permits open and closed meetings to be held by telephone; but advance notice requirements must be followed.

*Texas policy sources: **TEX. GOVT. §551.041-.056, §551.125-.127 (TEXAS OPEN MEETINGS ACT)***

### **PUBLIC MEETINGS: COMMENTS BY THE PUBLIC**

Governmental bodies may permit the public to speak at meetings via public comment, but state law does not require them to do so.

If a governing body permits public comment, it may adopt its own rules that limit how many people may speak, how often, and for how long. In doing so, a governing body “must act reasonably and may not discriminate” based on the specific views being expressed.

If a public comment session is permitted, governing bodies must provide notice of the session. Advance notice must be provided for specific topics if the body is reasonably aware that these specific topic(s) will be raised during public comment.

Members of the public may provide public comment on any subject, but members of the governing body are permitted only to discuss or consider subjects for which advance notice has been provided.

*Texas policy sources: **TEX. GOVT. §551.001; TEXAS ATTORNEY GENERAL OPINION L096-111 (1996); TEXAS ATTORNEY GENERAL OPINION JC-0169 (2000)***

## **PUBLIC ACCESS TO GOVERNMENT INFORMATION**

Unless expressly prohibited within state law, the public, regardless of whether they are Texas citizens, is guaranteed access in any form (including electronic) to state and municipal government records and documents. This includes non-confidential records created by or on behalf of government bodies while engaged in official business.

Each governing body determines how long its information will be preserved for public access, within any guidelines set by the state.

Requests for information generally must be responded to within 10 business days, unless the governing body has set a reasonable alternative deadline. Exceptions to these public information laws are expressly stipulated for requests from individuals who are incarcerated.

*Texas policy sources:* **TEX. GOVT. §552.001-.004; §552.028-.029; §552.221 (TEXAS PUBLIC INFORMATION ACT)**

## ***What it Looks Like on the Ground***

National groups devoted to expanding public participation in government processes have noted that many of the nation's state and municipal laws that guide public participation are outdated; these laws predate modern internet communication and recent innovations in participatory processes. Elsewhere in Texas, one approach that has been used to expand government transparency and increase public participation in decision-making is "open government." The City of Austin has joined the Open Government Partnership, an international effort seeking to increase government transparency and responsiveness. Through this process, Austin engaged in an extensive evaluation process and is currently drafting recommendations to increase both the efficiency and access to city meetings.

While state law does address some aspects of modern technology as regards public participation, e.g., videoconferencing, other aspects of today's technology are not addressed. For example, while prior court rulings and Texas Attorney General opinions made it clear that a "walking quorum" violates Texas law<sup>1</sup>, legislation has not yet explicitly addressed how this applies to discussion and deliberation via social media.

Within Harris County, meetings of municipal bodies in Harris County vary widely in how they structure public participation and public comment; several examples are highlighted below.

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<sup>1</sup> After completion of this report, on February 27, 2019, the Texas Court of Criminal Appeals struck down the portion of the Texas Open Meetings Act that limited "walking quorums." The court's majority ruled that the statute was "unconstitutionally vague" and lacked sufficient clarity for elected officials as to when they might be violating the law.

*Houston City Council* meets twice a week: once (on Tuesday afternoons) for public comment, limited to 3 minutes per person, and once (on Wednesday mornings) for deliberations. Public comment speakers must sign up ahead of time, either by calling or appearing at the Office of the City Secretary.

The *Pasadena City Council*, representing the second largest city in Harris County, meets once a week (on Monday evenings). Public comment speakers submit request cards at the meeting to speak for up to 3 minutes each. Public comment for issues not on the agenda is limited to 20 minutes at the beginning of each meeting, with additional non-agenda comment permitted at the end of the meeting. For issues on the agenda, public comment is permitted during the public hearing section of each meeting.

The *Harris County Commissioners Court* meets twice a month (on Tuesday mornings). Public comment is held at the end of the meeting. For issues on the agenda, individuals may speak for up to three minutes. For issues not on the agenda, individuals who have not recently spoken before the court on the issue may speak for up to three minutes; if they have spoken about this issue during one of the past three Court meetings, they may speak for up to one minute.

*Houston ISD* meets once per month (on Thursday, early evening). For issues not on the agenda, individuals may speak for up to one minute. For issues on the agenda, individuals may speak for up to two minutes; a maximum of 30 minutes of public comment is permitted per agenda item. Advance registration prior to 9:30 a.m. on the day of the meeting is required for any member of the public who wishes to speak.

## References:

- 1) Weyandt, R. 2017. "Independent Reporting Mechanism (IRM): Austin Progress Report 2017." Open Government Partnership. Retrieved from [https://www.opengovpartnership.org/sites/default/files/Austin\\_Final-Report\\_2017\\_for-public-commments.pdf](https://www.opengovpartnership.org/sites/default/files/Austin_Final-Report_2017_for-public-commments.pdf)
- 2) The Office of the Attorney General of Texas: 2018. "Open Meetings Handbook 2018." Retrieved from [https://www.texasattorneygeneral.gov/sites/default/files/2018-06/OMA\\_handbook\\_2018.pdf](https://www.texasattorneygeneral.gov/sites/default/files/2018-06/OMA_handbook_2018.pdf)
- 3) Office of HISD Board Services. "Registering to Speak at the Regular HISD Board Meeting." Houston Independent School District. Retrieved from <https://www.houstonisd.org/cms/lib2/TX01001591/Centricity/Domain/7936/SpeakerRegistForm05-18%20Rev.pdf>.
- 4) Houston City Council. 2018. "City of Houston." Retrieved from <http://www.houstontx.gov/council/meetingsinfo.html>
- 5) Leighninger, M. October 2013. "Making Public Participation Legal." Working Group on Legal Frameworks for Public Participation. Retrieved from <http://ncdd.org/main/wp-content/uploads/MakingP2Legal.pdf>
- 6) Resolution No: 9376. 2014. "City of Pasadena." Retrieved from <https://www.cityofpasadena.net/wp-content/uploads/sites/21/City-Council-Meeting-Policy.pdf>

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## Public Assembly (Parades/Demonstrations/Rallies/Marches/ Political Events)

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### **FREEDOM OF SPEECH AND ASSEMBLY**

Rights to free speech and assembly are guaranteed; over time, courts have permitted certain specific limitations to these rights. While free speech is generally protected in public venues, private property owners may restrict speech on their property.

*Federal policy source: **U.S. CONSTITUTION, 1ST AMENDMENT***

### **PROTECTIONS FOR SPEECH AND EXPRESSION**

Individuals' rights to speak, write, and publish their opinions are protected, regardless of the subject. Individuals may peaceably assemble as a group to pursue the common good, including in response to actions of the government.

*Texas policy source: **TEXAS CONSTITUTION, ARTICLE I, SECTIONS 8, 27***

### **ORGANIZING/COLLECTIVE BARGAINING**

Public employees are prohibited from organizing together to stop work or strike against a state or municipal entity. Those who do will lose all rights, benefits, and privileges associated with public employment.

*TEXAS POLICY SOURCE: **TEX. GOVT, §617.003***

### **PROTECTIONS FOR ATTENDING LOCAL AND STATE POLITICAL CONVENTIONS**

An employer or supervisor may not restrict or threaten a worker who misses work to attend a precinct-level political convention or to serve as a delegate at a county, district, or state convention. Such attendance is job-protected leave, but the time off does not need to be paid.

*Texas policy source: **TEX. ELEC. §161.007***

### **ASSEMBLING IN HARRIS COUNTY PARKS**

When 50 or more individuals come together as a group in common purpose, in a non-regularly organized activity, it is considered a "special event." Prior written permission from the county precinct's Park Superintendent is required for any special event in county-owned parks. Specific liability insurance coverage and security provision are required for all special events.

*Harris County policy source: **RULES AND REGULATIONS FOR COUNTY PARKS IN HARRIS COUNTY, TEXAS***

### **ASSEMBLING IN CITY OF HOUSTON PARKS**

Permits and a processing fee are required when more than 75 people assemble in a city-owned park. The city may deny permits for a variety of reasons, including that the space is already reserved, plans do not sufficiently provide for security or traffic control, safety, health, or sanitation services, or “the size or nature of the special event is inappropriate for the area requested.” If the denial is due to a space mismatch, the city is expected to suggest alternative areas if possible. Insurance coverage must be maintained by the event organizer, unless expressly waived by the City.

*HOUSTON POLICY SOURCES: **HOUSTON CODE OF ORDINANCES SEC. 25.1-8, 14; HOUSTON CODE OF ORDINANCES SEC. 32.60***

### **PARADES AND PROCESSIONS TO EXPRESS VIEWS IN HOUSTON**

Any procession where people walk together to express a specific view(s) is considered a “parade.” Permits are required for parades on city streets that involve more than 250 individuals, over 12 vehicles, or exceed one mile in distance.

Parades held downtown must be completed within three hours or less on a weekend or holiday, and on a weekday between 9 am – 11 am, 1 pm – 4 pm, 7 pm – 10 pm. Parades held outside of downtown must be completed within three hours or less; parades held on non-weekend or holiday days must be no longer than one hour and must start at 10 am, 2 pm, or 7 pm.

The City may deny permits for a variety of reasons, including the organizer’s inability to meet the ordinance’s terms.

*Houston policy source: **HOUSTON CODE OF ORDINANCES SEC. 25.102-114***

### **ITEMS BANNED DURING PUBLIC ASSEMBLY IN HOUSTON**

Houston bans possession of a stick, rod, plank, pipe, club, or other similar object while participating in a public assembly, even when the object is part of a sign. Some exceptions are outlined for small wood objects.

*Houston policy source: **HOUSTON CODE OF ORDINANCES SEC. 28.33***

## ***What it Looks Like on the Ground***

While the U.S. Constitution specifically supports individuals' right to assemble together in support or opposition to government action, courts have permitted governments to place certain restrictions on this right. As the ACLU of Texas notes in its "Free Speech and the Right to Protest" fact sheet, governments are limited in their ability to institute restrictions based on the specific ideas or views people express, but they can place restrictions on, when, where, and how speech is expressed. This means that states and municipalities can place their own, varying restrictions on public assembly.

Such restrictions emerged as an issue in Houston in 2006. The City of Houston rejected requests by the Service Employees International Union (SEIU) to hold parades, marches, and rallies as part of a janitors' strike. SEIU sued the City; four years later, a federal circuit court ruled that several of the city's limitations on public assembly were unconstitutional – including certain noise requirements, specific limitations on when parades could be held, and the lack of clear definition for defining the "public gatherings" for which permits were required.

Since this ruling, the City of Houston has changed several ordinances related to public assembly, including allowing parades to occur on any weekday and instituting a minimum of 75 people before requiring a permit for a group to assemble in a City park.

On a state level, while recent years have seen teachers and other government employees go on strike in other states, Texas explicitly forbids public employee strikes. In 39 states, public employees are either forbidden from organizing together to strike, with penalties varying widely, or no right to strike is recognized<sup>2</sup>.

### **References:**

- 1) Free Speech and the Right to Protest. 2018. American Civil Liberties Union of Texas. Retrieved from <https://www.aclutx.org/en/know-your-rights/freedom-of-speech-right-to-protest>
- 2) Service Employees, Local 5 v. City of Houston, 595 F. 3d 588 (5th Cir. 2010). 5 February 2010. Court Listener. Retrieved from <https://www.courtlistener.com/opinion/70845/service-employees-local-5-v-city-of-houston/>
- 3) Ortiz, A. 21 January 2016. "City of Houston Will Require Permits for Events at Parks with 75 Participants or More." Houston Public Media. Retrieved from <https://www.houstonpublicmedia.org/articles/news/2016/01/21/134863/city-of-houston-will-require-permits-for-events-at-parks-with-75-participants-or-more/>
- 4) Harris County. n.d. Rules and Regulations for County Parks in Harris County, Texas. (n.d.). Retrieved from <https://www.hcp4.net/portals/1/Launch/Community/Parks/Parks%20Regulations/Park%20Rules%20Book%200815.pdf>

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<sup>2</sup> Note that while 39 states forbid public employee strikes, Texas is one of just five that prohibit teachers from organizing together for collective bargaining.

- 5) League of Minnesota Cities. 1 December 2017. Information Memo: First Amendment Concepts for Protests in Cities. League of Minnesota Cities. Retrieved from <https://www.lmc.org/media/document/1/firstamendmentconceptsforprotestsincities.pdf?inline=true>
- 6) Samuels, A. 5 April 2018. "Teachers are striking in other states. Texas teachers can't do that." The Texas Tribune. Retrieved from <https://www.texastribune.org/2018/04/05/texas-public-school-teachers-strike-union-oklahoma/>
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- 8) Sanes, M. & Schmitt, J. 2014. Regulation of public sector collective bargaining in the states. Center for Economic and Policy Research. Retrieved from <http://cepr.net/documents/state-public-cb-2014-03.pdf>

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## Canvassing

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### REGULATION OF CANVASSERS

Texas permits municipalities to regulate “hawkers; peddlers; and pawnbrokers.” In Houston, registration is required for any individuals or nonprofit organizations who solicit charitable funds. Explicitly excludes individuals soliciting on behalf of a political group or organization from these requirements.

*State policy source:* **TEX LOC. GOVT. §215.031**

*Local policy source:* **HOUSTON CODE OF ORDINANCES SEC. 36.71-36.85**

### ***What it Looks Like on the Ground***

Political canvassing refers to going door-to-door for a candidate or political issue and/or distributing materials on behalf of a candidate or issue. In multiple cases, the U.S. Supreme Court has ruled against government-imposed laws that limit canvassing for non-commercial purposes (including political canvassing), allowing such canvassing without permits or advance notice between 9 a.m. – 9 p.m.

While an individual property owner may limit canvassers, municipal laws imposing restrictions on political canvassing, such as permitting requirements or licensing fees, have often faced court challenges. Commonly, when municipalities or ordinances impose bans or restrictions on solicitation, these usually refer to sales activities, not to political activities.

The Texas Municipal League offers an example municipal ordinance on solicitation that includes restrictions on where canvassers can leave flyers and the hours when they may visit properties without an invitation. While some Texas municipalities have adopted such restrictions, there is no indication that Harris County or the City of Houston have done so. In fact, the City of Houston explicitly excludes political canvassing from its definition of soliciting and associated restrictions.

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# **POLICIES ON VOTER REGISTRATION**

## WHY IT MATTERS

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Voter registration is a critical piece of the civic engagement story. To participate in the electoral process, citizens must be registered to vote. According to the Annette Strauss Institute for Civic Life, Texas ranked 44<sup>th</sup> among all states in terms of eligible citizens who are registered to vote. The difference in registration rates between Texas and the U.S. is widest among eligible voters ages 18-24. Eligible Texas youth register to vote at a rate 7 percentage points below the national average.

To become registered, citizens must meet eligibility requirements, which vary slightly across states, and update their voter registration in a timely fashion if and when they change their name or move. For the voter who never changes one's name or residence, the voter registration process may appear relatively straightforward. However, typical voters, who move at least once in their lifetime, face a more complicated process. Indeed, roughly 15 percent of Americans change residences in a given year, and based on a Pew Research Center survey in 2008, 42 percent of Americans have lived in two or more states.

Barriers to voter registration for Harris County residents emerged frequently in conversations with community leaders. As one described:

*Concerns about ambiguity and uncertainty around voting in general. Register at home, at school, do issues matter, etc. Rather than risk messing up, people just don't participate at all. They don't feel as if they have the knowledge on all issues.*

Feelings of lacking sufficient knowledge to register to vote may go hand-in-hand with confusion about the many different steps involved in registering to vote. These steps may lead to confusion as potential voters seek to assess the accuracy of the many different pieces of information they encounter surrounding the registration and voting process. As another community leader explained:

*One of the major issues is confusion, which is more than regulation that may prevent people from voting. For example, like voter's identification or change of address. There is confusion about the elements of election process and people giving out false updates. A number of voters were displaced because of Harvey and distressed to know their name was not still on the voting roll. There is usually suspense here which means the voter's registrar doesn't have a confirmed address.*

These challenges may be heightened for potential voters who are part of under-represented communities. For example, voters with prior felony records are often unclear about their rights with regards to registering and voting in Texas. One community leader noted,

*People I know are concerned if they have a background or record. More efforts are underway to provide education because if you are on probation or parole you can't vote.*

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# POLICY: IN STATUTE AND ON THE GROUND

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## Voter Registration: General Registration Process

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### Applicable Federal Laws

#### **FEDERAL OVERSIGHT TO PROTECT VOTING RIGHTS**

The Voting Rights Act seeks to protect voting rights for minority voters and allows for federal oversight and review of complaints related to voter registration.

From 1975 until the U.S. Supreme Court's *Shelby v. Holder* ruling in 2013, Texas was required under this law to receive preclearance from the U.S. Department of Justice (DOJ) before adopting any new law impacting voting rights, including laws related to voter registration. This preclearance requirement is no longer in effect.

*Federal policy source: **VOTING RIGHTS ACT (VRA; 1965)***

#### **DESIGNATED GOVERNMENT AGENCIES MUST REGISTER VOTERS**

Federal law requires states to provide opportunities for individuals to vote in federal elections when they apply for or renew a driver's license. Also requires registration opportunities at government offices that provide public assistance or services to individuals with disabilities (See "Government Agencies" section below). Permits voter registration by mail.

*Federal policy source: **NATIONAL VOTER REGISTRATION ACT (NVRA; 1993)***

#### **PROCESSING AND MAINTAINING VOTER REGISTRATIONS**

The National Voter Registration Act outlines minimum procedures for state voter registration list maintenance. States must process all voter registration application forms they receive at least 30 days prior to a federal election, and must notify individuals whether their applications were accepted or rejected.

*Federal policy source: **National Voter Registration Act (NVRA; 1993)***

### Eligibility Criteria and Process

#### **TEXAS ELIGIBILITY REQUIREMENTS**

To register to vote, an individual must be at least 17 years and 10 months old, a U.S. citizen, not mentally incapacitated, finished with any applicable felony punishment, and a resident of the county in which the individual seeks to register.

*Texas policy source:* **TEX. ELEC. §13.001**

#### **TEXAS REGISTRATION PROCESS: APPLYING, EFFECTIVE DATE**

To register, an individual must submit a signed paper voter registration application to the county in which the individual lives. The applicant may appoint a spouse, parent, child, or other qualified voter in the county as an agent to complete, sign, submit, and approve the application. False statements on a voter registration application constitute a Class B misdemeanor.

A voter registration becomes effective on whichever comes last: the applicant's 18<sup>th</sup> birthday, or 30 days after the registration application has been submitted to the registrar. Based on these criteria, if a registration will be effective on Election Day, the voter may vote during the preceding early voting period.

*Texas policy sources:* **TEX. ELEC. §13.002-.003; §13.007; §13.143**

#### **TEXAS REGISTRATION PROCESS: UPDATING, REMAINING EFFECTIVE**

Voters may update incorrect or changed information using a registration application form, registration certificate, or other technological means approved by the Secretary of State. Lost or destroyed registration certificates may be requested from the county registrar.

An individual voter's registration remains effective unless there is specific ground for cancellation within the Election Code.

*Texas policy sources:* **TEX. ELEC. §13.143; §15.004; §15.021**

### **Invalid Registrations**

#### **APPLICATION REVIEW, REJECTION**

The county registrar must review all submitted voter registration applications within 7 days in order to determine eligibility for registration.

Applications that do not comply with all requirements on the application form, that include information indicating that the applicant is ineligible, or that were received from a Volunteer Deputy Voter Registrar (VDVR; see "Individuals Registering Voters" below) whose appointment has been terminated may be rejected.

Applications cannot be rejected on the basis of an omitted middle name, former name, or zip code.

The registrar must enter the date and reason on all rejected applications, and must notify the applicant within two days of the rejection. All rejected applications must be maintained on file for two years.

*Texas policy sources:* **TEX. ELEC. §13.002; §13.036; §13.071-.072; §13.080; §13.102**

### **ELIGIBILITY CHALLENGES**

If a county registrar believes that an applicant is ineligible to register to vote, even when all application requirements are met, the registrar may “challenge” the application. The registrar must notify the applicant in writing. The applicant has the right to request a hearing on the challenge.

*Texas policy source:* **TEX. ELEC. §13.074-.079**

### **APPLICATION FROM NON-COUNTY RESIDENT**

If a county registrar receives a voter registration application that is clearly from an applicant living in a different county, the registrar must forward the application to the appropriate county within 2 days.

If the applicant lives in a non-neighboring county, the county registrar must explicitly inform the applicant within 7 days that the application has been forwarded, using the state’s “Notice of Rejection” form.

*Texas policy sources:* **TEX. ELEC. §13.072; TEXAS SECRETARY OF STATE, “NOTICE OF REJECTION OF APPLICATION FOR REGISTRATION/CHANGE FORM” (2015)**

## ***What it Looks Like on the Ground***

With its voter registration deadline 30 days prior to the election, Texas is among the 10 states with the most restrictive registration deadlines. The majority of states have registration deadlines between 7-30 days preceding an election; however, as of January 2019, 17 states and Washington D.C., permit same-day registration.<sup>3</sup>

Unlike 38 states, Texas does not allow for online voter registration. Although potential voters can find Texas voter registration applications online, these must be printed and submitted to the appropriate county on paper.

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<sup>3</sup> These states include: CA, CO, CT, DC, HI, ID, IA, IL, MD, ME, MI, MN, MT, NH, UT, VT, WA, WI WY, as well as NC (during early voting, but not on Election Day)

In the 2016 Presidential election, more than 214 million Americans were registered to vote,<sup>4</sup> representing a roughly 10 percent increase compared with the 2012 Presidential election. We find a similar increase in registration rates in Texas (from 13.6 to 15.1 million, or 10.7%). Harris County is one of the fastest growing counties in the U.S., adding more than a half million residents between 2010 and 2017. This rapid influx of new residents was paired with a 158% increase in voter registration applications submitted to the Harris County Registrar between 2010-2016. As Table 1 shows, over 880,000 forms were received by the Harris County Registrar between November 5, 2014 and November 8, 2016. Compared to all counties in Texas, the increase in voter registration forms submitted to Harris County is slightly higher. Compared to the average county in the U.S., the increase in registration forms in Harris County is more than double.

**Table 1: Total Number of Registration Forms Received from All Sources**

	<b>2010</b>	<b>2012</b>	<b>2014</b>	<b>2016</b>	<b>Pct. Change 2010-16</b>
Harris County	342,633	NA	710,541	883,997	158%
Texas	2,360,174	NA	5,010,824	5,717,560	142%
U.S.	44,679,508	62,531,964	49,413,880	77,516,592	74%

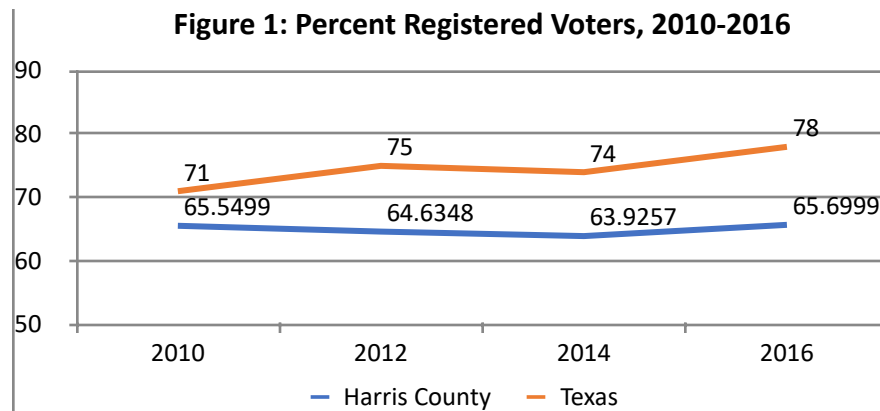
Source: *2014 & 2016 Election Administration and Voting Surveys; 2010 & 2012 NVRA Datasets* (U.S. Election Assistance Commission). Figures are from the close of registration in prior November even-year election to the close of registration for the current November election.

Despite this increase in the total number of submitted voter registration applications, there was virtually no change in the overall registration rate among Harris County residents between the mid-term and presidential election cycles from 2010-2016. As Figure 1 shows, registration rates in Harris County lag considerably behind those of Texas overall: 66 percent of Harris County residents were registered to vote in 2016 compared to 78 percent of Texas residents.<sup>5</sup>

Furthermore, the gap in registration rates between Harris County and Texas has widened over time—from 5 percent in 2010 to 12 percent in 2016.

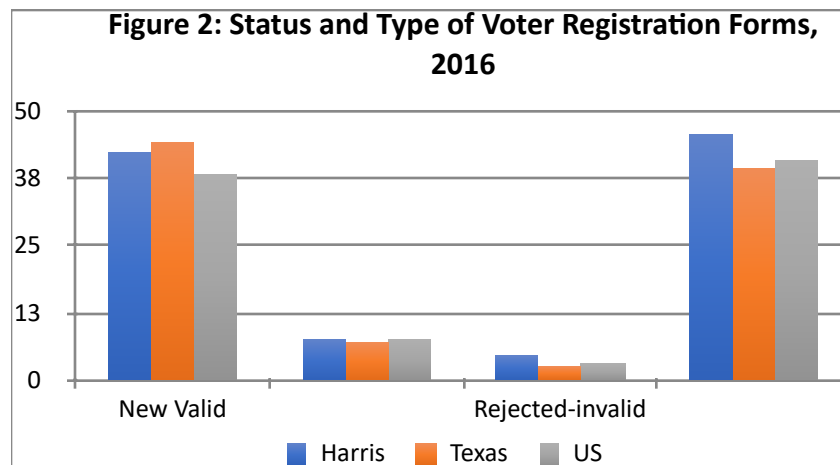
<sup>4</sup> This figure excludes North Dakota, which does not require registration, and American Samoa, which did not complete the EAC's Election Administration and Voting Survey (EAVS).

<sup>5</sup> Voter registration statistics are somewhat hard to compare across states given difficulties in estimating the eligible voting age population. Based on survey data, the U.S. Census reported 64.2 percent of Americans were registered to vote in November 2016, compared to 58.1 percent of Texans (Census Bureau, Current Population Survey, November 2016)



Based on voting age population. Source: Texas Secretary of State.

It would be striking if all of the over 800,000 registration applications Harris County received in 2016 consisted of new registrations. In fact, less than half of these were new registration applications (42%). This is roughly equal to the share of applications that involved requests to change existing voter registration records (46%), including changes related to the voter's name, party or address, both within and across jurisdictions (see Fig. 2). The remaining applications involve duplicate (8%) and invalid (5%) forms. Harris County's distribution of received voter application forms by status is, for the most part, comparable to that of all counties in both Texas and the U.S.



Source: *2016 Election Administration and Voting Survey* (U.S. Election Assistance Commission).<sup>6</sup>

<sup>6</sup> Not included in the graph are Pre-registration (under 18) and an "Other" category, both of which had no responses for Harris County and only small percentages of responses for both Texas (0.01% and 0.93, respectively) and the U.S. (0.56% and 3.94%, respectively).

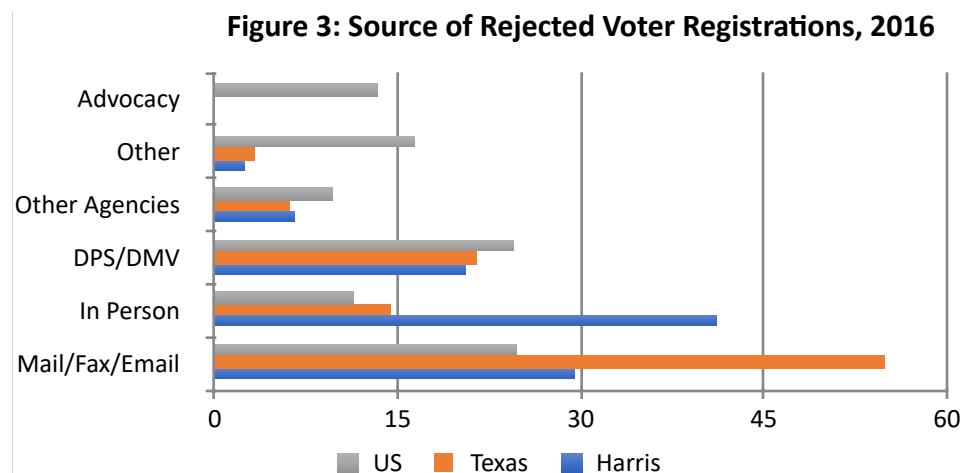
### Invalid and Rejected Voter Registration Applications

It is worth noting one difference for Harris County as compared to Texas and the U.S.: Harris County had a higher percentage of invalid registrations. While invalid registrations constitute a small percentage of all received registrations, Harris County rejected a total of roughly 38,000 voter registration applications.

Election Assistance Commission (EAC) data do not include reasons for invalid registrations. One possibility is that these are due primarily to applicant errors. If applicants systematically make mistakes in filling out or submitting application forms, it suggests the possibility that forms, process, or instructions might be too confusing or complicated for some voters.

While the EAC's Election Administration and Voting Survey instrument does not ask county election administrators to provide reasons for invalid/rejected voter registration applications, it does collect data on the source of the rejected applications. The distribution of these responses is provided in Figure 3.

The largest share of the roughly 38,000 Harris County voter registration applications rejected in 2016 (41%) had been submitted in person at the election/registrars office, which likely includes applications dropped off by VDVRs. Harris County rejects a substantially larger fraction of in-person registration applications than do counties across Texas and the U.S. (14% and 11% respectively). The percentage of in-person applications that Harris County rejected is more than twice the percentage of invalid applications submitted via Harris County DPS branches (20%) and about a quarter more than invalid registration applications submitted by mail, fax or email (29%). This high rate of invalid in-person rejections, may raise questions about the VDVR training process.



Source: 2016 Election Administration and Voting Survey (U.S. Election Assistance Commission).

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## Voter Registration: Registering Voters

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### Government Agencies

#### DMVs

##### **DMVs FEDERALLY REQUIRED TO REGISTER VOTERS**

State motor vehicle agencies must offer voter registration by including a voter registration application as part of a motor vehicle license application. When a voter completes a change of address form for a driver's license, it must also serve as a change of address for voter registration, unless the voter specifies otherwise.

*Federal policy source: **NATIONAL VOTER REGISTRATION ACT (NVRA; 1993), SECTION 5: "MOTOR VOTER LAW"***

##### **TEXAS VOTER REGISTRATION AGENCIES: DPS**

The Texas Department of Safety (DPS) is designated as a "voter registration agency." Requires forms for a license/card application, renewal, or change of address to include a voter registration application for each U.S. citizen old enough to register to vote.

An employee must review the application for completeness while the applicant is present. Employees must only use readily-available information that has been filed with DPS to determine whether the applicant is a U.S. citizen of voting age.

On request, DPS employees must assist applicants in a non-partisan manner. Employees may not display a preference for a political party, seek to influence the applicant's political party, discourage an applicant's registration, or lead an applicant to believe receipt of services or benefits is linked to registering to vote.

When DPS processes renewal requests by mail, it is required to also deliver a voter registration application form by mail. Any change of address request DPS receives in person or by mail constitutes a change of address request for voter registration, unless the applicant specifies otherwise.

DPS is responsible for entering all voter registration information to an electronic system; this information is then transferred electronically to the Texas Secretary of State. An electronic signature provided to DPS by the applicant is used when DPS submits the voter registration application to the Secretary of State.

*Texas policy sources: **TEX. ELEC. §20.001; §20.006-.007; §20.031-.032, §20.062-.066***

## **Social Service Agencies; Programs Serving People with Disabilities**

### **PUBLIC ASSISTANCE, DISABILITY-SERVING AGENCIES REQUIRED TO REGISTER VOTERS**

All state offices and programs that provide public assistance or state-funded services to people with disabilities must serve as “voter registration agencies.” This includes agencies that administer programs such as: Supplemental Nutrition Assistance Program (SNAP), Supplemental Nutrition Program for Women, Infants, and Children (WIC), Temporary Assistance for Needy Families (TANF), Medicaid, and the State Children’s Health Insurance Program (CHIP).

These voter registration agencies are required to provide applicants the opportunity to register to vote when they apply for assistance, seek recertification or renewal of services, or change their address. Agencies that serve persons with disabilities in their homes are required to provide them with the opportunity to register to vote in their homes.

Agencies must provide assistance in completing voter registration applications equivalent to the assistance they would provide in completing other agency forms.

*Federal policy source: **NATIONAL VOTER REGISTRATION ACT (NVRA; 1993)***

### **CERTAIN FQHCs REQUIRED TO REGISTER VOTERS**

Federally Qualified Health Centers (FQHCs) that have state or local governmental employees who screen for Medicaid eligibility are designated as voter registration agencies. These FQHCs must distribute, accept, and transmit voter registration forms and provide non-partisan assistance in completing these forms.

States are permitted to also designate FQHCs where non-governmental employees screen for Medicaid eligibility as voter registration agencies<sup>7</sup>.

*Federal policy source: **U.S. BUREAU OF PRIMARY HEALTH CARE: “PROGRAM ASSISTANCE LETTER 2000-18” (2000)***

### **TEXAS VOTER REGISTRATION AGENCIES: SOCIAL SERVICE AGENCIES**

Specific social service agencies in Texas are designated as “voter registration agencies,” as follows:

- Health and Human Services Commission;
- Department of Aging and Disability Services;

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<sup>7</sup> As noted below, Texas may identify additional agencies that provide public assistance, beyond those specified in the Election Code, as voter registration agencies. However, the authors did not find evidence that Texas has done so in the case of FQHCs where non-public employees screen for Medicaid eligibility.

- Department of Assistive and Rehabilitative Services;
- Department of State Health Services

The Secretary of State may also designate additional agencies that primarily provide public assistance or services to people with disabilities as voter registration agencies.

*Texas policy source: **TEX. ELEC. §20.001***

### **TEXAS VOTER REGISTRATION AGENCIES: REGISTRATION PROCESS**

State-designated voter registration agencies must inform all applicants of the opportunity to register to vote when they apply for services through the agency. These agencies must provide a registration application to each U.S. citizen applicant old enough to register to vote when they distribute applications for agency services, recertification, renewal, or change of address,

An agency employee must review the voter registration application for completeness while the applicant is present. On request, the employees are expected to assist applicants in a non-partisan manner, with assistance equivalent to what they would provide in completing other agency forms, including bilingual assistance. Employees may not display a preference for a political party, seek to influence the applicant's political party, discourage an applicant's registration, or lead an applicant to believe receipt of services or benefits is linked to registering to vote.

In program handbooks, HHSC spells out a specific voter registration process to be followed by agency employees. HHSC offices must maintain in stock sufficient copies of voter registration applications and declination forms. Staff must document all actions to provide voter registration to applicants and recipients.

An applicant may decline to register to vote using an official declination form; the agency must maintain this form for at least 22 months.

If the agency permits applicants to apply for services by mail or telephone, the agency must deliver a voter registration application form to the applicant by mail. Instructions should indicate that the form may be submitted either in person or by mail to the appropriate county registrar or a VDVR.

*State policy sources: **TEX. ELEC. §20.003-.007; §20.031-.037; TEXAS HEALTH AND HUMAN SERVICES COMMISSION: "TEXAS WORKS HANDBOOK," SECTION A-1521 "REGISTERING TO VOTE;" TEXAS HEALTH AND HUMAN SERVICES COMMISSION: "MEDICAID FOR THE ELDERLY AND PEOPLE WITH DISABILITIES HANDBOOK," SECTION C-7000 "NATIONAL VOTER REGISTRATION ACT OF 1993"***

### **TEXAS VOTER REGISTRATION AGENCIES: ASSESSING CITIZENSHIP**

A voter registration agency only may use information in their files to determine whether an applicant is a U.S. citizen if the agency requires clients to update their citizenship status when renewing agency services or changing contact information.

*State policy source:* **TEX. ADMIN. CODE §81.402**

### **Other Governmental Agencies**

#### **STATES CAN DESIGNATE ADDITIONAL VOTER REGISTRATION AGENCIES**

States are permitted to designate additional voter registration agencies where applicants must be provided with an opportunity to register to vote.

These may include public libraries, public schools, city and county clerk offices, license bureaus, revenue offices, offices providing unemployment compensation, other non-covered offices that serve people with disabilities, and any other federal and nongovernmental offices that agree to serve in this capacity.

Armed Forces recruitment offices are specifically designated as voter registration agencies.

*Federal policy source:* **NATIONAL VOTER REGISTRATION ACT (NVRA; 1993)**

#### **TEXAS VOTER REGISTRATION AGENCIES: LIBRARIES, MARRIAGE LICENSE OFFICES**

Texas law specifies certain non-social service governmental agencies to serve as voter registration agencies:

- Public libraries, as defined in the Election Code
- County marriage license offices
- Other agencies identified by the Secretary of State as necessary to comply with federal law

Each of these voter registration agencies is required to designate a person(s) to coordinate the agency's voter registration work, including providing training to agency employees.

Public libraries must provide a voter registration application to all individuals of voting age who apply in person for a new library card or a renewal.

When a recorded marriage license is delivered, the county clerk is required to mail the licensees two voter registration application forms. These forms must be accompanied by instructions that the applications can be submitted either in person or by mail to the appropriate county registrar or VDVR.

*Texas policy sources:* **Tex. ELEC. §20.001, §20.004; §20.092; §20.122**

## **Nonprofit Organization Outreach**

### **FEDERAL TAX CODE GOVERNS NONPROFIT VOTER REGISTRATION ACTIVITY**

501(c)(3) nonprofit organizations are legally permitted to conduct nonpartisan voter registration, voter education, and get-out-the-vote efforts. 501(c)(3)s are prohibited from impacting a campaign for elected office on behalf of, or in opposition to, any candidate or group of candidates.

501(c)(4) nonprofit organizations are legally permitted to conduct nonpartisan voter registration, voter education, and get-out-the-vote efforts, if they are related to the organization's expressed social welfare purpose. 501(c)(4)s are permitted to participate in partisan voter registration and get-out-the-vote efforts as a secondary activity, if the organizations do not coordinate with a candidate, campaign, or political party.

*Federal policy source: Internal Revenue **CODE**: 26 U.S.C. §501*

### **STATE-NONPROFIT PARTNERSHIPS FOR VOTER REGISTRATION**

Nongovernmental organizations are encouraged to partner with states to serve as voter registration agencies.

States must make mail-in voter registration forms available for distribution to nongovernmental entities, “with particular emphasis on making them available for organized voter registration programs.”

*Federal policy source: **NATIONAL VOTER REGISTRATION ACT (NVRA; 1993)***

### **LIMITATIONS ON CERTAIN FEDERALLY-FUNDED NONPROFITS' VOTER REGISTRATION ACTIVITY**

Statutes guiding the use of several federal funding streams place additional guidelines on the voter registration activities of the specific nonprofits they fund, as follows:

- Nonprofits receiving Community Service Block Grant or Head Start funding are prohibited from using these funds to pay for voter registration activities or provide rides to polls.
  - Nonprofit personnel supported by the Corporation for National and Community Service (including via AmeriCorps) cannot participate in voter registration activities while doing work for their assigned organization, including providing rides to the polls during work hours.
  - Nonprofits receiving VISTA funding through the Corporation for National and Community Service may make nonpartisan voter registration information available to the public on program premises, while Senior Corps grantees are prohibited from doing so.
- 5.

*Federal policy sources:* **COMMUNITY SERVICES BLOCK GRANT PROGRAM: 42 U.S.C. §9918; HEAD START ACT: 42 U.S.C. §9851; NATIONAL AND COMMUNITY SERVICE ACT: 42 U.S.C. §12634; DOMESTIC VOLUNTEER SERVICE ACT: 42 U.S.C. § 5043**

## **Individuals Registering Voters**

### **VOTERS/REGISTRANTS CANNOT BE PAID**

Paying or offering to pay individuals to register to vote or to vote in federal elections is prohibited.

*Federal policy source:* **VOTING RIGHTS ACT (VRA; 1965)**

### **TEXAS' VDVR SYSTEM FOR REGISTERING VOTERS**

**TEXAS LAW** Establishes a system of county-based VDVRs who are permitted to distribute, collect, review, and submit completed voter registration applications. VDVRs must be eligible to vote in Texas, including meeting U.S. citizenship and Texas residency requirements, but are not required to be registered to vote. County registrars cannot refuse to appoint anyone who meets all of these eligibility criteria.

VDVR appointment lasts through the end of even-numbered years. Acting as a VDVR when not appropriately certified is a Class C misdemeanor.

*State policy sources:* **TEX. ELEC. §13.031-.033; §13.036; §13.038; §13.044; TEXAS SECRETARY OF STATE: "ELECTION ADVISORY NO. 2012-04"**

### **VDVRs: TRAINING PROCESS**

A VDVR may not register voters until training requirements have been met. The Texas Secretary of State is required to adopt VDVR training standards and to develop a standardized training curriculum for use across the state.

A county registrar may choose any of the following training options: It may allow individuals to review training materials online on the Secretary of State's website and then take an in-person exam at the county voter registrar's office. It may instead conduct its own training using the standardized training curriculum, and, at its discretion, can include additional training materials. If a county registrar conducts its own training, it is permitted, but not required, to include an examination after the training.

Each county voter registrar is responsible for creating a VDVR training schedule, and must offer at least one VDVR training per month. A VDVR trained in one county may be appointed in another county without additional training.

*State policy sources: **TEX. ELEC. §13.031; §13.047-.048; TEXAS SECRETARY OF STATE: “ELECTION ADVISORY NO. 2012-04”***

### **VDVRs: RECEIPTS, DELIVERY**

When registering voters, a VDVR must provide an original receipt directly to each applicant. The VDVR must hand deliver each application, in person (or in person, via another VDVR), to the appropriate county voter registrar by 5 p.m., within 5 days of receiving it, except at the end of the voter registration period. “After the 34<sup>th</sup> day before the date of an election and on or before the last day” of the voter registration period, the VDVR must hand deliver any received applications by 5 p.m. the next day.

Unintentional failure to adhere to these deadlines constitutes a Class C misdemeanor; intentional failure to do so is a Class A misdemeanor.

*State policy sources: **TEX. ELEC. §13.039-.043; TEXAS SECRETARY OF STATE: “TEXAS VOLUNTEER DEPUTY REGISTRAR GUIDE”***

### **VDVRs: PROHIBITED FROM COPYING APPLICATIONS**

State law prohibits registrars from copying a telephone number from a registration application. As a result, VDVRs are prohibited from making photocopies of completed voter registration applications. VDVRs may copy voter registration receipts, and they may separately write down information from each received application.

*State policy sources: **TEX. ELEC. §13.004; TEXAS SECRETARY OF STATE: “TEXAS VOLUNTEER DEPUTY REGISTRAR GUIDE”***

### **TEXAS PROHIBITS COMPENSATING VOTER REGISTRATION EFFORTS**

Incentivizing voter registration efforts in any of the following ways is a Class A misdemeanor:

- Compensating, or causing an individual to be compensated, based on numbers of voters registered;
- Instituting a voter registration quota as a condition of employment or compensation;
- Accepting compensation for voter registration activities.

7.

8. *State policy sources: **TEX. ELEC. §13.008; TEXAS SECRETARY OF STATE: “TEXAS VOLUNTEER DEPUTY REGISTRAR GUIDE”***

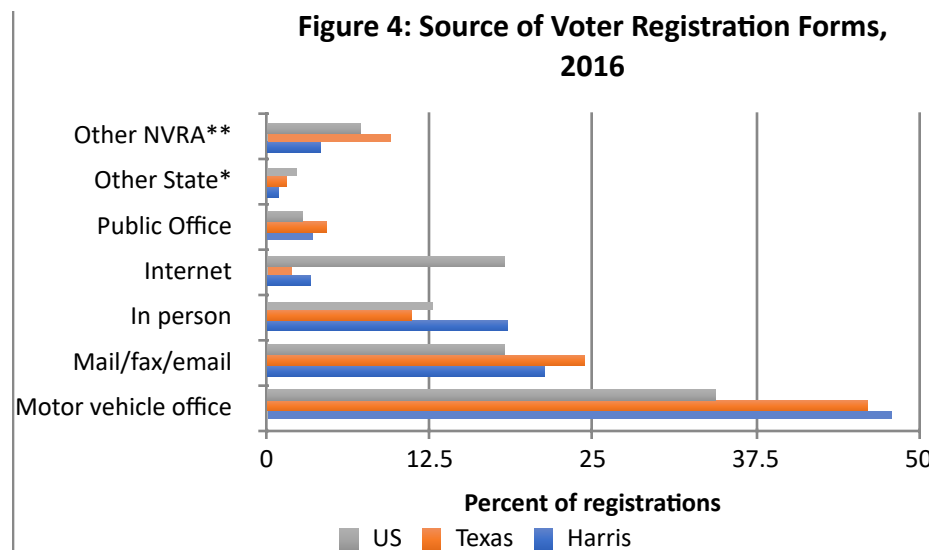
## What it Looks Like on the Ground

### Voter Registration via DPS

The most popular source of voter registration forms by far in Harris County is DPS—the motor vehicle office that issues drivers licenses in the state of Texas.

In 2016, nearly half (48%) of all voter registration forms received by the Harris County Voter Registrar came from local DPS offices (see Fig 4). The prevalence of registration forms submitted via DPS suggests that the NVRA requirement for residents to be given the opportunity to register to vote when they obtain or renew their driver’s license is having a positive effect in Harris County.

Texas DMV clerks can electronically enter in-person oral statements from voters and can scan in a paper version of the registrant’s signature, making Texas one of at least 36 states that allow electronic voter registration at DMVs. However, Texas does not accept registrations online through the DPS’ online portal because it argues that state law requires a signature on voter registration forms. Instead, prospective voters are required to print and mail an application.



Source: *2016 Election Administration and Voting Survey* (U.S. Election Assistance Commission). \*\* Other NVRA includes state funded agencies primarily serving those with disabilities, armed forces recruitment offices, and other offices states can designate as voter registration agencies; \*Other State includes other agencies designated by the State (libraries, public schools), but not mandated by NVRA.

In 2016, the Texas Civil Rights Project (TCRP) sued the State, arguing that not allowing voters to register or update their voter registrations while renewing a driver’s license or changing an address via DPS’ online portal violates the NVRA. TCRP estimates this excludes 1.5 million

Texans from registering each year. In April 2018, a Federal District Court ruled that Texas' practice violates the NVRA; an appeal of this ruling is currently under review.

### **Voter Registration via Individual Applications**

As Figure 4 shows, the next most common sources of applications submitted to Harris County in 2016 were by mail, fax or email (20%) and in-person at the election/registrar's office (20%). While the sources of voter registration forms in Harris County generally mimic those of Texas, there is a striking difference when we compare Harris County to the U.S. Unlike Texas and Harris County, where online voter registration is not permitted, a significant share of U.S. voters (nearly 20%) submit registration applications online.

In fact, using a similar argument to Texas' argument against accepting applications through DPS' online portal, voter registration applications were rejected from over 2,000 Texans who had used an online non-partisan voter registration website in Fall 2018 because their applications lacked handwritten signatures. Upon discovering these rejections, the Secretary of State's office sent out paper registration forms, which they required applicants to resubmit within 10 days.

### **Voter Registration via Other Government Agencies**

Non-DPS agencies mandated to provide voter registration either by the NVRA or state law are not responsible for much of the volume of voter registration forms in Harris County. Public offices providing public assistance were responsible for less than 4% of voter registration forms submitted in Harris County in 2016. Other NVRA-mandated agencies and Other State agencies also contribute a very small share of voter registration forms in Harris County (4% and 1% respectively). The former includes Armed Forces recruitment offices and state-funded agencies primarily serving persons with disabilities. The latter are additional agencies/offices designated by Texas law as voter registration sites, including public libraries and license offices.

In 2013, TCRP found that some designated Texas voter registration agencies were not fully aware of their responsibilities or did not provide voter registration services as outlined by law. In a report to the EAC, TCRP reported that the number of Texans registered to vote at social service voter registration agencies dropped by over 45% between 2014 and 2016. TCRP has raised specific concerns about the Texas Health and Human Services Commission's voter registration efforts, including that the voter registration policy listed on the agency's website does not comply with the NVRA.

In February 2018, the Coalition of Texans with Disabilities and TCRP threatened the Texas Workforce Commission (TWC) with a lawsuit on the basis that it did not offer voter registration to people with disabilities who received job training services from the agency. In prior years, these individuals were offered voter registration along with job training services by the Department of Assistive and Rehabilitative Services. In 2018, the job training services were shifted to TWC; voter registration was no longer provided to applicants, impacting an estimated 75,000 people. In response to the threatened lawsuit, the Secretary of State designated TWC's

Vocational Rehabilitation Program as a voter registration agency. TWC then changed its Vocational Rehabilitation Services Manual, and began offering voter registration to job training applicants.

### **Deputy Voter Registrars**

Articles appearing in the *Austin-American Statesman* and the Austin-area *National Public Radio* station describe Texas as “the most difficult state in the country to register voters.” Texas has long had a system of volunteer voter registrars. Most states that once had volunteer registrar policies eliminated such policies in 1993, once the NVRA was adopted. In contrast, Texas maintained its volunteer registrar system. In 2011, Texas tightened it substantially, adding requirements for county trainings, placing new limits on who can be a VDVR, and banning compensation tied to registering voters.

Currently, Texas is one of just three states that mandates training for volunteers who register voters. Texas stands alone as the only state requiring volunteers to be certified by a local government before they can register voters.

Texas’ limits on VDVR eligibility mean that out-of-state volunteers, legal permanent residents, and non-deputized Texas residents cannot register voters in the state. Because a VDVR must apply directly to the appropriate office in each separate county in which they want to register voters, organizations describe being limited in their ability to facilitate regional and statewide voter registration drives.

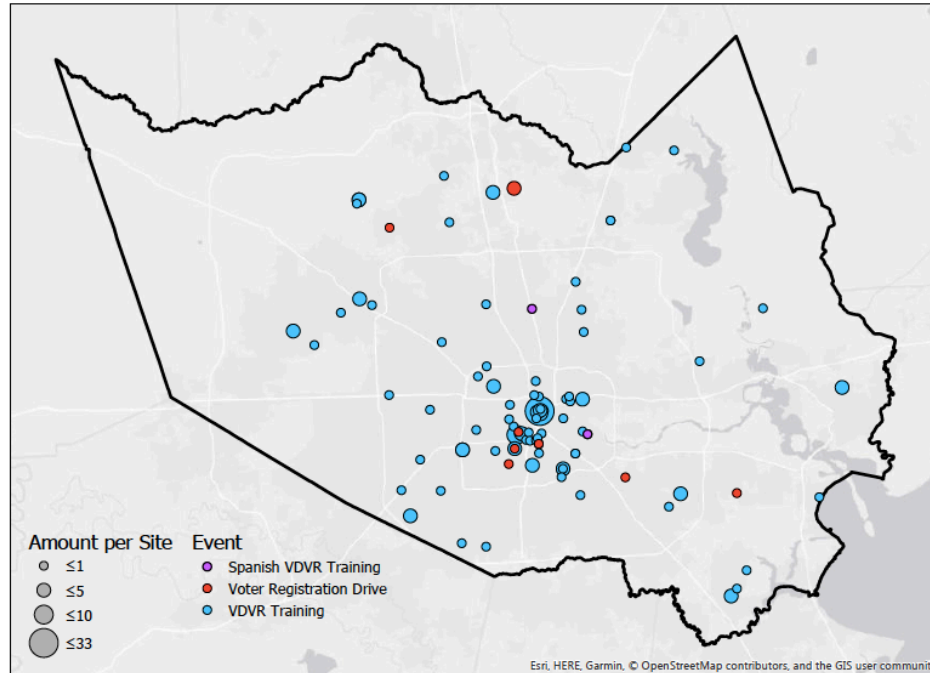
Counties vary widely in deputizing procedures and in how they schedule and publicize VDVR trainings. Although state law allows counties to administer an exam before deputizing VDVRs, Harris County has no such requirement. While some Texas counties only offer VDVR trainings once per month, the minimum required by law, Harris County substantially exceeds this minimum.

The location of VDVR trainings and the availability of trainings in languages other than English are also important considerations when examining the effectiveness and impact of the VDVR program. If potential volunteers cannot get to VDVR training locations, this limits their efficacy. As discussed in further depth below (see “Non-English Speakers”), language minorities in Harris County are at a distinct disadvantage if VDVR trainings are not available in Spanish, Chinese, and Vietnamese (languages covered in Harris County under Section 203 of the Voting Rights Act, which is still in force after *Shelby County v Holder*).

Using information from the Harris County Voter Registrar’s website, we mapped the frequency and location of all VDVR trainings in Harris County offered to the general public between July 2017 and October 2018 (Fig.5). Of the 158 public VDVR trainings listed on the Registrar’s website during this period, the vast majority (99%) were in English (denoted in blue). Only two public trainings were conducted in Spanish (denoted in purple), the first two public Spanish-

language VDVR trainings offered by Harris County. There is no evidence of public trainings offered in Chinese or Vietnamese.

Figure 5: Harris County Voter Registrar Events July 2017-October 2018



Source: <https://www.hctax.net/Voter/Calendar/Calendar>

As the map also indicates, most public VDVR trainings are held inside the 610 loop. Indeed, there are large swaths of the county—particularly in the northwest and eastern part of Harris County where public VDVR trainings are virtually non-existent.

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## Voter Registration: Suspense and Removal

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### FEDERAL LIMITATIONS ON REMOVING VOTERS FROM VOTING ROLLS

Section 8 of the National Voter Registration Act requires states to operate a general list maintenance program that removes ineligible voters from the voting rolls, and outlines minimum guidelines for this program. The program must comply with the VRA in protecting the voting rights of minority voters.

All systematic removals of ineligible voters must take place at least 90 days prior to a federal election. The 90-day deadline does not apply to removals at the request of a registrant or due to death, criminal conviction, or mental incapacity.

The NVRA specifies guidelines that must be met prior to removing individuals based on change of residence. A registrant who confirms their change of address in writing can be removed. Otherwise, a registrant cannot be removed from the voting rolls unless: the registrant was sent a forwardable notice with a prepaid and pre-addressed return card, failed to respond to the notice, and did not vote in two federal general elections since receiving the notice.

States may not remove individuals from the voter registration list solely because they have not voted.

*Federal policy source: **NATIONAL VOTER REGISTRATION ACT (NVRA; 1993)***

### CIRCUMSTANCES FOR CANCELLING VOTER REGISTRATION IN TEXAS

A registrar may cancel a voter's registration under specified circumstances, including notice of a move, notice of death, judgment of mental incapacity, conviction of a felony, or disqualification from jury service due to citizenship status.

A registrar is permitted to investigate a voter's eligibility for reasons other than residence; however, investigations require delivery of written notice to the voter by forwardable mail. The notice must request information relevant to the voter's eligibility and must warn the voter that their registration can be cancelled if a reply is not received within 30 days.

A registration can be canceled if the investigation finds the voter is ineligible, no reply is received within 30 days, or notices are undelivered with no forwarding information. No later than 30 days after cancellation, the registrar must mail written notice of the date and reason of cancellation and the voter's right to challenge the cancellation.

*State policy sources: **TEX. ELEC. §16.031; §16.033; §16.0332; §16.036***

### COUNTY SUSPENSE LIST

County registrars must maintain a “suspense list” of voters whom the registrar believes may no longer live at the residence listed on voter registration records. With appropriate ID, a voter on the suspense list may vote at their assigned election precinct; if the voter has moved within the same county, a Statement of Residence form is required.

If a voter on the suspense list does not vote before Nov. 30 following the second general state election since being added to the list, the voter is removed from state voter rolls.

*Texas policy sources:* **TEX. ELEC. §15.081; §15.111-.112; §16.032**

### **CHALLENGING ANOTHER VOTER’S REGISTRATION**

State law permits a registered voter to challenge the registration of another voter in the same county based on “personal knowledge.” The challenger must file a sworn statement identifying the voter and a specific registration qualification the voter has not met.

Once receiving the challenge, the country registrar must promptly deliver a notice to the voter; however, if the challenge is filed less than 75 days before a general election, notice will not be delivered until after the election. Any voter who does not respond to a challenge notice within 30 days is entered on the suspense list. For a challenge based on reasons other than the voter’s residence, a hearing must be scheduled within 20 days of the sworn statement.

*State policy source:* **TEX. ELEC. §16.091-.094**

### ***What it Looks Like on the Ground***

While the NVRA prohibits the removal of voters from registration lists solely because they have not voted, a 2018 U.S. Supreme Court ruling, *Husted v. A Philip Randolph Institute*, loosened this ban. Still, as this ruling dictates, non-voters cannot be removed unless notice has been both sent and not responded to by the voter.

Almost all U.S. states permit private citizens to challenge a voter’s eligibility either prior to Election Day and/or on Election Day. Thirty-nine states – but not Texas – permit eligibility challenges on Election Day. Texas permits challenges to a voter’s eligibility prior to an election, along with 27 other states; however, it is one of just 11 of these states that enforce a pre-election “quiet period,” during which no additional challenges to voter eligibility will be reviewed. Texas has adopted a 75-day “quiet-period” specifically for residency-based challenges, a longer quiet period than most other states. No quiet period is specified for challenges on other grounds.

We see evidence in the tables below that some voter registrations in Harris County that were previously accepted are later being challenged. Data indicate a substantial increase in voters being removed from the voter registration rolls in Harris County between 2010 and 2016; this

increase is in stark contrast to the incremental increase in removals across the U.S. and an incremental decrease in Texas over the same time period.

**Table 2: Total Number of Voters Removed from the Voter Registration Rolls<sup>8</sup>**

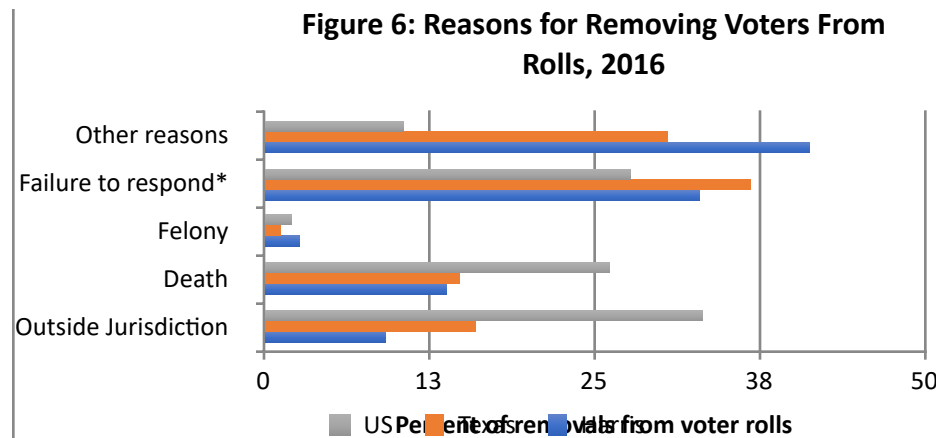
	2010	2014	2016	Pct Change 2010-16
Harris	140,546	205,564	216,340	53.9
Texas	1,324,415	1,688,097	1,227,180	-7.3
US	15,721,984	14,803,164	16,696,470	6.2

Source: 2014 & 2016 Election Administration and Voting Surveys; 2010 & 2012 NVRA Datasets (U.S. Election Assistance Commission).

When it comes to reasons voter registrars give for why voters are removed from the rolls, we find a somewhat divergent pattern when comparing Harris County and Texas to the rest of the country. Most notably, outside of Texas and Harris County, the primary reasons for removing voters from the rolls involve clear-cut eligibility issues. More than half of voters nationwide are removed because they have moved outside the jurisdiction (33%) or because they are deceased (26%). In contrast, less than one-third of Harris County voters are removed for these reasons (16% and 15% respectively). The most popular category chosen by the Harris County registrar for removing voters from the rolls was “other” (41%). Unfortunately, the Election Administration and Voting Survey, from which these data are analyzed, does not provide information regarding what ‘other’ entails.

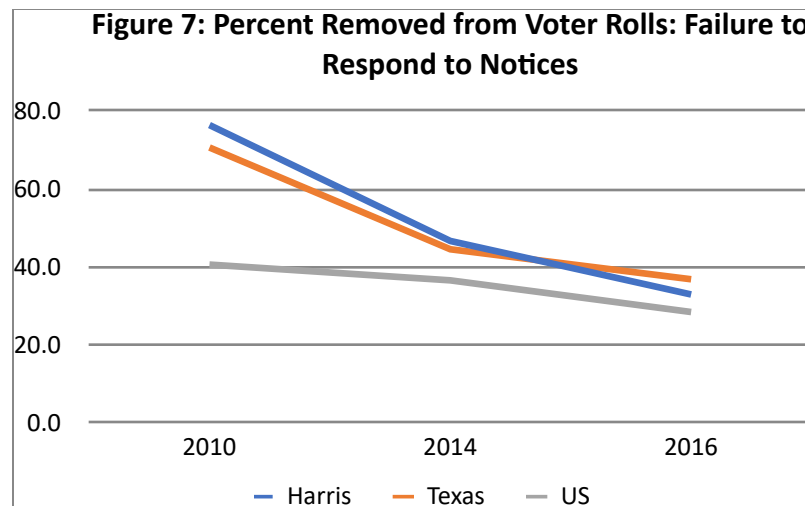
Where we see more similarities between Harris County, Texas, and the rest of the country is with regard to felons and voters who are removed due to their failure to respond to communications from the voter registrar. One illustration of how this removal may take place in Harris County: Several months before the 2018 midterm election, an individual challenged the registrations of 4,037 voters in Harris County (including, but not limited to, homeless individuals as discussed in “Individuals with Housing Insecurity”). These voters were sent letters from the county registrar’s office asking for a response to the challenge within 30 days. However, local media reports suggest that some of these voters were added immediately to the county’s suspense list.

<sup>8</sup> For the period between the close of registration for the prior November general election and the close of registration for the current November general election. Note this question asked for those ineligible to vote, not merely those moved into an “inactive” status.



Source: 2016 Election Administration and Voting Survey (U.S. Election Assistance Commission).

When we compare the over-time trend in the percentage of voters removed from the rolls due to the failure to respond, we find a relatively sharp decline for Harris County and Texas, from roughly 76% to about 33% (Harris County). However, for the rest of the country, the decline has been much less substantial (from 41% to about 28%). Combined with the previous graph, the data suggest that a relatively sizeable proportion of Harris County voters who were previously marked as being removed from the rolls due to failure to respond are now being classified as “other.” The reason for this change in coding is unclear and warrants further investigation.



Source: 2014 & 2016 Election Administration and Voting Surveys; 2010 & 2012 NVRA Datasets (U.S. Election Assistance Commission).

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## Access to Registration for Diverse Populations

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### **Non-English Speakers**

#### **REGISTRATION MATERIALS FOR ELIGIBLE LANGUAGE MINORITY GROUPS**

All oral and written materials related to voter registration are required to be provided in both English and the language spoken by an applicable minority group. An applicable minority group is comprised of at least 10,000 people or over 5% of all citizens of voting age within a political subdivision; group members must belong to a single language minority group, not speak English proficiently, and have a literacy rate lower than the national literacy rate.

*Federal policy sources: **VOTING RIGHTS ACT, SECTION 203 (VRA; 1965); “IMPLEMENTATION OF THE PROVISIONS OF THE VOTING RIGHTS ACT REGARDING LANGUAGE MINORITY GROUPS,” 18 CFR PART 55***

#### **BILINGUAL VOTER REGISTRATION MATERIALS IN TEXAS COUNTIES**

Election materials, including voter registration materials, must be available in both English and Spanish at any precinct within a Texas county that has 5% or more residents of Hispanic origin. Individual precincts that don’t meet this threshold may file for an exemption to this requirement.

If a Texas county is required by the VRA to provide materials in any language other than English and Spanish, then all precincts in that county must make voter registration materials available in that language, unless an exemption is granted.

*Texas policy sources: **TEX. ELEC. § 272.001-.008, §272.010-.011***

#### **VOTER REGISTRATION AGENCIES: BILINGUAL ASSISTANCE**

Voter registration agencies should provide bilingual assistance in completing voter registration forms to the same extent they would provide bilingual assistance in completing other agency forms.

*Texas policy source: **TEX. ELEC. §20.005***

### ***What it Looks Like on the Ground***

Harris County is one of four Texas counties where translation of voter registration materials into an additional language(s) beyond Spanish is required. In Harris County, all voter registration (and other election-related materials) must also be available in both Chinese and Vietnamese. In

a 2008 Government Accountability Office report, Harris County officials reported very low usage of translated application forms.

VRA law and regulations indicate that all parts of the registration and voting process should be accessible in all county-mandated languages; however, the Texas Secretary of State's office has argued that the VRA applies only to materials used by voters, and not to VDVR training materials. In 2016, a Texas coalition raised concerns that Spanish-language VDVR training materials in Texas were out of date. According to TCRP, a VDVR training was implemented in Spanish in Harris County for the first time in 2017. As discussed in the previous section, there is no indication that Harris County has offered VDVR trainings to the general public in Chinese or Vietnamese.

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## **Individuals with Felony Convictions**

### **REMOVING VOTERS WITH CRIMINAL CONVICTIONS**

Criminal conviction is explicitly listed as a reason for which states are permitted to remove individuals from their official list of registered voters.

*Federal policy source: **1993 NATIONAL VOTER REGISTRATION ACT***

### **FORMER TEXAS FELONS CAN REGISTER TO VOTE WHEN OFF-PAPER**

A person who is convicted of a felony is not eligible to register to vote. Once a felon has successfully completed all terms of punishment, including any term of incarceration, parole, supervision, probation, or has been pardoned, then that person is immediately eligible to register to vote.

*State policy source: **TEX. ELEC. §11.002***

### **FORMER TEXAS FELONS CAN SERVE AS VDVRs WHEN OFF-PAPER**

A person who has been convicted of a felony and has not fully completed all terms of punishment is not eligible to be appointed as a Volunteer Deputy Voter Registrar.

*State policy source: **TEX. ELEC. §11.002***

### ***What it Looks Like on the Ground***

According to a recent report by Pew, the number of convicted felons is on the rise across the U.S. In 2010, Texas had the fourth-highest percentage of convicted felons, at about 10.5 percent of its population or 2.6 million residents. That was triple Texas' 1980 rate.

The National Conference on State Legislatures (NCSL) divides state statutes regarding the rights of felons and former felons to register and vote into four categories, as of Fall 2018:

- Felons never lose their right to vote, even while incarcerated – 2 states;
- Felons lose voting rights while incarcerated, but have their rights automatically restored after release – 14 states plus Washington D.C.;
- Felons lose voting rights until sentence completion, including parole and/or probation, with voting rights automatically restored afterwards - 22 states, including Texas;
- Felons lose voting rights until sentence completion, and then either must take additional action to restore voting rights or lose voting rights indefinitely - 12 states.

Texas falls into the third category. The Sentencing Project estimates that as of 2016, 459,928 Texans with felony convictions were unable to register to vote, an estimated 2.5% of voting-age Texans. Of these, 327,665 had completed incarceration and were on parole or probation. According to the Texas Criminal Justice Coalition, African-American and Latino Texans are disproportionately impacted; 6.2% of African-Americans in Texas are unable to vote due to felony convictions. Anecdotal estimates suggest that large percentages of former felons as well as many community organizations that serve this population are not aware that they are eligible to register to vote after completing their punishment (becoming “off paper”).

Since 2005, when ex-felons are discharged from prison, the Texas Department of Criminal Justice (TDCJ) provides a “Notice to Offenders” letting them know that they will regain voting rights once they complete parole and/or probation. A 2007 bill requiring TDCJ to provide notification of these rights along with a voter registration card when an individual completes parole and/or probation passed the Texas Legislature, but was ultimately vetoed by the governor. In contrast, the Secretary of Commonwealth’s office in Virginia maintains a website where former felons can easily access information about whether they are yet eligible to register to vote.

The issue of felon disenfranchisement has received increasing attention in recent years. In November 2018, Florida voters passed a constitutional amendment that would automatically

restore the voting rights of felons after completion of their sentences (including parole and probation).<sup>9</sup> Before the amendment, anyone convicted of a felony had to have voting rights restored by a full pardon, conditional pardon, or restoration of civil rights by the governor. Other states also took action to restore voting to those convicted of felonies in 2018. Colorado passed SB 150, which permits an individual on parole, who is otherwise eligible, to pre-register to vote. When the Colorado Secretary of State receives notification that the individual has been released from parole, he/she is then automatically registered to vote. In New York where those on probation are already allowed to vote, the governor issued an executive order removing restrictions on voting by parolees.

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- 6) Felon Voting Rights. 20 Nov 2018. National Conference of State Legislatures. Retrieved from <http://www.ncsl.org/research/elections-and-campaigns/felon-voting-rights.aspx>
- 7) Henderson, T. 2 Jan 2018. "Felony Conviction Rates Have Risen Sharply, But Unevenly." Pew Research. Retrieved from <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2018/01/02/felony-conviction-rates-have-risen-sharply-but-unevenly>

## **Survivors of Family Violence or Trafficking**

### **SURVIVORS' RESIDENTIAL ADDRESSES MAY BE CONFIDENTIAL**

Residential addresses on a voter registration application are typically public. However, when an applicant or a member of the applicant's household is a survivor of family violence, human trafficking, sexual assault or abuse, or stalking, the residential address may be kept confidential. A protective order or other acceptable documentary evidence must be provided.

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<sup>9</sup> Those convicted of murder or a felony sexual offense must still apply to the governor for voting rights restoration on a case-by-case basis.

The applicant's residential address also is confidential for participants of the Texas Address Confidentiality Program (ACP). These survivors of family violence, sexual assault, and stalking are granted a substitute post office box address and free mail forwarding service so they can keep their actual address confidential.

***Texas policy sources:* TEX. ELEC. §13.004; SB 256 (2017)**

### **VOTER REGISTRATION PROCESS FOR SURVIVORS WITH CONFIDENTIAL ADDRESS**

Outlines specific procedures associated with administration of voter registration via the ACP: an ACP participant's confidential application for a mail-in ballot can serve as a temporary voter registration application; the applicant must deliver this application in person; the applicant must be able to point to their residential location on map or orally describe the location with enough detail to identify their appropriate voting jurisdictions; and the applicant must sign an affidavit of confidentiality.

As long as this mail-in ballot is in effect, a participant may not vote in person during early voting or on election day.

***Texas policy source:* 1 TEX. ADMIN. CODE §81.38**

### ***What it Looks Like on the Ground***

Prior to 2017, the home addresses of survivors of family violence or trafficking in Texas could be included in public records, including voter registration rolls, leaving survivors fearful to register to vote. Only a small percentage of survivors utilized the ACP program (about 2,000, out of the nearly 70,000 survivors of domestic violence in Texas annually); the 2017 law sought to expand address protection.

### **References:**

- 1) Address Confidentiality Program. n.d. Attorney General of Texas. Retrieved from <https://www.texasattorneygeneral.gov/crime-victims/services-crime-victims/address-confidentiality-program>
- 2) Texas Senate Bill 256. 19 May 2017. LegiScan. Retrieved from <https://legiscan.com/TX/text/SB256/id/1611572>
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## **Individuals with Differing Physical Abilities**

## **EQUAL OPPORTUNITY TO REGISTER TO VOTE**

**FEDERAL LAW** Requires that each individual with a disability have an equal opportunity to register to vote.

*Federal policy source: **AMERICANS WITH DISABILITIES ACT (“ADA” – TITLE II; 1990)***

## **PERSONAL DISABILITY EXEMPTION FROM VOTER ID**

An applicant can request a personal disability exemption from state Voter ID requirements when registering to vote. The applicant must provide written documentation from either the federal Social Security Administration or the Department of Veterans Affairs showing evidence of a disability and a statement indicating that the registrant does not have an identification that meets state Voter ID requirements. If granted, this exemption will be marked on the voter registration certificate.

*Texas policy source: **TEX. ELEC. §13.002***

## **Individuals with Differing Developmental Abilities or Mental Capacity**

### **REMOVAL FROM REGISTRATION LIST DUE TO MENTAL INCAPACITY**

**FEDERAL LAW** Explicitly allows states to choose to remove individuals from their official list of registered voters on the basis of mental incapacity.

*Federal policy source: **NATIONAL VOTER REGISTRATION ACT (1993)***

### **RIGHT TO VOTE WITH INTELLECTUAL DISABILITY OR MENTAL ILLNESS**

Individuals with an intellectual disability have all rights guaranteed by the U.S. and Texas Constitution. Patients with mental illness have the right to register and vote in elections unless a specific law limits this right.

*Texas policy sources: **Tex. Health & Safety Code §576.001; §592.011***

### **PRESUMPTION OF MENTAL COMPETENCE**

Individuals with intellectual disabilities or those who receive mental health services, regardless if voluntary, court-ordered, or emergency, are assumed to be mentally competent unless a probate court determines otherwise.

*Texas policy sources: **Tex. Health & Safety Code §576.001; §592.021***

### **REGISTRATION BARRED WITH TOTAL OR PARTIAL MENTAL INCAPACITY**

The Texas Constitution specifies that individuals determined to be mentally incompetent by a court are ineligible to vote, unless exceptions are explicitly adopted by the state legislature.

2007 state legislation changed prior legal wording from “mental incompetence” to “mental incapacity,” banning registering to vote on the part of individuals determined to be totally or partially mentally incapacitated by a probate court. A registrar may cancel a voter’s registration due to a judgment of total or partial mental incapacity.

If a probate court subsequently determines that an individual’s mental capacity has been completely restored or modifies guardianship to include the right to vote, the individual is then eligible to register to vote.

*Texas policy sources: Tex. Const. Art. 6, § 1; Tex. Elec. §1.020; §11.002; §13.001; §16.031*

### ***What it Looks Like on the Ground***

The federal laws targeted to voters with disabilities seek to increase voting accessibility for individuals with disabilities generally. However, these laws do not explicitly address voting accessibility for individuals with mental disabilities.

Historically, states had adopted laws preventing individuals with intellectual and psychiatric disabilities from being able to vote. Since the passage of the federal Americans with Disabilities Act and subsequent court rulings, some states have revised these laws to ban voting only in the case of mental incompetence; however, federal law has generally been silent regarding the right to vote among individuals with intellectual or psychiatric disabilities.

Texas is one of 25 states that ban being registered to vote only under circumstances in which a court determines that an individual lacks mental capacity. 11 states are more lenient, with no disability-related restrictions on voting. The remaining 14 states have laws that may be more restrictive. Texas advocates have argued that some Texans with intellectual and developmental disabilities have been incorrectly deemed incapacitated by probate courts, even when they are able to make choices on their own.

#### **References:**

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- 3) Morgan, M. Aug 2015. “Alternatives to Guardianship for Adult Texans with Intellectual and Developmental Disabilities.” The Arc. Retrieved from [https://www.thearcoftexas.org/wp-content/uploads/2016/06/Guardianship\\_White\\_Paper-1.pdf](https://www.thearcoftexas.org/wp-content/uploads/2016/06/Guardianship_White_Paper-1.pdf)

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- 7) A Guide to the Voting Rights of People with Mental Disabilities. 2016. Bazelon Center for Mental Health Law, Autistic Self-Advocacy Network, National Disability Rights Network, and Schulte Roth & Zabel LLP. Retrieved from <http://www.bazelon.org/wp-content/uploads/2017/01/voting-rights-guide-2016.pdf>

## **Individuals with Housing Insecurity**

### **REGISTERING WITHOUT A HOME ADDRESS**

Individuals may register to vote without a home address, but are required to provide a brief description of where they live, as well as a mailing address, on the application. An individual may register using a shelter address, if the voter considers the shelter to be their home. When a shelter cannot receive mail, the voter may use a P.O. Box instead.

**Texas policy sources: *TEX. ELEC. §13.002; TEXAS SECRETARY OF STATE: VOTETEXAS.GOV***

### ***What it Looks Like on the Ground***

An Aug. 2018 Houston Press article reports that a recent challenge to 4,037 voter registrations in Harris County included individuals using a range of County homeless shelters and long-term substance abuse recovery centers as their address.

### **References:**

- 1) Rouner, J. 28 Aug 2018. Republican Voter Registration Challenges Has Several of Houston's Homeless Shelters on It. Houston Press. Retrieved from <https://www.houstonpress.com/news/houston-homeless-have-voting-status-challenged-10798033>
- 2) Texas Residency Affidavit. (n.d.) The State of Texas. Retrieved from <https://www.dps.texas.gov/internetforms/Forms/DL-5.pdf>

## **Victims of Natural Disasters**

### **REGISTERING WHEN DISPLACED**

Voters displaced by a natural disaster are responsible for determining what they consider to be their permanent address at the time of the election. A voter who wants to vote at a new address must register at that address by the statewide voter registration deadline, 30 days before an election. For voters residing in a shelter as a result of the disaster, guidelines listed above under “Individuals with Housing Insecurity” apply.

*Texas policy source: **TEXAS SECRETARY OF STATE: VOTING ISSUES FOR HARVEY EVACUEES***

### **SUSPENSE LIST WHEN REGISTRATION CERTIFICATE CANNOT BE DELIVERED**

In Texas, non-forwardable new voter registration certificates are sent to registered voters every two years, at the end of each odd-number year. In all cases, even when a voter is an evacuee from a natural disaster, if the certificate cannot be delivered, it is returned to the county registrar. When a certificate is returned, a voter is placed on the county’s “suspense list.” (See “Suspense and Removal” above.)

*Texas policy sources: **TEX. ELEC. §14.001-.023; §15.081***

***HARRIS COUNTY POLICY SOURCE: HARRIS COUNTY PRESS RELEASE (2/2/18)***

## **What it Looks Like on the Ground**

Texas laws explicitly take into account the impact of natural disasters in crafting voter registration laws. However, Texans who are forced to evacuate their homes may not be prepared to determine a permanent address by the voter registration deadline of 30 days prior to an election.

During Harris County’s 2018 primary elections, less than six months after Hurricane Harvey, approximately 175,000 voters displaced from their homes by the hurricane discovered they had been placed on the County’s “suspense list.” While voters on a “suspense list” are still permitted to vote – with appropriate ID and completion of a “Statement of Residence” if the voter has moved within the same county – contemporaneous news reports suggest that learning of placement on the suspense list resulted in extensive confusion among voters.

### **References:**

- 1) Seward, L. 31 Jan 2018. “Harvey flood victims face confusion over voter registration.” KHOU 11. Retrieved from <https://www.khou.com/article/news/politics/harvey-flood-victims-face-confusion-over-voter-registration/285-513422088>
- 2) Voting Issues for Texas Harvey Evacuees. (n.d.). Votetexas.gov. Retrieved from <https://www.votetexas.gov/harvey/index.html>
- 3) Shay, M. 1 Feb 2018. “Hurricane Harvey victims shocked to find out voter registration was suspended.” ABC 13. Retrieved from <https://abc13.com/politics/harvey-victims-shocked-to-find-voter-registration-suspended/3019551/>

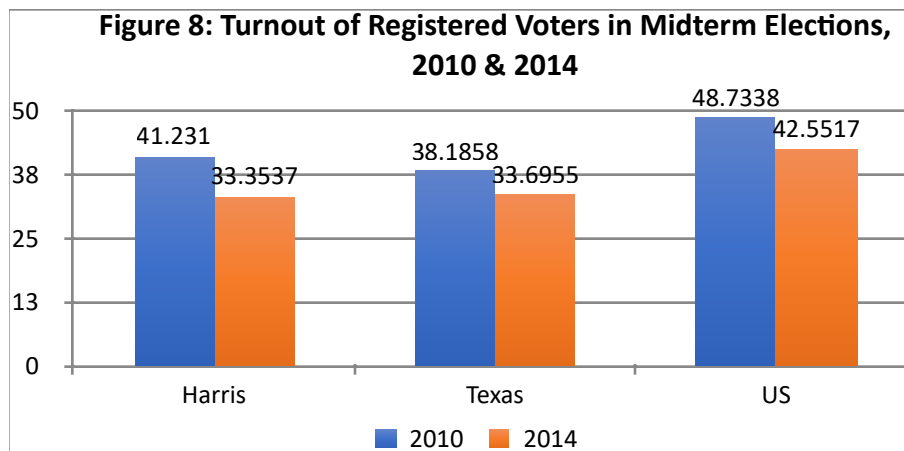




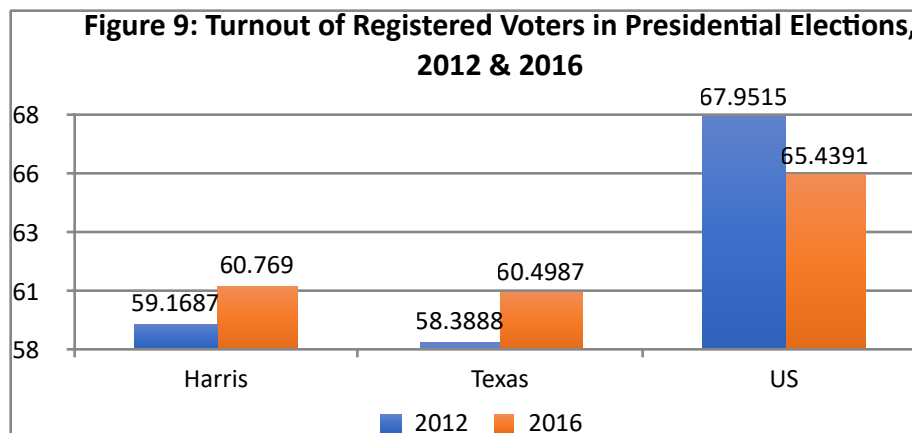
# **POLICIES ON CASTING A BALLOT**

## WHY IT MATTERS

In the last two Presidential election years (2012 and 2016), turnout in Harris County was similar to turnout across Texas, but lower than the overall U.S. voter turnout (Fig. 9). In the 2010 midterm elections, Harris County saw a higher rate of turnout than across the state; however, this was not the case in 2014 (Fig. 8). Both the Presidential and midterm turnout rates are substantially lower for the county and state than overall U.S. turnout. In fact, Texas is consistently ranked as having one of the lowest rates of voter turnout in the country. According to the Annette Strauss Institute for Civic Life, Texas ranked 51<sup>st</sup> in turnout in the 2010 midterm elections and 47<sup>th</sup> in turnout in the 2016 Presidential election.



Based on eligible, registered voters. Source: 2010 Election Day Survey, 2014 Election Administration and Voting Survey (U.S. Election Assistance Commission).



Based on eligible, registered voters. Source: 2012 Election Day Survey, 2016 Election Administration and Voting Survey (U.S. Election Assistance Commission).

In conversations with community leaders, a range of challenges surrounding the process of casting a ballot emerged. As one leader noted:

*We need to provide good and reliable information to let people know voting is not a huge barrier. A lot of bad information is going around, and they are incorrect about voter's identification and requirement of what to present, like identification at the poll and information on who can vote by mail, since there was incomplete information.*

Multiple community leaders indicated barriers related to Texas' Voter ID requirements. For example, one stated:

*Some of the documents required, people don't have, for example driver's license. If you go vote you have to show proper documentation; therefore, they're turned away because of no documentation.*

Navigating the many details associated with voting in Texas was a frequent theme in community leader conversations. One leader captured this theme by describing voting as a:

*Tedious process – register, come in contact with someone, mail in ballot etc. ID cards needed, constant barriers to voting... too many restrictions and barriers.*

Another community leader explains challenges to voting related to the diversity of languages spoken in Harris County:

*Education about the election process is not necessarily available in different languages. Even if Harris County allows for Chinese and Spanish, [for] most immigrants that come to Harris County and want to vote, English is not their primary language, even if they speak English.*

**Reference:**

- 1) "2018 Texas Civic Health Index." 2018. Annette Strauss Institute for Civic Life. Retrieved from: [https://moody.utexas.edu/sites/default/files/2018-Texas\\_Civic\\_Health\\_Index.pdf](https://moody.utexas.edu/sites/default/files/2018-Texas_Civic_Health_Index.pdf)

# POLICY: IN STATUTE AND ON THE GROUND

## Methods of Voting

### VOTERS CAN VOTE EARLY OR ON ELECTION DAY

In Texas, all registered voters may cast a ballot in one of two ways:

1. At their assigned in-person voting location on Election Day.
2. At an in-person county early voting location. (The time period for in-person early voting is outlined below under “Election Administration.”)

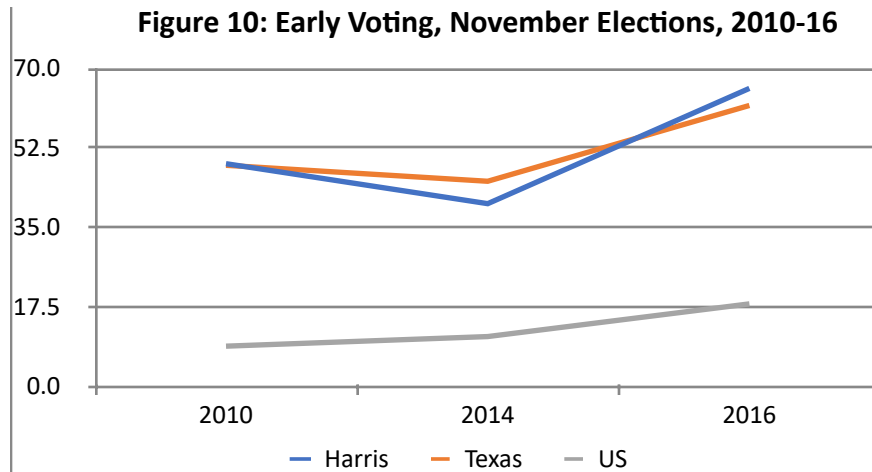
In addition, early voting by mail is permitted by a subset of registered voters who meet one of the following specific guidelines:

- The voter plans to be absent from their home county on Election Day, as well as during any remaining part of the early voting period;
- Age 65 or older;
- Having a disability;
- Expected childbirth during the election period;
- Confinement in jail;
- Participation in the state Address Confidentiality Program (described in “Voter Registration”); or
- A member of the military, military spouse, or dependent.

*Texas policy sources:* **TEX. ELEC. §64.001; §81.001; §82.001-.005; §84.001-.002; §101.001**

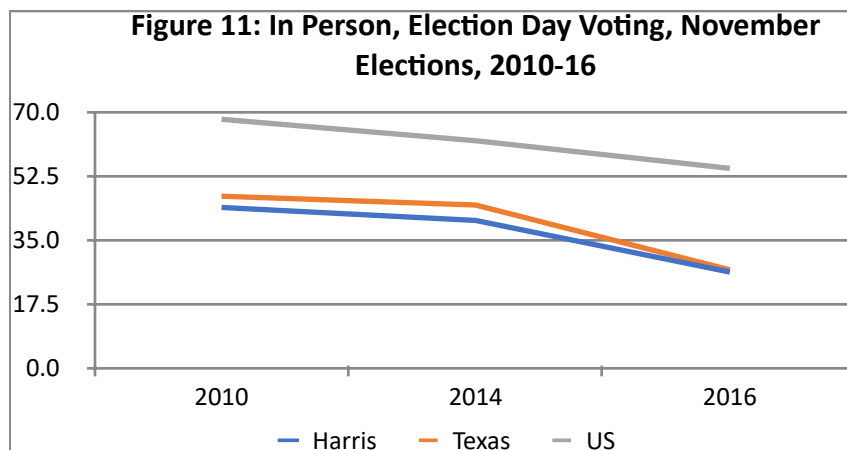
### What it Looks Like on the Ground

Early voting is on the rise nationwide, with about one in five Americans voting early in 2016. As Figure 10 demonstrates, in both Harris County and Texas, in-person early voting is the most popular method of voting. Texas is one of 38 states that permits in-person early voting. Over 65 percent of Harris County voters voted early in November 2016. This represents an increase over prior elections, comparing to 49 percent in 2010 and 40 percent in 2014.



Source: 2010 Election Day Survey, *2014 & 2016 Election Administration and Voting Survey* (U.S. Election Assistance Commission).

In fact, the overall pattern of voting methods in Harris County and Texas contrasts rather sharply with that of the U.S., where the majority of voters continue to cast their ballots in person on Election Day. As Figure 11 shows, only a quarter of Harris County voters did so in 2016.



Source: 2010 Election Day Survey, *2014 & 2016 Election Administration and Voting Survey* (U.S. Election Assistance Commission).

## References:

- 1) Absentee and Early Voting. 3 Dec 2018. National Conference of State Legislatures. Retrieved from <http://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx>
- 2) All-Mail Elections (AKA Vote-by-Mail). 15 Aug 2018. National Conference of State Legislatures. Retrieved from <http://www.ncsl.org/research/elections-and-campaigns/all-mail-elections.aspx>

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## Early Vote by Mail (Absentee Voting)

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### MARKING, DELIVERY REQUIREMENTS

To early vote by mail, a voter who is eligible to do so must mark their ballot, place and seal it in the official carrier envelope, and sign the certificate on the envelope. The envelope may be delivered in one of three ways:

1. by mail,
2. by common or contract carrier, or
3. hand-delivered by the voter to the early voting clerk's office during voting hours on Election Day – any voter who does this must also present appropriate Voter ID

Early vote by mail ballots must be received by the early voting clerk before polls close on Election Day, or by 5 p.m. the following day if the ballot was postmarked on Election Day. An exception is made for ballots cast from an address outside of the U.S. (See “Military Voters; Overseas Voters; Voters on Space Flights” below.)

Only one ballot is permitted to be included in each separate carrier envelope. Multiple separate, sealed, and signed carrier envelopes containing ballots may be included in a larger package; however, such package cannot originate from an office of a political party, candidate, political committee, or governing body involved in the election.

*Texas policy sources: Tex. Elec. §86.005, §86.0051, §86.006-.007*

### MAIL-IN BALLOTS VIOLATING DELIVERY REQUIREMENTS NOT COUNTED

Mail-in ballots submitted in violation of the delivery requirements may not be counted. The clerk must note this on the envelope, and treat the ballot as if it was not received in a timely manner. If this ballot that will not be counted was received prior to the end of the early voting period, the early voting clerk must provide written notice to the voter indicating both that the ballot will not count and that the voter may vote in person either during early voting or on Election Day.

*Texas policy source: TEX. ELEC. §86.006*

### ASSISTANCE TO MAIL-IN VOTERS

An individual who assists an early vote by mail voter must sign and complete the assistance section of the sealed carrier envelope, unless the helper is closely related to the voter or lives in the same residence.

*Texas policy source: TEX. ELEC. §86.0051*

### REJECTION OF MAIL-IN BALLOTS

Each mail-in ballot will be reviewed for correct use of the carrier envelope certificate, provision of a legal justification for early voting by mail, and the voter's registration status. Additionally, the signature on the ballot may be compared with any signature on file from the voter from the previous six years to ensure that the signature belongs to the voter.

Any ballot not meeting these requirements is rejected. Written notice explaining why the ballot was rejected must be provided to the address on the ballot application within 10 days after Election Day. If the voter was determined to be deceased, if the voter had already voted in the election, if the ballot had inconsistent signatures, or if the ballot was improperly executed, notice must also be provided to the state attorney general.

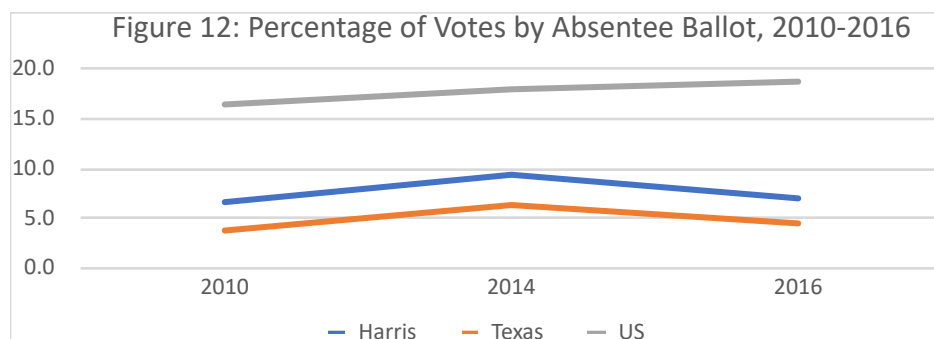
*Texas policy sources: **TEX. ELEC. §87.041; §87.043***

## What it Looks Like on the Ground

### Voting by Mail

While 22 states permit some of their elections to be conducted entirely by mail and three states (Oregon, Washington, and Colorado) conduct all elections entirely by mail, Texas only permits voting by mail in certain cases. Absentee voting is one of these.

The percentage of domestic Harris County voters voting absentee is considerably smaller than the U.S. average. For example, in the 2016 election, 6.6% of Harris County voters did so, compared to 16.5% for the U.S. overall. In fact, as Figure 12 shows, the trend of absentee voting is increasing for the U.S. overall, while for both Harris County and Texas, the rate of absentee voting increased in 2014 but remained relatively unchanged between 2010 and 2016. Unlike Texas, 28 states and Washington, D.C. allow any voter to cast an absentee ballot without providing a specific excuse or justification. Additionally, eight states, but not Texas, permit a voter to make a permanent request to receive absentee ballots for all subsequent elections.



Source: 2010 Election Day Survey, 2014 & 2016 Election Administration and Voting Survey (U.S. Election Assistance Commission).

While the percentage of absentee ballots in Harris County remained similar between 2010 and 2016, the raw number of absentee ballots cast has increased sharply in every election, almost doubling since 2010, as Table 3 indicates. The use of provisional ballots is also increasing, but is significantly less prevalent than are absentee ballots.

Table 3: Ballots Cast and Counted in Harris County Elections, 2010-2016				
	2010	2012	2014	2016
Absentee Submitted	53,248	69,815	71,747	95,291
Absentee Rejected	123	118	680	1,095
Pct Absentee Counted	99.8	99.8	99.1	98.9
Provisional Submitted	2,122	5,719	2,946	6,747
Provisional Rejected	1,494	4,632	1,995	5,426
Pct Provisional Counted	29.6	19.0	32.3	19.5

Source: 2010 & 2012 Election Day Survey, *2014 & 2016 Election Administration and Voting Survey* (U.S. Election Assistance Commission).

In a 2018 *Houston Chronicle* article, a spokesman for the Harris County Clerk’s office suggested that as the number of voters by mail increases, there is a corresponding increase in the number of voters who do not receive their ballots in time to vote by mail. This specific article described several instances of Harris County college students who did not receive their 2018 absentee ballots in time.

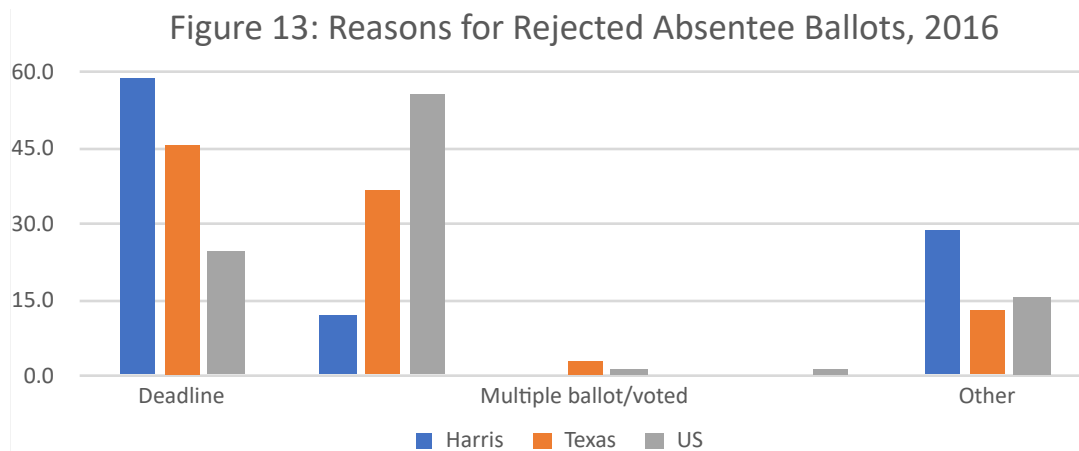
### Valid Votes

Having more methods by which voters can cast their ballots has the potential to increase voter participation and expand the electorate. However, it also can make voting more complicated since deadlines and other rules vary from one method to another. An important question then, is whether certain methods of voting are associated with higher rates of invalid votes. And if so, what are the reasons for this?

In reviewing the data in the table above comparing the number of absentee and provisional ballots cast over in Harris County during the past four election cycles and the outcome of these ballots, there is a notable disparity in terms of which ballots are more likely to be counted. While nearly all absentee ballots are eventually counted (between 98.9-99.8%), only about 20-30 percent of provisional ballots are counted. Instead, the vast majority of provisional ballots are rejected (more on this in “Provisional Balloting” later in this chapter).

Even though a small number of absentee ballots are rejected, the raw number of rejected absentee ballots is increasing, with over 1,000 absentee ballots rejected by Harris County in

2016. This increase raises concerns given the substantial growth in absentee balloting over time. In Figure 13 we report the reasons given by Harris County for rejecting absentee ballots in 2016. We compare these responses for election administrators across Texas and the US.



*Source: 2016 Election Administration and Voting Survey (U.S. Election Assistance Commission).*

The most common reason for Harris County to reject absentee ballots is deadlines, i.e., the absentee ballot was not received on time. This constituted nearly 60 percent of rejected absentee ballots in Harris County, as compared to less than half of rejected ballots across Texas and only about a quarter of rejected absentee ballots nationwide. On the other hand, Harris County rejected a relatively small percentage of absentee ballots because of signature or envelope issues.<sup>10</sup> Interestingly, nearly 30 percent of absentee ballots in Harris County were rejected for “other” reasons.

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<sup>10</sup> Specifically, no signature or witness signature, no resident address on the absentee ballot envelope, an unsealed envelope, or no ballot included in the envelope.

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## Voter Identification

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### **Voter ID Requirements**

#### **FEDERAL ID REQUIREMENTS FOR MAIL-IN VOTERS**

This law specifically outlines identification requirements for voting by mail. States must require identification from a first-time mail-in voter who did not verify their identity while registering to vote. States may accept forms of ID including a current photo ID, a current government document, utility bill, bank statement, or paycheck that shows the voter's name and address.

*Federal policy source: **HELP AMERICA VOTE ACT (HAVA; 2002)***

#### **TEXAS IN-PERSON VOTER ID REQUIREMENTS**

An in-person voter who owns a photo ID that meets state guidelines must use it to vote in person. Acceptable ID forms are as follows:

1. DPS-issued Texas Driver License
2. DPS-issued Texas Election Identification Certificate
3. DPS-issued Texas Personal Identification Card
4. DPS-issued Texas Handgun License
5. United States Military Identification Card with the voter's photo
6. United States Citizenship Certificate with the voter's photo
7. United States Passport, in book or card form

If the voter is 69 or younger, the ID must not have expired more than four years prior. A voter 70 and older may use an expired ID.

*Texas policy sources: **TEX. ELEC. §63.0101; SECRETARY OF STATE, ELECTION ADVISORY NO. 2018-08, "VOTER IDENTIFICATION PROCEDURES UNDER SENATE BILL 5 (2017)"***

#### **ID REQUIREMENTS WHEN DELIVERING MAIL-IN BALLOT IN PERSON**

If a voter eligible to early vote by mail delivers their ballot in person to the early voting clerk's office on Election Day, the voter must provide one of the 7 acceptable forms of ID.

*Texas policy source: **TEX. ELEC. §86.006***

#### **NOTIFICATION TO REGISTRANTS OF VOTER ID REQUIREMENTS**

**TEXAS** county voter registrars must notify registrants of the state's Voter ID requirements within each registration or renewal certificate, using wording prescribed by the Secretary of State.

*Texas policy source: **TEX. ELEC. §15.005***

### **IN-PERSON VOTER WITH ACCEPTABLE ID**

Each in-person voter must present an acceptable ID.

If a voter owns and presents acceptable ID, the poll worker compares the voter's name on the official list with the name on the ID:

- If the name matches the official list, the voter may vote.
- If the name on the ID does not exactly match but is determined to be “substantially similar” (see “‘Substantially Similar’ Determination” below) to the name on the official list, the voter may sign a “Similar Name Affidavit,” and then vote.
- If the voter presents acceptable ID and a voter registration certificate for that precinct or another precinct in the same county, but is not on the official list, the voter may complete an affidavit stating they reside in the voting precinct, and then vote.

***TEXAS POLICY SOURCES: TEX. ELEC. §63.001, §63.006, §63.0101; SECRETARY OF STATE, ELECTION ADVISORY NO. 2018-08, “VOTER IDENTIFICATION PROCEDURES UNDER SENATE BILL 5 (2017)”***

### **“SUBSTANTIALLY SIMILAR” DETERMINATION**

If a voter's name on their ID does not exactly match their name on the official list, the election worker must determine if the name is “substantially similar.” The election worker is expected to consider whether other information on the ID, such as address and date of birth, match the official list. The “substantially similar” determination is to be based on evaluation of whether one of the following four circumstances are met:

1. The name on one document is slightly different from the name on the other document;
2. The name on one document is a common variation of the formal name on the other document;
3. The name on one document includes an initial, middle name, or former name that is not on the other document; or
4. An initial, first name, middle name, or last name appears in a different field on one document than where it appears on the other document.

*Texas policy source: **1 TEX. ADMIN. CODE §81.71***

### **IN-PERSON VOTER WITHOUT ACCEPTABLE ID**

If a voter owns an acceptable ID, but did not bring it, the voter must be directed to either leave and come back with it, or to cast a provisional ballot. (Please see the “Provisional Balloting” section below.)

If a voter does not possess acceptable ID and cannot reasonably obtain this ID, the voter may instead complete a Reasonable Impediment Declaration, provide supporting ID, and then vote. (Please see the “Reasonable Impediment Declaration” section below.)

An exemption to the ID requirement exists if a voter has a disability and presents a voter registration certificate with a disability exemption indicated. (See “Individuals with Differing Physical Abilities” in the “Policies on Voter Registration” chapter.)

*Texas policy sources:* **TEX. ELEC. §63.001, §13.002; SECRETARY OF STATE, ELECTION ADVISORY NO. 2018-08, “VOTER IDENTIFICATION PROCEDURES UNDER SENATE BILL 5 (2017)”**

## **Reasonable Impediment Declaration**

### **TEXAS REASONABLE IMPEDIMENT DECLARATION**

**TEXAS** Establishes an alternative to the state’s Voter ID requirements for a person who does not own, and cannot reasonably obtain, one of the 7 required forms of ID. Such voters must instead complete a “Reasonable Impediment Declaration” form, swear to its accuracy, and submit one of 6 acceptable forms of supporting ID.

The “Reasonable Impediment Declaration” requires the voter to declare a specific impediment to accessing acceptable photo ID. A reasonable impediment is defined as one of the following:

- not having transportation;
- not having a birth certificate or other documentation necessary to secure acceptable ID;
- work schedule;
- stolen or lost IDs;
- disability or illness;
- responsibilities to one’s family; or
- having applied but not yet received an acceptable ID.

11.

Poll workers are not allowed to question the voter’s declaration. It is a felony to provide false information on this form.

12.

*Texas policy sources:* **TEX. ELEC. §63.001, §63.0013, §63.0101; SECRETARY OF STATE, ELECTION ADVISORY NO. 2018-08, “VOTER IDENTIFICATION PROCEDURES UNDER SENATE BILL 5 (2017)”**

### **ACCEPTABLE SUPPORTING IDs FOR REASONABLE IMPEDIMENT DECLARATION**

Along with a Reasonable Impediment Declaration form, voters must submit copies or originals of one of the following 6 acceptable forms of supporting ID:

1. A government document with both the voter's name and address (including a voter registration certificate)
2. Current utility bill
3. Bank statement
4. Check from the government
5. Paycheck
6. Domestic birth certificate or a document confirming the voter's birth that would be admissible in a court of law.

13.

*Texas policy sources:* **TEX. ELEC. §63.0101**

## ***What it Looks Like on the Ground***

### **Voter ID Legislation**

Texas initially passed a Voter ID law in 2011; this law was subsequently challenged in court. Critics argued that such voter ID laws result in voter confusion and disenfranchise people who face challenges in obtaining acceptable government-issued IDs. Two months before the 2016 Presidential election, a federal judge assigned to the lawsuit (*Veasey v. Abbott*) approved a temporary solution. The judge sought to mitigate harm to minorities by allowing those without photo IDs to fill out an affidavit and show an alternate ID. The judge also called for the state to spend \$2.5 million on voter education to help voters understand how to comply with the law. Ultimately, the 2011 law was ruled to be discriminatory.

The law outlined above is a 2017 revision by the Texas legislature designed to meet the court's requirements. While like the 2011 law, it requires a photo ID to vote, the revised law provides an alternative mechanism (the "reasonable impediment declaration" process) for individuals who lack an acceptable photo ID.

Texas is one of 34 states that either request or require in-person voters to present a form of identification. States vary widely in what they consider acceptable ID. An ID with a photo is requested or required by 17 of these states, including Texas. Several of these 17 states accept any form of ID that includes both a name and photo. Across the U.S., 17 states – not including Texas – explicitly name student IDs as an acceptable form of voter identification.

Like many states, Texas places no ID requirements on early voters who submit ballots by mail. As a result, most voters who cast early votes by mail do not provide photo ID when they vote. This includes voters out of their home county during the early voting period and Election Day; voters with disabilities, including childbirth; voters over age 65 on Election Day; and those in jail. Consistent with the federal HAVA law, a first-time voter by mail – except if disabled, in the military, or living overseas – will be asked by Harris County to send a copy of one of the seven

forms of acceptable ID, unless the voter provided the number for a photo ID or the last four digits of their Social Security number when registering.

### Voter's ID Status

While some studies have examined the effects of the 2011 voter ID law on turnout, including a 2015 study from the University of Houston Hobby Center and Rice University Baker Institute, to date there are no studies examining how the revised 2017 law impacts Harris County voters or Texans more generally. What we can examine however, is the types of IDs Texans possess and the status of these IDs. The 2016 Survey of the Performance of American Elections asked a sample of 200 registered Texas voters about their experiences with voting, whether in-person on Election Day, in-person as an early voter, or absentee. It also asked these respondents which forms of identification they possessed and the status of each ID. In the table below (Table 4), we report responses from the Texas respondents.

**Table 4: What IDs Do Texans Have?**

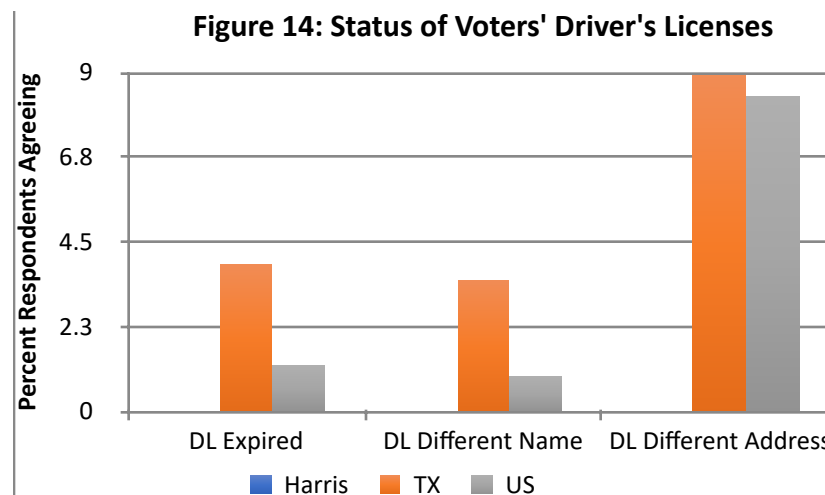
<i>The following is a list of ID cards that people sometimes have. Please indicate which of the following you have personally and whether it has a photo</i>	<i>YES: with a picture</i>	<i>I have this ID without a picture</i>	<i>I don't have this ID at all</i>
<b>Driver's License</b>	<b>89.6</b>		<b>10.4</b>
<b>US Passport</b>	<b>48.8</b>		<b>51.2</b>
<b>A license to carry a firearm issued by Texas</b>	<b>4.5</b>	<b>3.5</b>	<b>92.1</b>
<b>A military ID card</b>	<b>8.7</b>	<b>1</b>	<b>90.3</b>
An ID card issued by an agency or department of the state of that you have not already indicated	17.1	6.2	76.8
A public assistance ID card issued by Texas	13.2	6.8	80
An ID card issued by an agency or department of the federal government that you have not already indicated	11.7	5.5	87.8
An ID card from a state college or university within Texas	8.9	4.2	86.9
An ID card from a private college or university within Texas	8	1.9	90.1

Source: Survey of the Performance of American Elections (Stewart 2016). Texas Sample. N=200. Bolded IDs are the only ones currently acceptable under Texas law.

While the survey data clearly indicate that the two most common forms of photo IDs held by Texans are a driver's license and passport, more than half of the Texans in this sample do not possess a passport and about one in ten do not have a driver's license. In addition, the two other

forms of ID allowed in Texas (hand gun license and military ID) are not very common—less than 5% and 9% of Texans respectively said they had these IDs with a photo as required by the state. More Texans reported possessing other forms of photo ID that are not allowed under the Texas voter ID law (student ID, public assistance ID or other ID issued by the state or federal government).

Apart from simply having a valid, allowable ID, the name on this ID must match the information on the voter rolls, and, for voters 69 or younger, the ID must not have expired more than four years ago. Failure to meet these requirements means that voters could be turned away from the polls. Data from the Survey of the Performance of American Elections indicate that a small percentage of Texans have expired driver's licenses (4%) or driver's licenses with a different name (3.5%). In addition, nearly 10 percent of Texans' driver's licenses have a different address, which may be considered in determining whether a non-exact match between the voter's ID and the official list is “substantially similar.”



Source: Survey of the Performance of American Elections (Stewart 2016).  
Texas Sample. N=200

While the data on who has which IDs is informative, it does not provide real evidence about whether lack of a valid voter ID has kept Texas voters away from the polls. Even though the 2017 law was not in effect in November 2016, confusion about the status of the 2011 law and which forms of ID were required was rampant leading up to and during the election. As an extensive report by ProPublica described it, “the state’s efforts to enact and enforce the strictest voter ID law in the nation were so plagued by delays, revisions, court interventions and inadequate education that the casting of ballots was inevitably troubled.” This report states that the best estimates suggest that about 600,000 of Texas’ 15 million registered voters lacked the type of ID required by the new law in 2016, but the federal judge’s late intervention opened the way for many of them to vote anyway.

Looking again at the Survey of the Performance of American Elections, results indicate that not having a proper, photo ID was not among the most common reasons Texans gave for not voting

in the 2016 election (Table 5). Only about 6 percent of non-voters cited lack of ID as a major factor. Another 16 percent stated that this was a minor factor.

**Table 5: Reasons Texans Gave for Not Voting in November 2016**

<i>How much of a factor did the following reasons play in your not voting in the November General Election?</i>	<i>Not a factor</i>	<i>Minor factor</i>	<i>Major factor</i>
I didn't like the candidates or campaign issues	31.3	13.3	55.5
Illness or disability (own or family's)	58.6	8	33.4
I did not receive my ballot in the mail, or it arrived too late for me to vote.	66.3	6.1	27.6
I was too busy/had a conflicting work, family, or school schedule	65.1	9.1	25
Transportation problems	60.1	23	17
There were problems with my registration	74.7	9.2	16.1
The polling place hours, or location, were inconvenient	67.3	16.6	16.1
I forgot to vote	74	11.6	14.4
The line at the polls was too long	70	15.7	14.4
Out of town or away from home	69.6	17	13.4
<b>I did not have the right kind of identification</b>	<b>78.2</b>	<b>16.2</b>	<b>5.7</b>

Source: Survey of the Performance of American Elections (Stewart 2016). Texas Sample. N=200

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## Provisional Balloting

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### FEDERAL PROVISIONAL BALLOT REQUIREMENT

States are required to permit provisional ballots. Provisional ballots must be used to record the vote of a voter whose eligibility is in question, either because the voter's name is not on the registration or voter list, or because a poll worker or election official has challenged the voter's identity and/or eligibility to vote.

Minimum standards are established for states in terms of provisional ballots. States must provide provisional ballots to any voter whose eligibility is questioned, but who declares that they are a registered voter in the precinct and eligible to vote. Election officials must provide a free-access system that enables provisional voters to determine whether their vote was counted, and if not, why not; election officials must notify provisional voters of this system.

*Federal policy source: **HELP AMERICA VOTE ACT (HAVA; 2002)***

### ELIGIBILITY TO CAST PROVISIONAL BALLOTS

Specific types of in-person voters must be informed that they are eligible to cast a provisional ballot, during early voting or on Election Day, including:

- A voter not meeting ID requirements
- A voter who has appropriate ID, but is not on the official list and cannot present a voter registration certificate
- A voter who did not bring their voter registration certificate indicating a personal disability exemption from Voter ID requirements to the voting location
- A voter who applied to vote by mail-in ballot and did not cancel the application
- A registered voter attempting to vote in a precinct in which the voter is not registered
- A voter who is voting during state or federal court-ordered extended polling hours
- A voter who does not meet the "substantially similar" name determination.

There is no state provisional ballot system for mail-in ballots.

*State policy sources: **TEX. ELEC. §63.001, §63.009, §63.011; SECRETARY OF STATE, ELECTION ADVISORY NO. 2018-08, "VOTER IDENTIFICATION PROCEDURES UNDER SENATE BILL 5 (2017);" 1 TEX. ADMIN. CODE §81.71; §81.172***

### CASTING A PROVISIONAL BALLOT; NOTIFICATION OF BALLOT COUNTING

A voter who has been identified as eligible to cast a provisional ballot must sign an affidavit stating that the voter is both eligible to vote in the election and registered to vote in that specific precinct. If the early voting clerk was required to provide a mail-in ballot to the voter, the affidavit also must state that the voter did not vote early by mail.

Before voting, both the provisional voter and the election judge must complete and sign the Provisional Ballot Affidavit Envelope.

After a provisional ballot is cast, the election judge must provide the voter with a Notice to Provisional Voter. The notice indicates that the voter will be notified regarding whether the ballot was counted, and that the ballot will be counted if the voter is found to be eligible to vote after following all requirements.

*Texas policy sources:* **TEX. ELEC. §63.001, §63.011; SECRETARY OF STATE, ELECTION ADVISORY NO. 2018-08, “VOTER IDENTIFICATION PROCEDURES UNDER SENATE BILL 5 (2017);” 1 TEX. ADMIN. CODE §81.71; §81.173**

### **PROVISIONAL BALLOTS WITHOUT ACCEPTABLE ID (“CURING” A BALLOT)**

If a voter votes via provisional ballot after not presenting an acceptable form of ID, they must bring all required materials for their ballot to be “cured” (counted) to the county registrar’s office within 6 calendar days of Election Day. The ballot can be “cured” in one of four different ways:

1. The voter presents one of the 7 acceptable forms of ID
2. The voter files a Reasonable Impediment Declaration, together with an acceptable supporting ID
3. The voter signs an affidavit for a temporary exemption (based on a natural disaster or religious exemption) in the county registrar’s presence
4. The voter requests and qualifies for a personal disability exemption.

If a voter did not meet the “substantially similar” name requirements when presenting one of the 7 acceptable forms of ID, the voter may submit additional documentation to the county registrar verifying their identity, such as a marriage license, letter from a licensed physician, or court order showing a name change.

In such cases, the Notice to Provisional Voters will include a list of ID requirements, identify the procedure for presenting acceptable ID to the county voter registrar, and provide a map to find the county voter registrar’s office.

*Texas policy sources:* **TEX. ELEC. §63.001; SECRETARY OF STATE, ELECTION ADVISORY NO. 2018-08, “VOTER IDENTIFICATION PROCEDURES UNDER SENATE BILL 5 (2017);” 1 TEX. ADMIN. CODE §81.175**

### **COUNTING PROVISIONAL BALLOTS**

Provisional ballots are reviewed by county registrars and then verified and counted by the county early voting ballot board. Qualified provisional ballots for general elections held on the even-numbered year November uniform election date must be counted no later than the 13<sup>th</sup> day after

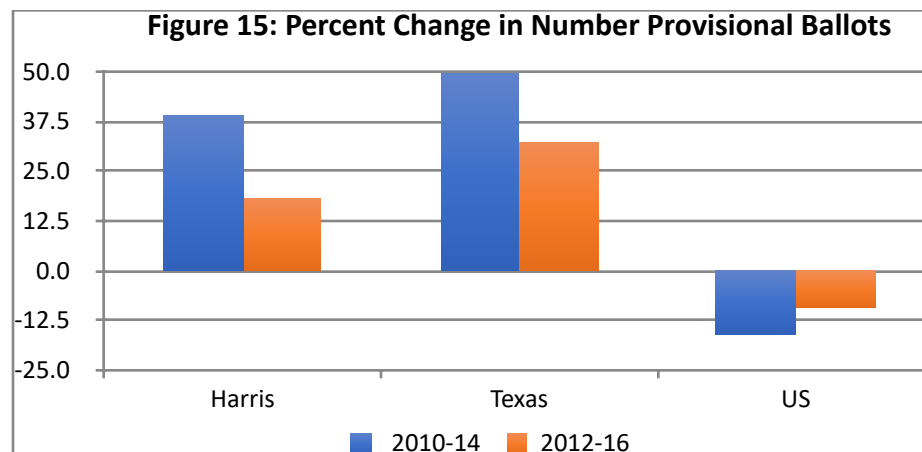
the election; qualified provisional ballots for all other elections must be counted no later than the ninth day after the election.

*Texas policy source: **TEX. ELEC. §65.051***

### ***What it Looks Like on the Ground***

Adoption of HAVA in 2002 required states to allow voters to cast provisional ballots. Texas has continued to modify its provisional balloting process, most recently, adding two days to the state timeline for counting provisional ballots in 2015. A July 2018 memo from the Texas Advisory Committee to the U.S. Commission on Civil Rights (USCCR) calls for better statewide tracking of provisional ballot use in order to assess the extent to which provisional ballots are cast, cured, accepted, and/or rejected across the state.

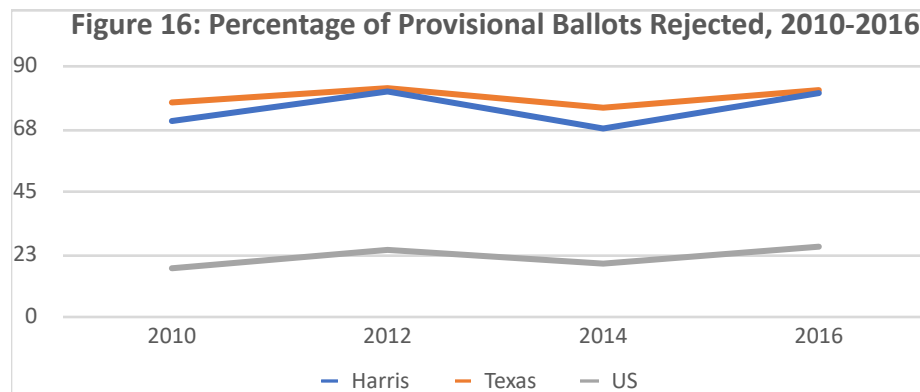
When we compare trends in the number of provisional ballots cast over the last several election cycles, we see a stark difference between Harris County and Texas and across the U.S. As Figure 15 shows, the U.S. has seen a decline in provisional ballots cast in both midterm and presidential elections. In contrast, in both Harris County and Texas, the number of provisional ballots cast increased between both midterm and presidential elections by 40 and 50 percent respectively. It is worth noting that 16 states have reduced the need for provisional ballots by permitting voters to correct errors on Election Days; additionally, two other states allow voters to correct errors during the early voting period, but not on Election Day.



Source: 2010 & 2012 Election Day Survey, 2014 & 2016 Election Administration and Voting Survey (U.S. Election Assistance Commission).

Provisional ballots make up a relatively small percentage of all ballots cast. In 2016, for example, roughly 6,700 provisional ballots were cast in Harris County, accounting for less than one half of one percent of all ballots cast. Provisional ballots represent a similar share of the total number of ballots cast both in Texas and across the U.S.

When we compare the percentage of provisional ballots cast that jurisdictions actually count, we see quite a different picture. HAVA allows states some flexibility in determining which provisional ballots they will count. As Figure 16 shows, the vast majority of provisional ballots cast in Harris County and Texas—roughly 8 of 10 in presidential elections and 7 of 10 in midterm elections—are not counted. In fact, a 2008 lawsuit, subsequently settled, alleged that Harris County was not processing 7,000 provisional ballots following the 2018 general election. When we look at the U.S. overall, we see the exact opposite pattern. Outside of Texas, the vast majority of provisional ballots are counted, with only about 2 in 10 provisional ballots not counted.



Source: 2010 Election Day Survey, *2014 & 2016 Election Administration and Voting Survey* (U.S. Election Assistance Commission).

What explains this discrepancy? As shown in Table 6 below, Texas is among the majority of states that do not count provisional ballots cast in the wrong precinct or polling location. This means that even though a voter may have incorrectly voted for congressional, state legislative, or other district-based races, their votes for presidential, senatorial, and statewide offices would also be disqualified and thus not counted.

Table 6: How States Treat Provisional Ballots Cast in the Wrong Precinct	
Full Count	Maine**
Partial Count	Alaska, Arizona, Arkansas, California, Colorado, DC, Georgia, Kansas, Louisiana*, Maryland, Massachusetts, New Jersey, New Mexico, New York, Ohio, Oregon, Rhode Island*, Utah, Washington, West Virginia
Not Counted	Alabama, Connecticut, Delaware, Florida, Hawaii, Illinois, Indiana, Iowa, Kentucky, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, North Carolina, Oklahoma, South Carolina, South Dakota, Tennessee, <b>Texas</b> , Vermont, Virginia, Wisconsin, Wyoming

\*Only Federal races; \*\* Validity is only reviewed if the number of provisional ballots cast is a large enough number to affect the results of the election;

*Source:* National Conference of State Legislatures (2018)

Apart from this, the most common reason for the rejection of provisional ballots is related to registration—specifically voters not being registered in the state of Texas. Indeed, in Harris County, three quarters of the provisional ballots cast but not counted were due to this reason. Only a small percentage of provisional ballots (2%) cast in Harris County in 2016 were rejected based on voter ID requirements. This is roughly the same for Texas (1.2%) and the US (1.7%).

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## Access to Voting for Diverse Populations

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### **Non-English Speakers**

#### **VOTING MATERIALS FOR ELIGIBLE LANGUAGE MINORITY GROUPS**

All oral and written materials related to voting must be provided in both English and the language spoken by an applicable minority group. An applicable minority group refers to at least 10,000 people or over 5% of all citizens of voting age whose group members belong to a single language minority group, do not speak English proficiently, and have a literacy rate lower than the national literacy rate.

U.S. Department of Justice (DOJ) regulations state that this requirement “should be broadly construed to apply to all stages of the electoral process,” including materials for all primary and general elections, candidate and issue ballots, at all levels of government.

Language-based assistance is permitted inside a voting booth, as long as it is not provided by a union representative or employer.

*Federal policy sources: **VOTING RIGHTS ACT, SECTIONS 203 AND 208 (VRA; 1965); “IMPLEMENTATION OF THE PROVISIONS OF THE VOTING RIGHTS ACT REGARDING LANGUAGE MINORITY GROUPS,” 18 CFR PART 55***

#### **PROVISION OF BILINGUAL VOTING MATERIALS BY TEXAS COUNTIES**

Any precinct in a Texas county that has 5% or more residents of Hispanic origin is required to provide bilingual election materials during early voting and on Election Day. Precincts within the county with a smaller percentage of Hispanic-origin residents may file for an exemption to this requirement.

Specific materials must be available in both English and Spanish, including instruction posters, ballots, ballot instructions, official affidavit forms, and all written instructions, applications and balloting materials associated with both early voting and Election Day. Printed ballots in Spanish are required, unless a Spanish translation of the ballot is posted at each voting station, with a Spanish notice on the ballot referring voters to this translation.

If a county is required under the VRA to provide voting materials in any language other than English and Spanish, then the county must apply these same guidelines in that language.

*Texas policy sources: **TEX. ELEC. §272.001-.008, §272.010-.011***

#### **BILINGUAL CLERKS**

In all precincts in a Texas county with 5% or more residents of Hispanic origin, unless exempted, “reasonable” efforts must be made to appoint clerks fluent in both English and Spanish. The number of bilingual clerks per precinct is at each county’s discretion; however, the Secretary of State recommends at least one bilingual election clerk in each precinct where at least 5% of voters have Spanish surnames.

If enough bilingual election clerks are not available on Election Day or during the early voting period, a county must appoint at least one bilingual clerk to a central location, with the clerk available to respond to any precinct by phone.

*Texas policy sources:* **TEX. ELEC. §272.009; TEXAS SECRETARY OF STATE, ELECTION ADVISORY NO. 2018-28: “MINORITY LANGUAGE REQUIREMENTS”**

### **COMMUNICATING WITH VOTERS; INTERPRETERS**

Election officials are required to use English in performing official election-related duties, unless a voter is unable to communicate in English. In that case, officials should communicate in a language the voter understands.

If this is not possible, the voter may utilize an interpreter of their choice who can communicate with election officials or go to the voting station to help the voter translate the ballot. This law specifies that the interpreter and voter must be registered voters in the same county; however, it has been ruled in violation of the VRA. [See further discussion below.]

*Texas policy source:* **TEX. ELEC. §61.031-.036**

### **BILINGUAL ASSISTANCE IN COMPLETING A BALLOT**

A voter is eligible for assistance in completing the ballot if the voter cannot read the language on the ballot.

**TEXAS POLICY SOURCE: TEX. ELEC. §64.031**

## ***What it Looks Like on the Ground***

Under the VRA, the DOJ requires the entire state of Texas to make election materials available in Spanish; in fact, bilingual election materials and clerks have been required in Texas since 1975.

While one-fifth of Texas’ foreign-born population are Asian immigrants, Harris County is the only Texas county required to provide translations in an Asian language. In Harris County, under the VRA, election materials must be provided in both Chinese and Vietnamese. Vietnamese was added in 2002, and Chinese was added in 2011.

A July 2018 memo from the Texas Advisory Committee to the U.S. Commission on Civil Rights (USCCR) indicates that a substantial number of Texas counties do not provide translated ballots or translators as required by law. While a law still on the books in Texas requires an interpreter be registered in the same county as the voter, a series of federal court rulings in 2016 and 2017 determined that the law violates the VRA. It appears that Texas has decided not to pursue further appeals. As a result of these legal challenges, the 2016 election was the first election in 30 years in which a voter could bring with them a translator, such as a family member, who lives outside of their own county. According to the Asian-American Legal Defense and Education Fund, this law disproportionately impacted Asian-Americans with limited English proficiency, many of whom rely on their children to help translate.

Various sources indicate mixed implementation of language minority laws in Harris County. Consistent with federal and state laws, a 2008 U.S. Government Accountability Office (GAO) report found that Harris County conducted voter outreach with Hispanic and Vietnamese communities and translated parts of their website. In contrast, in 2012, the Asian-American Legal Defense and Education Fund found that Harris County poll workers did not permit voters to bring interpreters with them into the voting booth, resulting in over 20% of voters at 3 of 4 Harris County polling locations they monitored not receiving required language assistance in Chinese or Vietnamese.

Translation assistance again became a source of concern in Harris County in October 2018, after election workers at an early voting location did not permit translators to ask Korean-American voters waiting in line to vote whether they needed election-related assistance. The County determined that translators were “loiterers” and prohibited them from helping voters within 100 feet of the polling stations. The translators were permitted to offer their assistance to voters in the parking lot.

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## **Older Adults and Individuals with Differing Physical Abilities**

### **Federal Policies**

#### **EQUAL OPPORTUNITY REQUIREMENTS FOR IN-PERSON VOTING**

Each individual with a disability is expected to have an equal opportunity to vote in person, during early voting or on Election Day.

*Federal policy source: **AMERICANS WITH DISABILITIES ACT (ADA – TITLE II; 1990)***

#### **ACCESSIBILITY REQUIREMENTS FOR IN-PERSON POLLING LOCATIONS**

Under the Americans with Disabilities Act, all government services and programs, including polling locations, are required to be accessible to voters with disabilities using minimum accessibility requirements adopted by the DOJ.

The Voting Accessibility for the Elderly and Handicapped Act requires that all polling locations used for federal elections be physically accessible to both elderly voters and voters with disabilities, and requires election administrators to provide accessible voting aids. Exceptions to these polling location requirements can be made; however, affected voters must then be reassigned to another polling location or provided with another way to vote on Election Day.

Under the Help America Vote Act, each polling location for federal elections must offer at least one private voting system/machine that is accessible for people with physical disabilities, including one with features designed to help voters with disabilities and provide assistance for people with visual impairments.

*Federal policy sources: Americans with Disabilities Act (ADA – Title II; 1990); **VOTING ACCESSIBILITY FOR THE ELDERLY AND HANDICAPPED (VAEHA; 1984)**; **HELP AMERICA VOTE ACT (HAVA; 2002)***

## **ASSISTANCE TO VOTERS**

Voters who need assistance due to a physical disability or visual impairment must be permitted assistance by a person of their choice (as long as the assistant is not the voter's employer or a representative of the employer or union).

*Federal policy source: **VOTING RIGHTS ACT (1965)***

## **State Policies**

### **STATE ACCESSIBILITY REQUIREMENTS FOR POLLING LOCATIONS**

Polling locations, either in public or private buildings, are required to be accessible for elderly voters and voters with physical disabilities, with a location in each election precinct that complies with federal accessibility requirements.

Specific accessibility requirements are outlined, so that voters with physical disabilities can practically vote via an independent and secret ballot, including entrance, exit, and curb design requirements. No barrier should impede the path of a person with physical disabilities to the voting station.

An exemption process is provided for smaller counties in elections without a federal office on the ballot.

*Texas policy sources: **TEX. ELEC. §43.034; §61.012-.013; TEX. GOVT. §469.003; TEXAS ACCESSIBILITY STANDARDS; 1 TEX. ADMIN. CODE §81.57***

### **USE OF ASSISTIVE ELECTRONIC TECHNOLOGY**

Election judges and early voting clerks can permit voters with disabilities to use electronic technology to assist them in voting and understanding election officials' communications.

*Texas policy source: **TEXAS SECRETARY OF STATE ELECTION ADVISORY NO. 2018-11***

### **CURBSIDE VOTING**

Election officers are required to deliver a ballot to a voter at the polling location entrance or curb when the voter is physically unable to enter without personal assistance or with likelihood of injury.

*Texas policy source:* **TEX. ELEC. §64.009**

### **VOTING ORDER PRIORITY**

Election officers are permitted to give voting order priority to individuals with a “mobility problem that substantially impairs a person's ability to ambulate.”

If voting order priority will be given, notice must be posted at the polling location, on the county elections website, and on the Secretary of State’s website.

*Texas policy source:* **TEX. ELEC. §63.0013**

### **ASSISTANCE TO VOTERS**

A voter may receive assistance in reading, marking, and depositing their ballot, if the voter cannot do so due to a physical disability related to writing or seeing. Assistance can be provided either by two election officers, representing different political parties, or, at a voter’s request, by an assistant of their choosing who meets federal assistant requirements.

It is a misdemeanor offense if the assistant suggests how to vote or assists the voter in any way other than as directed.

*Texas policy source:* **TEX. ELEC. §64.031-.037**

### **EARLY VOTE BY MAIL FOR OLDER ADULTS AND INDIVIDUALS WITH DISABILITY STATUS**

A process is provided for older adults (age 65 or older) and those with disability status to request to early vote by mail. A voter may request a ballot for a specific election; if an election is not specified on the application, the county clerk must send a ballot to the voter for every election held through the end of that calendar year.

*Texas policy source:* **TEX. ELEC. §84.002; §86.0015**

### **DISABILITY EXEMPTION TO VOTER ID**

A voter may claim a personal disability exemption, with appropriate written documentation, in lieu of state Voter ID requirements.

*Texas policy source:* **TEX. ELEC. §63.001**

## ***What it Looks Like on the Ground***

For seniors and individuals with disabilities, voting may take place either at a polling location or through mail-in voting. Texas' election system relies heavily on utilizing absentee balloting for individuals with disabilities or those over age 65 through its early vote by mail options.

While seniors traditionally vote at proportionately high rates across the U.S., individuals with disabilities are consistently less likely to vote than those without disabilities. Among the critiques of current federal law: anecdotal evidence suggesting some people with disabilities have been pressured to change their votes by their third-party assistants; and concerns that policies that facilitate mail-in or absentee voting for people with disabilities, rather than voting at a polling place “sends a harmful signal about their full inclusion in larger society” (Waterstone, 2014).

### **Polling Location Accessibility**

The U.S. GAO found no physical impediments inside or outside the voting area at just 17% of the polling places across the U.S. that it examined during early voting and on Election Day 2016. Among the polling places it examined, 60% had two or more physical impediments.

As regards Harris County specifically, the DOJ filed a lawsuit in 2016, claiming that just 29 of 83 county polling locations met accessibility standards. DOJ argued that structural and architectural barriers made the county's polling locations inaccessible to those with physical or visual impairments. The lawsuit sought a court order requiring improvement to polling locations, poll worker training, and changes to site selection to guarantee accessibility. In 2017, a federal judge suggested that claims of accessibility violations were so substantial that an independent review might be needed. The DOJ had planned to send observers to monitor accessibility at Harris County polling locations during the March 2018 primary elections, but stopped this effort just days before the primary<sup>11</sup>.

### **Voting in Long-Term Care and Other Residential Facilities**

According to a 2009 GAO report, almost all states (44, not including Texas) report having in place at least one of three specific categories of statutory requirements or guidance regarding voting in long-term care facilities:

- Accommodations for voter registration;
- Accommodations for voter ID; and
- Accommodations to assist residents with absentee voting (reported in 42 states).

Just under half of all U.S. states, not including Texas, reported that they train local election officials specifically regarding how to facilitate voting for residents of long-term care facilities.

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<sup>11</sup> In March 2019, Harris County and the DOJ reached a settlement, with Harris County agreeing to identify an ADA compliance officer, submit a compliance plan to the DOJ, make accessibility improvements to some voting locations, and hire outside experts to supervise voting.

In addition, 23 states have laws that allow mobile voting through which states permit bipartisan teams of elected workers to supervise casting of absentee ballots at locations such as nursing homes or other health-care facilities. Texas briefly had such a law: HB 658, passed by the Texas Legislature in 2017, was designed in part to increase voting access to voters with disabilities and in nursing homes. It included a provision allowing blank ballots to be hand-delivered to individuals living in a residential care facility which would then be collected and deposited by election judges. This provision was repealed in a special session that same year, leaving it in effect solely for elections that took place between Oct. 7 – Nov. 30, 2017.

A 2017 Texas Senate Select Committee on Election Security was charged with studying various election-related issues, including “voting fraud and disenfranchisement occurring inside nursing homes and assisted living facilities.” The Committee’s 2018 report identified concerns about voting accessibility in such facilities, such as a facility that refused access to a county clerk seeking to facilitate residents’ voting, and recommended future attention to voting accessibility among residents of nursing homes.

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## **Individuals in Jail**

### **CERTAIN INDIVIDUALS IN JAIL CAN APPLY TO EARLY VOTE BY MAIL**

An individual confined to jail may request an application to early vote by mail, if the voter is

- Serving a misdemeanor sentence with a term ending on or after Election Day;
- Pending trial with or without bail and unlikely to be released before Election Day; or
- Pending an appeal of a felony conviction without bail.

The address of the jail or of a close relative, as defined by law, must be provided in the application.

A voter meeting the above criteria may not vote in-person unless permitted to do so by the person in charge of the jail.

*Texas policy source: **TEX. ELEC. §82.004; §84.002***

## **Working Voters**

### **TIME OFF TO VOTE**

An employer or supervisor cannot refuse or penalize a voter for taking time off from work to vote on Election Day, unless the polls are open for two consecutive hours outside of the voter's working hours. The Texas Workforce Commission recommends giving employees two hours paid time off to vote on Election Day.

It is a third-degree felony for an employer or supervisor to threaten or cause a voter to lose wages or other employment benefits in retaliation for either how the employee voted or for the employee refusing to share how they voted.

*Texas policy sources: **TEX. ELEC. §276.001; §276.004; TEXAS WORKFORCE COMMISSION: "ESPECIALLY FOR TEXAS EMPLOYERS"***

## ***What it Looks Like on the Ground***

Texas is one of 30 states with a voting leave law. These laws vary widely: some states require employers to post a notice in the workplace before Election Day notifying employees of their right to time off work to vote; some states require employees to provide prior notice of their absence to vote to their employers; the amount of time allowed off varies; some require the leave to be paid; other states do not.

In Texas, because an employer cannot penalize a voter for missing work, time taken off of work to vote is paid leave.

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**Military Voters; Overseas Voters; Voters on Space Flights****MILITARY VOTERS AND FAMILIES REGISTER AND VOTE BY MAIL**

The federal MOVE Act enables military voters, spouses and dependents, as well as voters temporarily living overseas request a registration application and ballot by mail or email and to track the status of their ballots. Voters can both register and request ballots via the Federal Postcard Application (FPCA) system.

States must send these voters absentee ballots no later than 45 days prior to a federal election.

*Federal policy source: **MILITARY AND OVERSEAS VOTER EMPOWERMENT ACT (“MOVE ACT”; 2009)***

**MILITARY MAIL-IN DEADLINES, LATE BALLOTS**

State law mandates that the MOVE Act applies not only to federal elections, but also to all statewide elections in Texas and any election held concurrently with a state or federal election.

An applicant who is registered to vote must submit the FPCA by the 11<sup>th</sup> day before the election. An applicant who is not registered to vote must submit the FPCA, including information that will allow the applicant to become registered to vote, by the 20<sup>th</sup> day before the election.

Ballots must be submitted utilizing mail, courier, or other specified authorized methods specifically when a voter is in imminent danger or areas designated as combat zones. The law specifies procedures for determining in which cases a marked ballot that arrives late may be counted – a 2017 state law permits acceptance of a military voter’s ballot as long as it is received no later than the 6<sup>th</sup> day after the election.

*State policy sources: **TX SENATE BILL 100 (2011)/ TEX. ELEC. §101.001-108***

**VOTING FROM SPACE**

Establishes guidelines for voting by eligible Texas voters who will be on a space flight on both election day and during the period of early voting. Voters must apply utilizing the FPCA, and

then can submit their secret ballot utilizing a method identified by the U.S. National Aeronautic and Space Administration.

*State policy sources: **TEXAS HB 841 (1997); 1 TEX. ADMIN. CODE §81.35 (2000): VOTING FROM OUTER SPACE***

### ***What it Looks Like on the Ground***

Lawsuits have been filed and out-of-court agreements reached with multiple states that have been in violation of the MOVE Act. Texas has not been involved in any of these lawsuits and agreements. Instead, Texas goes beyond the minimum requirements of the MOVE Act, extending its requirements to many state and local elections.

In 2013, the Texas Legislature initiated a pilot program through HB1129 allowing certain military voters receiving hostile fire pay in one county (Bexar) to return their ballots via email. Just three voters submitted an email ballot in the March 2014 primary, and eight of 856 qualified voters submitted an email ballot in the Nov. 2014 general election.

Texas is the only state that has specifically adopted a law that outlines a process for astronauts to cast a ballot from space. The first Texas astronaut to cast a ballot did so in 1997. Ballots are electronically uploaded from space and delivered to the county clerk's office utilizing a private security code.

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## **Individuals with Housing Insecurity**

### **PROCEDURE FOR HOMELESS INDIVIDUALS TO ACQUIRE STATE VOTER ID**

State law provides an avenue for homeless individuals to acquire a DPS-issued Texas Personal Identification Card in order to meet state voter ID requirements.

An individual residing in or receiving services from a homeless shelter, transitional service provider, or group home can acquire this card, as long as a representative of that organization 1) signs a Texas Residency Affidavit form certifying a relationship with the individual and 2) provides a notarized letter indicating that they receive mail for the applicant.

*Texas policy source:* **37 TEX. ADMIN CODE §15.49**

### ***What it Looks Like on the Ground***

Nationally, it is estimated that 10% of eligible homeless individuals vote. Voter ID requirements have been identified as a barrier to voting for homeless individuals. One election law expert interviewed for a 2015 NPR story on challenges to voting for homeless Texans claims that a “substantial proportion” of the approximately 600,000 Texans who lack sufficient ID to vote are homeless.

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- 1) Schneider, A. 3 Nov 2015. “In Texas, Homeless Residents Face Obstacles to Voting.” National Public Radio. Retrieved from <https://www.npr.org/2015/11/03/454342295/in-texas-homeless-residents-face-obstacles-to-voting>
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## **Victims of Natural Disasters**

### **REASONABLE IMPEDIMENT DECLARATION FOR NATURAL DISASTERS**

A provisional process is available for voters whose acceptable ID is inaccessible due to a natural disaster declared by the president or governor, if the disaster occurred within 45 days of the election.

To have one’s ballot cured, the voter must go to the county registrar’s office within six calendar days to apply for a temporary natural disaster exemption. The voter must submit a Reasonable Impediment Declaration form and certify that the voter does not have access to a required photo ID. One supporting form of ID must be provided.

*Texas policy sources:* **ELEC. CODE §63.001; §63.011; §65.054; TEXAS SECRETARY OF STATE: NOTICE TO PROVISIONAL VOTER**

### **VOTING WHEN DISPLACED**

Voters displaced by a natural disaster are responsible for determining what they consider to be their permanent address at the time of the election. Voters who want to vote at the address of the home from which they are temporarily displaced may apply for a ballot by mail by the statewide application deadline. For voters residing in a shelter as a result of the disaster, guidelines listed above under “Individuals with Housing Insecurity” apply.

*Texas policy source:* **TEXAS SECRETARY OF STATE: VOTING ISSUES FOR HARVEY EVACUEES**

### **VOTING WHILE ON SUSPENSE LIST**

Voters who have been evacuated due to a natural disaster and therefore are unable to receive the county’s biennial mailing of a new voter registration certificate to their home may be placed on the county’s “suspense list.”

A voter on the suspense list who maintains that same residence can vote with appropriate ID; however, if the voter now lives in a new residence in the same county, the voter must complete a Statement of Residence form before voting.

A voter who has been placed on the suspense list and who does not vote during one of the following two state general elections will be removed from state voter rolls.

*Texas policy source:* **TEX. ELEC. §14.001-.023; §15.081**

*Harris County policy source:* **HARRIS COUNTY PRESS RELEASE (2/2/18)**

## **What it Looks Like on the Ground**

While the state explicitly accounts for the impact of natural disasters on Texans’ ability to have access to the approved Voter IDs through its natural disaster exemption, this provision only applies in the case of a disaster that has occurred 45 days (less than two months) before Election Day. Texans who are forced to evacuate their homes and, as a result of disaster, lose extensive belongings and documentation may face challenges in securing the necessary identification that extend beyond 45 days.

### **References:**

- 1) Baskin, T. n.d. “Don’t be in Suspense About Being Able to Vote.” Harris County Texas. Retrieved from <https://www.hctax.net/About/Announcements/February022018>
- 2) Voting Issues for Texas Harvey Evacuees. n.d. Votetexas.gov. Retrieved from <https://www.votetexas.gov/harvey/index.html>

- 3) Notice to Provisional Voter. Jan 2018. Texas Secretary of State. Retrieved from <https://www.sos.state.tx.us/elections/forms/pol-sub/notice-to-provisional-voter.pdf>
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# **ELECTION ADMINISTRATION POLICIES**

## WHY IT MATTERS

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Free and fair elections are a cornerstone of democracies across the world. Issues surrounding when and where elections are held, how long people wait to vote, how they get to the polls, and whether they feel intimidated by others while voting all can impact both the public perception and the reality of whether elections are free and fair.

Issues surrounding election administration and their impact on public participation in elections emerged during community leader conversations. As one community leader noted,

*What makes it difficult to vote is that voting poll change locations and voting information is not circulated well.*

Another community leader further described election administration challenges that people face when trying to participate in election processes:

*Voting is tedious. There are too many restrictions and barriers. The process is very drawn out as well and people don't have the time to go to the polls from work/school. Voting locations are not clear. People have to go out of their way in order to vote.*

In representative democracies, the public uses the power of their vote to elect public officials who are expected to enact policies and programs to promote the public good. It is also through the ballot box that citizens hold their elected officials accountable. As Atkeson and Saunders (2007: 655) note, “If voters do not have confidence that their votes are counted correctly, the most fundamental aspect of representative democracy, the direct election of its leaders, is in doubt and a crisis in democracy may be evident.”

### References:

- 1) Atkeson, Lonna Rae and Kyle L. Saunders. 2007. “The Effect of Election Administration on Voter Confidence: A Local Matter?” PS: Political Science and Politics, 40 (4): 655-660.

# POLICY: IN STATUTE AND ON THE GROUND

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## Election Timing; Joint Elections

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### Election Timing

#### Election Day

##### **UNIFORM TEXAS GENERAL ELECTION DATES**

“Uniform” dates on which general elections are to be held in Texas are:

1. the first Saturday in May in an odd year
2. the first Saturday in May in an even year (for non-county elections)
3. the first Tuesday after the first Monday in November (in even-numbered years: for all state and county general elections)

Exceptions to these dates are outlined in state law, including runoff and emergency elections.

*Texas policy sources:* **TEX. ELEC. §41.001; §41.002; §41.005**

##### **TEXAS PRIMARY ELECTION DATES**

Primary election dates in Texas are:

1. General primary election date: first Tuesday in March in even years
2. Runoff primary election: fourth Tuesday in May in even years
3. Presidential primary election: first Tuesday in March in presidential election years

No non-primary election can be conducted on any of these dates.

*Texas policy source:* **TEX. ELEC. §41.007**

##### **ELECTION DATES FOR NON-STATE LEVEL ENTITIES**

Political subdivisions (cities, ISDs, etc.) must set elections to comply with these dates.

*Texas policy sources:* **TEX. ELEC. §41.005; §41.0052**

### Early Voting

#### **EARLY VOTING PERIODS**

Early voting periods for elections in Texas are as follows:

Uniform May election dates, and resulting run-off elections

Early voting begins on the 12<sup>th</sup> day prior to the election date and ends 4 days before the election.

Other runoff elections

Early voting begins the on 10<sup>th</sup> day before Election Day and ends 4 days before the election.

Uniform November election date; other elections

Early voting begins 17 days before the election and ends 4 days before the election.

If day 17 is on a weekend – as is always the case for the uniform November election date – then the early voting period begins on the next regular business day. Accordingly, the November early voting period begins on the 15<sup>th</sup> day before the election.

*Texas policy source: **TEX. ELEC. §85.001***

## **Joint Elections**

### **SHARED POLLING LOCATIONS BETWEEN OVERLAPPING POLITICAL JURISDICTIONS**

Two or more overlapping political subdivisions may enter into a “joint election agreement,” establishing shared polling places for elections held on the same day. Guidelines differ based on the date when the election will be held, as follows:

Uniform November election date

*Election Day:* All political subdivisions that overlap with a county must use the county’s polling locations on Election Day, regardless of whether a joint election agreement exists.

*Early voting:* If a county and a political subdivision enter into a joint election agreement to share Election Day polling locations, they also may agree to jointly conduct early voting. If they do not enter into a joint early voting agreement, the county and political subdivision must share at least one main early voting location.

Uniform May election date, even year

*Election Day and early voting:* An overlapping political subdivision is not required to use the county’s voting locations.

Uniform May election date, odd year

*Election Day:* All political subdivisions that overlap with a county must use the county’s polling locations on Election Day, regardless of whether a joint election agreement exists.

Exceptions can be made to this joint location requirement, if the political subdivision:

1. Does not hold early voting at a “branch” location; or

2. Holds at least 75% of its “branch” early voting locations open for the same days and hours as its main early voting location, and holds all other early voting locations open for 8 hours on at least 2 consecutive days. (See “Early Voting” locations section below.)

14.

*Early voting:* If a county and a political subdivision enter into a joint election agreement to share Election Day polling locations, they also may agree to jointly conduct early voting. If they do not enter into a joint early voting agreement, the county and political subdivision must share at least one main early voting location.

15.

***TEXAS POLICY SOURCES: TEXAS SECRETARY OF STATE: “JOINT ELECTIONS AND POLLING PLACES FAQs;” TEXAS SECRETARY OF STATE: “MAY V. NOVEMBER” (2016); TEX. ELEC. §41.001; §42.002; §42.0621; §43.004; §85.010; §271.002-.006***

### **SHARED POLLING LOCATIONS FOR ISDs**

Elections for Independent School District (ISD) trustees must be held as joint elections on a uniform election date. The ISD board of trustees must select one of the following to share joint polling locations with:

1. A county in which the ISD is located;
2. The governing body of a municipality located within the ISD;
3. The governing body of a hospital district (only for ISDs meeting specific criteria); or
4. A public junior college district within which the ISD is at least partially located.

The ISD board of trustees may adjust terms of office as necessary to fit the selected timing.

*Texas policy sources: TEX. EDUC. §11.0581; TEX. SECRETARY OF STATE, “MANDATORY ISD JOINT ELECTIONS FAQ”*

### ***What it Looks Like on the Ground***

In 2015, the Texas Legislature passed HB 2027, a bill that sought to reduce voter confusion around polling locations for each of the multiple subdivisions in which they might reside. According to the House Research Organization analysis of the bill, the bill sought to end voters having to vote at multiple polling locations for different positions in the same election, and to prevent a practice called “rolling voting,” in which local subdivisions moved voting machines to multiple different temporary locations during a single election period.

HB2027 also eliminated a clause that exempted subdivisions in Harris County from joint elections. Currently, Harris County holds joint elections with many municipalities, school districts, and municipal utility districts within the county: e.g., with the City of Houston and HISD Trustee elections on the odd-year uniform November dates; and with subdivisions such as the City of Pasadena on the uniform May dates in odd years.

Specifically regarding elections of school board trustees, we see different ISDs within Harris County partnering with different bodies for joint elections. HISD currently holds its elections jointly with Harris County, while other county ISDs such as Pasadena ISD, Galena Park ISD, Deer Park ISD, and LaPorte ISD instead holding joint elections with San Jacinto College District.

Despite the intent of the 2015 law, anecdotal reports from the City of Pasadena suggest that varied joint election processes may still leave voters needing to report to multiple polling places to vote on a single election day.

### References:

- 1) Agreement between Harris County and the Woodlands Township, Relating to Joint Elections to be Held November 8, 2016. n.d. The State of Texas: County of Harris. Retrieved from [http://destinyhosted.com/woodldocs/2017/BODREG/20170726\\_452/2072\\_Entity%20Contracts.pdf](http://destinyhosted.com/woodldocs/2017/BODREG/20170726_452/2072_Entity%20Contracts.pdf)
- 2) Fischer, A. Nov-Dec 2016. "May v. November: 28th Election Law Seminar for Cities, Schools and Other Political Subdivisions." Texas Secretary of State Elections Division. <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=4&ved=2ahUKEwis3KCR5ojfAhUKRK0KHRtCCNEQFjADegQICBAC&url=https%3A%2F%2Fwww.sos.state.tx.us%2Felections%2F%2Fforms%2Fseminar%2F2016%2F28th%2Fmay-november-2016.ppsx&usg=AOvVaw0RCQGwtVL9MXxmX0wkFXc>
- 3) Jackson, M. 20 Aug 2018. Missouri City, Texas City Secretary. Retrieved from <https://www.ccclerk.hctx.net/applications/websearch/ViewECdocs.aspx?ID=MKgjVisne8C5L9+eFQxgnonqgaeSx+k8a279v/oTNjlyKxvLEbtiRv+zNY+p1abQfWQXnfDLrrQpmszZgEIuptMlCbxWaqoxJzsfBI5xVtpkmMYkc5NM7IrkoVXZSMoI>
- 4) House Research Organization Bill Analysis. 22 April 2015. "H.B. 2027." Texas State Government. Retrieved from <https://lrl.texas.gov/scanned/hroBillAnalyses/84-0/HB2027.PDF>
- 5) Mandatory ISD Joint Elections FAQ. n.d. Texas Secretary of State. Retrieved from <https://www.sos.state.tx.us/elections/laws/isd-joint-elections.shtml>
- 6) Canvass and Accept Official Results of November 8, 2016, Special Election for Trustee District VII. 18 Nov 2016) Office of the Board of Education. Retrieved from <https://www.houstonisd.org/site/handlers/filedownload.ashx?moduleinstanceid=109240&dataid=188706&FileName=111816%20Supporting%20Documents.pdf>
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## Polling Locations

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### **POLLING LOCATIONS MAY NOT DISPROPORTIONATELY BURDEN MINORITY VOTERS**

To protect voting rights for minority voters, the selection and availability of voting locations must not place a disparate burden on racial and language minority voters.

From 1975 until the U.S. Supreme Court’s *Shelby v. Holder* ruling in 2013, the VRA required Texas to receive preclearance from the U.S. DOJ before adopting any new law impacting voting rights, including laws related to voting locations. This preclearance requirement is no longer in effect.

***FEDERAL POLICY SOURCE: VOTING RIGHTS ACT (VRA; 1965)***

### **Election Day**

#### **PRECINCT SIZE**

In a county the size of Harris County, a county election precinct must have between 100-5,000 registered voters. Precincts can be consolidated only for special and primary elections, if the polling location will “adequately serve the voters of the consolidated precinct.”

*Texas policy sources: **TEX. ELEC. §42.002; §42.0051; §42.006***

#### **GUIDELINES FOR POLLING LOCATIONS**

Each separate political subdivision authorized to hold elections may designate its own polling locations, unless state law requires it to use county election precincts. (See “Joint Elections” above.)

One polling location is required within each election precinct. In a county larger than 175,000 residents, a voter cannot be required to travel more than 25 miles from their residence to get to the polling location.

Polling locations must be placed inside buildings, and, where practical, inside a public building. Each polling location must meet specific physical accessibility criteria for use by the elderly and persons with physical disabilities.

General and special election locations are to be recommended by the county clerk and designated by the county commissioners’ court. Political party chairs identify primary election locations; when precincts are consolidated, primary locations are to be determined by the party executive committees.

*Texas policy sources:* **TEX. ELEC. §43.001-.004; §43.031; §43.034**

### **NOTICE OF POLLING LOCATION CHANGES**

The county clerk must provide notice of a polling location change for any general or special election ordered by the governor or county judge. Notice is required by the first of: 24 hours after the location change, or 72 hours prior to the opening of polls on Election Day.

The clerk must provide notice of the new location at the precinct polling place used in the prior election, if possible. In addition, the clerk must either:

- 1) Provide notice to the public of the location change via the county election website, or
- 2) Notify each candidate on the ballot (or, for a position representing multiple counties: the county chair; for an independent candidate: the county judge).

*Texas policy source:* **TEX. ELEC. §43.061-.062**

### **COUNTYWIDE POLLING LOCATIONS**

Since 2005, Texas counties have been able to apply to replace precinct-specific polling locations with countywide polling locations for general and special elections, elections of political subdivisions within the county, and primary elections when both county parties agree to do so.

Before the Secretary of State will consider approving a county for this program, the county must hold a public hearing and provide public comments to the Secretary of State. In addition, the county must have appropriate technological capacities and a computerized voter registration list.

Approved counties must develop a methodology for identifying polling locations and a plan for notifying voters of any location changes. Counties must seek input from individuals/organizations who represent minority voters both when selecting locations and developing the notification plan.

In the first election under this new system, for a larger county, the number of countywide locations must be no fewer than 65% of the precinct-specific locations that would otherwise be located in the county; in subsequent elections, the number of countywide polling places can be no fewer than 50% of the precinct-specific locations that would otherwise have existed.

*Texas policy sources:* **TEX. ELEC. §43.007; TEXAS SECRETARY OF STATE: "COUNTIES APPROVED TO USE THE COUNTYWIDE POLLING PLACE PROGRAM (CWPP) FOR THE NOVEMBER 6, 2018 GENERAL ELECTION"**

## **Early Voting**

### **EARLY VOTING LOCATIONS**

Counties identify a main early voting location and “branch” early voting locations. Branch voting locations may be either in permanent or movable structures, but must remain in one fixed location during the full early voting period.

In a county of at least 400,000 residents, like Harris County, a minimum of one branch early voting location must be located in each state representative’s district within the county, except where a specific exception is outlined in statute. A county may locate no more than twice as many branch early voting locations in one county commissioner’s precinct than in another county commissioner’s precinct.

*Texas policy sources:* **TEX. ELEC. §85.002; §85.005; §85.062**

### **LIMITATIONS ON VOTERS AT EARLY VOTING LOCATIONS**

In a select group of counties, including Harris County, the commissioners court is permitted to limit voting at branch early voting locations to voters only within specified state representative districts.

*Texas policy source:* **TEX. ELEC. §85.066**

### ***What it Looks Like on the Ground***

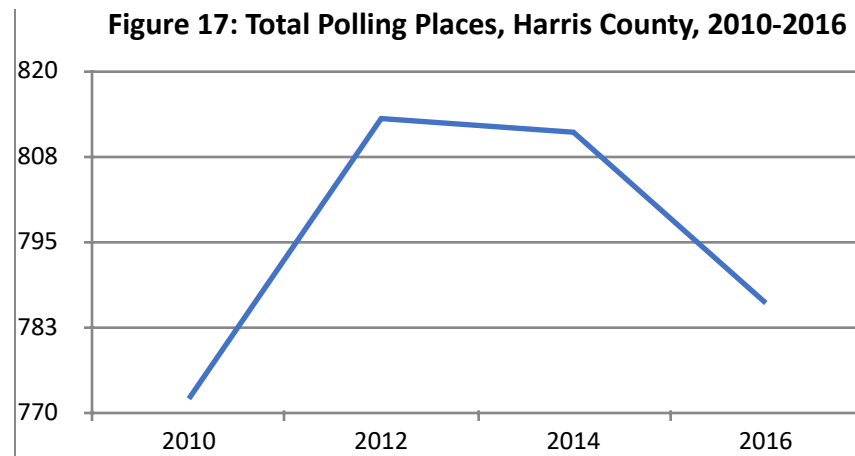
Concerns exist that without VRA preclearance, polling location changes and closures may disadvantage minority voters. The Leadership Conference Education Fund found closures of polling places in half of the Texas counties it analyzed following the *Shelby v. Holder* ruling. Before the 2016 election, hundreds of polling locations closed in Texas, with closures most prevalent in counties with a history of VRA violations. By the time of that election, Texas had closed more polling locations post-*Shelby* (at least 403) than any other state. Some, but not all, of this is attributed to shifts from precinct-based voting locations to countywide locations. Houston-area counties that have been approved for this program include Brazoria, Fort Bend, and Galveston<sup>12</sup>.

The Texas Advisory Committee to the USCCR has identified polling location concerns that might affect voting. For example, in some cases, polling locations have been located in law enforcement offices, which may discourage some voters from participating. They also identified possible barriers for college students because polling locations are often not accessible or near campuses. In addition, there were reports of Election Day voting locations changing at the last minute in predominantly black precincts in the Houston area during the 2016 general election.

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<sup>12</sup> In February 2019, the Harris County Clerk’s office submitted an application to the Texas Secretary of State requesting participation in the Countywide Polling Place Program; the application was accepted in March 2019.

The total number of polling places has not increased with Harris County's steadily growing population.<sup>13</sup> As Figure 17 indicates, the county had 25 fewer polling locations in the November 2016 election. At 786, this was only slightly more than the number of polling locations in the 2010 midterm election (772). In the 2018 primary elections, there were 402 polling places for Republicans and 400 for Democrats, however for the primary runoff, these numbers fell to 78 and 85 respectively.

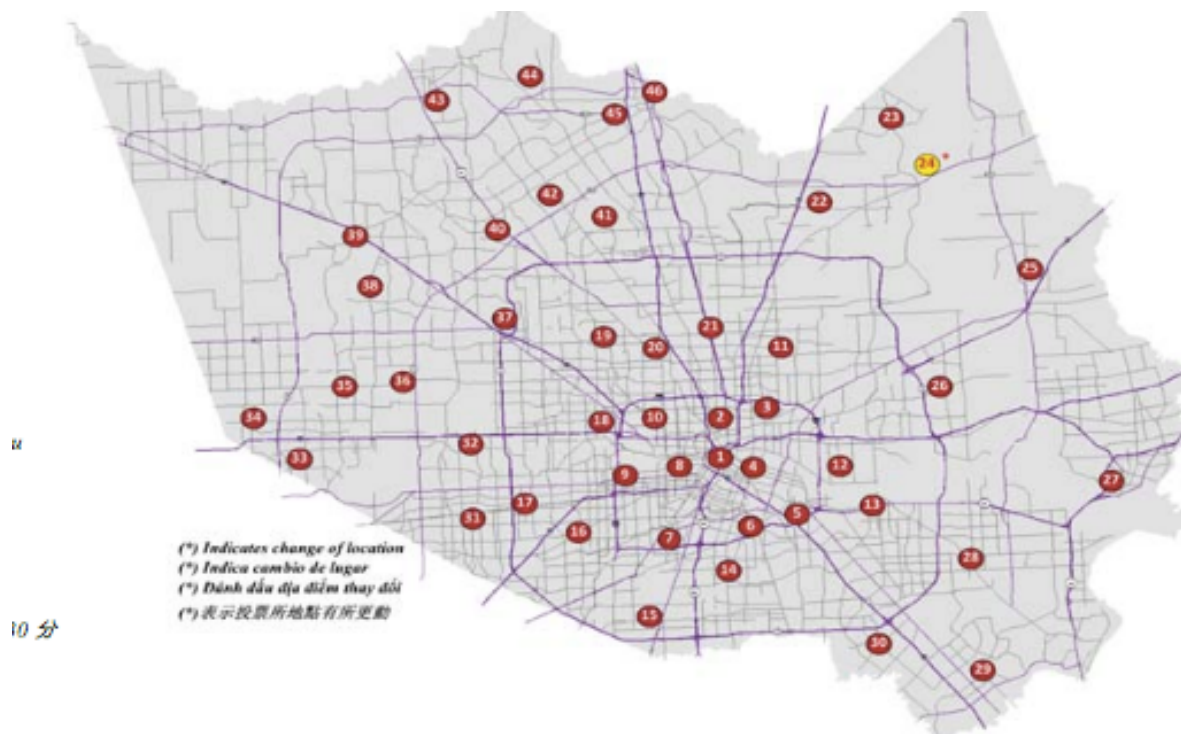


Source: *2014 & 2016 Election Administration and Voting Surveys; 2010 & 2012 NVRA Datasets* (U.S. Election Assistance Commission).

When it comes to early voting, the number of locations remained constant at 46 sites during both the November 2016 and November 2018 elections. This reflects an increase from 41 sites in the November 2010 elections. A key issue that emerges with regard to early voting sites is their location. Figure 18 shows the location of early voting sites in Harris County during the November 2018 general election.

Figure 18: Location of Early Voting Sites in Harris County, November 2018 Elections

<sup>13</sup> This includes physical polling places in operation on Election Day and those in operation before Election Day (such as early vote centers)



January Advisors found that on average, Harris County residents lived 0.76 miles away from a 2018 early voting location, with less than one-third (30%) of residents living more than one mile away from a 2018 early voting location. The organization’s analysis found little evidence that a community’s racial and ethnic composition was correlated with its distance from an early voting location.

However, conversations with community leaders suggested concerns that some early voting site locations change from one election to another, potentially having adverse effects on some voters’ ability to cast their ballots. For example, if new locations are not accessible by public transportation (or involve unfamiliar routes for transit riders), some voters may be unable to get to them.

## References:

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- 11) Nile Dixon. 2018. "Analyzing the distribution of Harris County early voting locations." January Advisors. <https://www.januaryadvisors.com/analyzing-the-distribution-of-harris-county-early-voting-locations/>

## **Disaster Impact on Voting Locations**

### ***What it Looks Like on the Ground***

Approximately 5% of Harris County polling locations were affected by Hurricane Harvey in 2017. As a result, Harris County consolidated 35 polling locations for the Nov. 2017 election, reducing the number of polling locations in the county. Voters were specifically encouraged by county leaders to vote early to avoid polling place confusion.

#### **References:**

- 1) Less Harris County polling locations available for Nov. 7. 4 Oct 2017. FOX 26. Retrieved from <http://www.fox26houston.com/news/less-harris-county-polling-locations-available-for-nov-7>
- 2) Flynn, M. 5 Oct 2017. "Harvey Flooding Messed Up Various Polling Locations Across Harris County." Houston Press. Retrieved from <https://www.houstonpress.com/news/35-polling-locations-affected-by-harvey-flooding-9848488>

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## Election Hours

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### **Election Day**

#### **POLL HOURS, VOTING AFTER POLLS CLOSE**

Polls open at 7 a.m. and close at 7 p.m.

A voter who is inside the polling location or in line at 7 p.m. is permitted to vote. Election judges can take precautions they deem necessary to ensure that individuals not entitled to vote after the polls close do not do so.

*Texas policy source: **TEX. ELEC. §41.031-.032***

### **Early Voting**

#### **MINIMUM HOURS FOR EARLY VOTING**

In a county of at least 100,000 residents, like Harris County, main and branch early voting locations in a state/county election must be open for:

- During the first part of early voting: at least 8 hours per weekday
- During the last week of early voting: at least 12 hours per weekday
- The last Saturday of early voting: at least 12 hours
- The last Sunday of early voting: at least 5 hours

For a city election with an early voting period of at least six weekdays, early voting should be held for at least 12 hours on two separate weekdays.

*Texas policy sources: **TEX. ELEC. §85.005-.006; §85.063-.064;***

#### **NOTICE OF EARLY VOTING HOURS**

The early voting clerk must post notice of election locations, dates and hours no later than 5 days before the early voting period, locating this notice on a bulletin board where public meetings are announced and on the websites of the subdivision and Secretary of State. Copies of the schedule are to be provided to the public as requested. Specific notice of weekend hours must be posted continuously for at least 72 hours prior to the start of weekend voting.

*Texas policy sources: **TEX. ELEC. §85.007; §85.067-.068***

### ***What it Looks Like on the Ground***

State law requires the county clerk to open early voting locations for at least 8 hours per weekday during the first five days of early voting. While Harris County locations were open for 10 hours (from 8-6) on each of these days during the 2016 Presidential election, they were open for a shorter period of time, 8.5 hours (from 8-4:30), during the 2018 midterm elections.

A *Houston Chronicle* article compared the early voting hours of each of the 15 Texas counties with the largest numbers of registered voters. During the 2018 midterm early voting period, Harris County closed its polls earlier than all 14 of the counties it was compared to. In Dallas, for example, early voting was open from 7-7 on all weekdays during the early voting period.

Harris County early voting locations were open for exactly the minimum required number of hours on all other days (12 hours per weekday in the final week of early voting during the 2018 midterms, 12 hours on the last Saturday, and 5 hours on the last Sunday)<sup>14</sup>.

It is also worth noting that not all polling locations have been ready to open on time in previous elections. In the 2018 midterm elections, for example, the *Houston Chronicle* reports that 18 polling locations were either not open or only partially open at 7 a.m. on Election Day, subsequently resulting in a judge ordering the county to keep nine locations open one hour later, until 8 p.m.

#### **References:**

- 1) Scherer, J. 23 Oct 2018. "Harris County continues early voting surge despite limited polling hours." *Houston Chronicle*. Retrieved from <https://www.chron.com/news/houston-texas/houston/article/Harris-County-continues-early-voting-surge-13331159.php>
- 2) Ura, A. 6 Nov. 2018. "Judge orders Harris County to keep some polling locations open an extra hour." Retrieved from <https://www.texastribune.org/2018/11/06/election-day-texas-midterms-delays-technical-difficulties/>

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<sup>14</sup>Following completion of this report, Harris County held a special election and runoff election in January-February 2019. Weekday voting hours were held from 7 am – 7 pm for a total of 12 hours during each day of each early voting period.

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## Wait Times and Staffing at Polls

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### **Wait Times**

#### ***What it Looks Like on the Ground***

Waiting to vote on and before Election Day has become the subject of national attention and concern, with long lines and waiting times to vote the target of critical news reports over the past three presidential elections.

On Election Day 2012, more than 5 million U.S. voters waited in lines at polls for over an hour. An additional 5 million voters waited in lines to vote between half an hour and one hour. Long wait lines on Election Day are most common during Presidential elections, although long lines seem to be centered on a small percentage of polling locations. On average, across the U.S., wait times were higher during early voting than on Election Day 2012. Anecdotal reports suggest that long lines have been experienced by some Harris County voters in recent elections, including the 2016 Presidential election and the 2018 primaries. For example, some Harris County voters waited in line for more than one hour during the 2018 primary, according to the Texas Election Protection Coalition. The Presidential Commission on Election Administration in 2014 recommended that voters should not be in line for more than half an hour.

No federal or state laws appear to explicitly speak to wait times at the polls; however the Voting Rights Act would apply if long wait lines are disproportionately present in polling locations serving minority voters. In addition, state and county election administration policies shape a range of factors that can contribute to long wait times at polls, such as ballot length and the number of voters, machines, and poll workers at each voting location. Long lines can result in inconvenience and cost to voters, and may discourage voters from ultimately voting.

A recent study by Stewart et al. (2018) examined wait times and other polling place practices in 23 election jurisdictions across the U.S. The study employed a team of researchers recruited from local colleges and universities and had them observe and time voters as they entered the queue at their respective polling places to vote in the 2016 presidential election. This study provides data on four specific polling place operations and practices:

1. the number of voters reneging (leaving the check-in line once they have joined it);
2. the length of the check-in line;
3. the time for a voter to check in to vote (i.e., verify voter's identification and obtain a ballot); and
4. the time to complete a ballot.

Data in Table 7 provide summary statistics for each of these indicators comparing in-person early voting to in-person Election Day voting in Harris County and for the larger sample of 23 election

jurisdictions across 18 states. While lines are about twice as long on average at early voting polling locations in Harris County (6 versus 3 voters), average wait times were about 30 seconds shorter. This is likely due to a larger number of poll workers in early voting sites. Shorter wait times at early voting locations also appear to discourage voters from leaving the line. However, when it comes to completing the ballot, on average, voters take less time (about 20 seconds) to vote on Election Day compared to when they vote early.

Table 7: Mean measures of polling place practices and operations: 2016

<i>Harris County Early Voting</i>					
	Obs	Mean	Std. Dev.	Min	Max
Reneging	172	0.31	0.64	0	3
Number in line	160	5.98	7.77	1	37
Check in time*	122	69.49	37.49	23	321
Time to vote*	119	252.97	122.23	64	681
<i>Harris County Election Day</i>					
Reneging	313	0.53	1.15	0	11
Number in line	376	3.03	3.24	1	30
Check in time*	333	105.01	69.68	10	485
Time to vote*	327	230.95	134.48	21	928
<i>Full Study Sample Results</i>					
Reneging	8,159	11.0	30.8	1	447
Number in line	9,393	15.1	11.7	0	169
Check in time*	8,700	89.8	80.0	1	600
Time to vote*	8,457	264.5	216.4	1	2,845

Source: Stewart et al. (2018). \*Time reported in seconds

While there is variation in polling place practices and operations across the 23 jurisdictions included in Stewart's study, the differences do not paint a clear story of whether Harris County is doing significantly better or worse than other jurisdictions. For example, the average number of voters in line for the full sample was higher, at about 11, but the average wait time was 90

seconds. In addition, fewer voters left lines in the larger sample (0.23), but the average time to vote (265 seconds) was slightly higher than either early or in person voting in Harris County. In general, the reduction in polling locations in Harris County, along with an increase in population, likely means that some voters are traveling further to the polls and encountering longer wait times.

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## Poll Workers

### APPOINTMENT OF PRECINCT JUDGES

The commissioners court, on the recommendation of the county clerk, appoints a presiding judge and alternate for each county-based election precinct. The judge and alternate must be aligned with different political parties. Where possible, the judges should be qualified voters in the precinct.

*Texas policy source: **TEX. ELEC. §32.001-.002***

**APPOINTMENT OF PRECINCT ELECTION CLERKS**

Each precinct's presiding judge appoints election clerks to assist in conducting a specific election. The judge should appoint at least two clerks, up to a maximum number of clerks set by the local subdivision holding the election. The judge is expected to try to select clerks from different political parties for state and county elections.

To serve as a clerk, an individual must be a qualified voter in the county or political subdivision holding the election, and cannot hold or be a candidate for elective office. A close relative, employee, campaign manager, or treasurer of a candidate cannot serve as a clerk, nor can an individual previously convicted of an election offense.

*Texas policy sources:* **TEX. ELEC. §32.031; §32.033-.034; §32.051; §32.052-.0552**

**APPOINTMENT OF BILINGUAL CLERKS**

In all precincts in a county with 5% or more residents of Hispanic origin, unless exempted, "reasonable" efforts must be made to appoint clerks fluent in both English and Spanish. (See "Access to Voting for Diverse Populations" above.)

*Texas policy sources:* **TEX. ELEC. §272.009; TEXAS SECRETARY OF STATE, ELECTION ADVISORY No. 2018-28: "MINORITY LANGUAGE REQUIREMENTS"**

**PRECINCT JUDGES AND CLERKS SWORN TO NOT PERSUADE VOTERS**

Election judges and precinct clerks must take an Oath of Election Officers and an Oath of Assistance, swearing that they will not seek to persuade any voter nor suggest how any voter should vote.

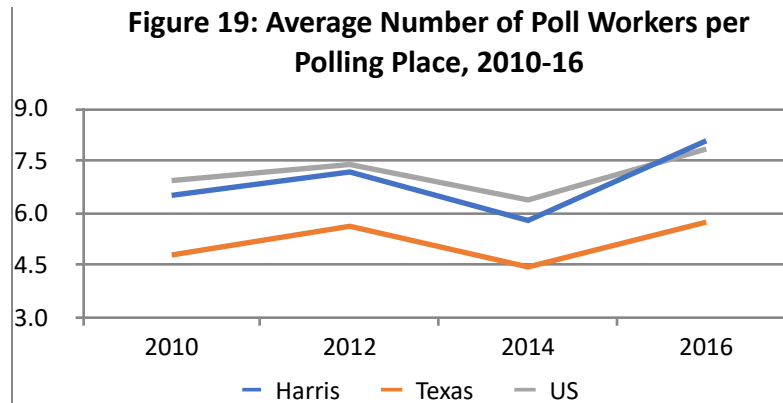
*Texas policy sources:* **TEXAS ATTORNEY GENERAL OPINION KP-0140 (2017); TEXAS SECRETARY OF STATE, "QUALIFYING VOTERS ON ELECTION DAY: HANDBOOK FOR ELECTION JUDGES AND CLERKS." (2018)**

### ***What it Looks Like on the Ground***

One way to investigate the possibility of increasing waiting times is to examine staffing at polling locations. Local jurisdictions face increasing challenges in recruiting poll workers; according to a 2016 EAC survey, two-thirds of jurisdictions in the U.S. faced difficulties in doing so.

In Figure 19 we look at the average number of poll workers per polling place. The data indicate that on average, there were about two additional workers at each Harris County polling place in

2016 compared to 2014 and about one additional worker compared to 2012. Increases in the average number of poll workers per location were also recorded in Texas and for the U.S. overall, however, these increases were less substantial than within Harris County.



Source: *2014 & 2016 Election Administration and Voting Surveys; 2010 & 2012 NVRA Datasets* (U.S. Election Assistance Commission).

## References:

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## Transportation to the Polls

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### *What it Looks Like on the Ground*

While an increasing number of cities and counties offer free public transportation to the polls on election day, in most cases these gestures are not mandated by law. That is the case in Houston where, while no ordinance or state law requires Houston’s METRO system to offer free transportation to voters on Election Day, METRO has nevertheless done so during general elections since 1992. While in prior years METRO required voters in Houston to show a voter ID or registration card in order to get a free ride to the polls, in recent years voters have only needed to let the bus operator or fare inspector know that they are headed to the polls or returning from the polls in order to ride for free.

In contrast, Minnesota passed a statewide law in 2013 requiring its cities to provide free public transit on national election days. Prior to Minnesota’s law, only a handful of major U.S. cities—including Dallas, Houston, and Tampa—offered complimentary transit on election day.

Since in-person voting requires time and often money for travel, the expectation is that eliminating transit costs should lead to higher turnout, particularly among lower-income residents. However, according to data provided by urban transportation networks, free transit services appear to have a negligible influence on the number of voters that turn out to the polls. For example, in Houston, ridership during voting periods generally increases by a mere one percent. Dallas’s public transportation network—DART—also has provided free transit to voters for over three decades. Though no official studies on the effects of DART’s ridership program had been conducted, anecdotal evidence suggests that any increase in ridership on election day has been minimal, if at all.

Survey evidence suggests that transportation is not among the top reasons non-voters give for their non-voting. Yet, while 60 percent of Texas respondents in the 2016 *Survey of the Performance of American Elections* said transportation problems were not a major factor in their decision to not vote, a substantial percentage did identify transportation problems as a factor. Seventeen percent of Texas respondents said transportation problems were a major factor and 23 percent said transportation problems were somewhat of a factor in their non-voting.

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## Observing Elections

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### **FEDERAL ANTI-DISCRIMINATION OBSERVERS**

Federal observers are permitted to monitor elections in states or jurisdictions where concerns exist about compliance with federal anti-discrimination laws.

*Federal policy source: **VOTING RIGHTS ACT (1965)***

### **APPOINTMENT OF PARTISAN POLL WATCHERS**

A candidate, political party, or side of a ballot measure may appoint up to two poll watchers per precinct polling place and no more than seven watchers per early voting polling location (up to two may serve at a time) in order to observe the conduct of an election.

Poll watchers must be registered to vote within the local jurisdiction (but not precinct) in which they serve. Individuals who are employers, employees, or close relatives of an election officer, who are currently holding elective office, who are seeking elective office on Election Day, or who have been convicted of an election-related offense are ineligible.

*Texas policy sources: **TEX. ELEC. §33.001-.007; §33.031-.035; TEX. SECRETARY OF STATE, POLL WATCHERS GUIDE***

### **POLL WATCHERS' ACTIVITIES**

Poll watchers may observe election-related activities at their specified polling location. They may observe at an individual voting station only when an election officer is assisting the voter at the station. In such situations, the poll watcher may examine the ballot before it is officially cast to determine whether it was prepared according to the voter's wishes.

A poll watcher may not communicate with voters or election officers, except to report an occurrence believed to be in violation of the law. Poll watchers may not have on them a device that can record images or sound, unless the device is disabled or deactivated.

*Texas policy sources: **TEX. ELEC. §33.051; §33.057-.058***

### **BYSTANDERS NOT PERMITTED IN POLLING LOCATIONS**

Bystanders who are not specifically permitted by the Election Code to be in a polling place are prohibited from doing so. This includes candidates, other than for voting or for official business in the building where voting is taking place.

*Texas policy source: **TEX. ELEC. §61.001***

## ***What it Looks Like on the Ground***

After *Shelby v. Holder*, the use of federal election observers has declined; in 2016, no federal observers were deployed to Texas.

On the state level, a range of types of election observers exist across states, with differing laws regarding purpose, eligibility, authority, etc. These may include partisan citizen observers, nonpartisan citizen observers, and international nonpartisan observers. Texas allows partisan poll watchers, but does not permit nonpartisan observers at its polling locations.

Partisan poll watchers in Texas must be registered voters in the specific local jurisdiction of the polling place they are observing. Florida has a similar law; in contrast, states like Illinois permit partisan poll watchers who are registered in the appropriate state, but not in the specific local jurisdiction.

State laws vary as to the rights of election observers to challenge a voter's qualifications. Until its repeal in 2003, a 160-year old Texas law permitted private citizens to challenge the qualifications of a potential voter at the polls; if a voter was challenged, the voter would have to provide a witness who would swear that the individual was qualified to vote. By 2012, Texas was one of just 11 states that does not allow private citizens to challenge voters at Election Day polling locations. States permitting challenges vary in the extent to which they seek to minimize frivolous challenges to voters; for example, while Florida law places criminal penalties on those making frivolous challenges, Pennsylvania applies no criminal penalties for frivolously challenging a voter.

According to the National Council of State Legislatures (NCSL), nine states and Washington D.C. explicitly permit nonpartisan citizens to observe election processes. Nine states allow members of the public generally – including, but not limited to, formal nonpartisan citizen observers – to observe the conduct of an election on Election Day. There are an additional 16 states that do not explicitly address nonpartisan citizen observers in state law, but allow them in practice. While many states permit international nonpartisan observers, either via statute or in practice, Texas Gov. Greg Abbott wrote a 2012 letter threatening to arrest any international election observer who entered within 100 feet of the entrance of a polling location in the state.

While Texas appears to place more limits on who can observe an election than many other states, Harris County has experienced reports of voter intimidation from poll watchers over the past decade. During the 2010 midterm elections, for example, the DOJ sent personnel to monitor potential intimidation and discrimination against voters on the part of poll watchers.

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## Activities around Polling Locations

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### ACTIVITIES PROHIBITED AT POLLING LOCATIONS

Electioneering – expressing preference for a candidate, party, or ballot measure – is prohibited within 100 feet of a polling location, as is gathering petition signatures. While electioneering is not prohibited outside of 100 feet, the entity owning the building where voting is taking place can introduce restrictions.

It is a Class B misdemeanor to indicate within a polling location “by word, sign, or gesture” whether or how a voter should vote.

*Texas policy sources:* **TEX. ELEC. §61.003; §61.008; §81.002; §85.036 SECRETARY OF STATE, ELECTION ADVISORY 2018-33**

### ITEMS PROHIBITED AT POLLING LOCATIONS

Only peace officers and, in some cases, presiding judges are permitted to bring a firearm to a voting location on Election Day and during early voting.

Wireless communication devices and devices that record sound or images are not permitted within 100 feet of a voting station; this includes cell phones, cameras, computers, and sound recorders, and applies to both voters and poll watchers. Voters are permitted to bring written materials with them to voting stations.

Individuals may not wear badges, insignia, emblems, etc. relating to a candidate, party, or ballot measure inside the polling place or within 100 feet of the door(s) of the polling location.

Sound amplification devices are not permitted within 1,000 feet of the polling place.

*Texas policy sources:* **SECRETARY OF STATE, ELECTION ADVISORY 2018-29; 2018-33; TEX. PENAL §46.03; TEX. ELEC. §61.004; §61.010; §61.014; §81.002; §85.036**

### What it Looks Like on the Ground

The extent of electioneering restrictions near voting locations varies from state to state; according to NCSL, different states limit signs from 25-300 feet away from polling locations. Texas’ 100-foot restriction is comparable to many other states.

Texas was one of at least nine states with a ban on certain political apparel at polling locations as of early 2018. In June 2018, the U.S. Supreme Court struck down a Minnesota law that had

strictly banned all political clothing, not solely clothing that advocates for a specific candidate, party, or issue. In the Court's majority opinion, Chief Justice Roberts specifically positively highlighted laws that, like Texas, ban traditional electioneering apparel, in contrast to a more encompassing law like Minnesota's.

Despite Texas' law and the just-prior Supreme Court ruling, the *Houston Chronicle* reported in October 2018 that the Harris County poll workers had specifically been told not to allow individuals to wear t-shirts or buttons promoting three specific organizations, even though no candidate, party, or issue was indicated on the clothing. Ultimately, the Clerk's office changed course.

Whether voters should be able to take "selfies" of their ballots has recently been an issue under discussion in many states. When New Hampshire passed a 2014 law directly prohibiting ballot selfies, a federal court ruled this law unconstitutional, in violation of the First Amendment. According to the NCSL, states have since considered how to handle this issue, with a tension emerging between maintaining the secret ballot and the motivations that ballot selfies may provide for engaging young people in voting. Ballot selfies are explicitly permitted in 21 states plus Washington, DC. Texas' law banning recording of images within 100 feet of a polling station forbids this act when voting in-person.

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# RUNNING FOR OFFICE

## WHY IT MATTERS

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The overwhelming majority of elections in the United States are for local office; however, local elections are understudied in the social sciences. Scholars who work in this area have primarily investigated turnout in large U.S. cities. Though we lack systematic evidence to draw definite conclusions, turnout in local elections is often considered to be abysmally low. That said, even high turnout in local elections does not mean very much if voters have no decisions to make on Election Day. A recent report by the Center for Local Elections in America found that 53 percent of mayoral elections held between 2000 and 2016 were uncontested. Obviously, a healthy democracy needs both voters *and* candidates.

A possible relationship between the lack of competitiveness of some elections on Harris County ballots and low voter turnout was suggested by one community leader:

*People don't vote in state/local elections because the races are not competitive ... with gerrymandering, the elections are designed for a party to win an area.*

It is not just a matter of having contested races and competitive elections. A healthy democracy also means that those who run for office and hold elected positions look like the electorate. Having elected bodies that represent local residents in terms of gender, race, ethnicity, sexual orientation, religion and other socio-demographic features helps ensure that a broad array voices will be heard and that policies reflect the needs and preferences of all local residents.

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# POLICY: IN STATUTE AND ON THE GROUND

## Running for Federal Office

### TEXAS QUALIFICATIONS TO RUN FOR U.S. SENATOR OR REPRESENTATIVE

	U.S. Senator	U.S. Representative
<b>Eligibility Requirements</b>		
U.S. citizenship	At least 9 years	At least 7 years
Residency	Texas	Texas; no district residency requirement
Age	30 or older	25 or older
Registered to vote in district	-	-
Other eligibility requirements	-	-
<b>Seeking Candidacy – Major Party</b>		
Filing Fee	\$5,000	\$3,125
Petition Signatures	5,000	Lesser of 500 signatures or 2% of the total votes for all gubernatorial candidates in that district in the last election
Signatures accepted in lieu of filing fee	Yes	Yes
<b>Independents</b>		
Filing Fee	-	-
Petition Signatures	At least 1% of all votes cast statewide for a gubernatorial candidate in the preceding election	500 signatures or 5% of the total gubernatorial votes in that district, whichever is less

**FEDERAL POLICY SOURCE: U.S. CONSTITUTION**

*STATE POLICY SOURCE: TEXAS SECRETARY OF STATE, QUALIFICATIONS FOR OFFICE; TEXAS SECRETARY OF STATE, INDEPENDENT CANDIDATES; TEX. ELEC. §142.007; §172.024-.025*

### ***What it Looks Like on the Ground***

While there is one set of age and residency requirements to run for federal elective office across the U.S., candidacy filing requirements vary widely. To run for U.S. Senate in 2014, for example, a candidate from Ohio needed to pay a \$150 filing fee and submit at least 1,000 signatures to run in a major party primary. In contrast, in Florida, a candidate for the U.S. Senate needed to pay a filing fee of \$10,440 or submit 112,174 signatures to run in a major party primary. While Texas' requirements fall between Ohio and Florida, they appear to be on the higher end compared to many states, according to 2014 costs reported by Ballotpedia.

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## Running for State Office

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### TEXAS REQUIREMENTS FOR STATEWIDE OFFICE

See table on the next page.

Unlike most statewide candidates in Texas who must either pay a filing fee *or* submit a requisite number of petition signatures in lieu of paying the fee, state judicial candidates need to submit *both* a filing fee and a petition with 700 signatures (50 from each of the 14 state court of appeal districts). Judicial candidates for courts specifically located in Harris County (and other counties with populations of over 1.5 million) must submit either 500 petition signatures or a combination of a filing fee and 250 signatures.

*Texas policy sources:* *Texas Constitution, Article 3, Sec. 6-7; Article 4, Sec. 4; Article 5, Sec. 1-a; TEX. ELEC. §141.001; §172.021; §172.024-.025; TEXAS SECRETARY OF STATE, QUALIFICATIONS FOR OFFICE; TEXAS SECRETARY OF STATE, REPUBLICAN OR DEMOCRATIC PARTY NOMINEES*

### RUNNING FOR MULTIPLE POSITIONS AT ONCE

No candidate, except for U.S. president or vice president, may apply to run for multiple positions that are up for election on the same day or that are not permitted to be held by a single person.

*Texas policy source:* **TEX. ELEC. §141.033**

### WRITE-IN CANDIDATES

To declare a write-in candidacy, a candidate must apply and submit a filing fee or petition. Filing fees and petition requirements for write-in candidates are the same as for major party candidates. A formal list of all write-in candidates must be developed and distributed to all counting officers and presiding election judges. Write-in votes are only counted if the candidate has officially declared a write-in candidacy.

*Texas policy sources:* **TEX. ELEC. §146.022-.023; §146.0231-.0232; §146.031**

	<b>Applies to all state-level candidates, unless otherwise indicated</b>	<b>Governor, Lt. Governor</b>	<b>Railroad Commissioner</b>	<b>Supreme Court Justice, Court of Criminal Appeals and Court of Appeals Justices</b>	<b>State Senator</b>	<b>State Representative</b>	<b>State Board of Education</b>	<b>District Judge; Criminal District Judge</b>
<b>Eligibility Requirements</b>								
U.S. citizenship	Yes							
Residency	12 months in state continuously; in election area for 6 months prior to filing deadline	5 years immediately preceding election		Supreme Court or Court of Criminal Appeals: none; state guidelines for others	5 years in state continuously; in election area for at least 12 months prior to filing deadline	2 years in state continuously; in election area for at least 12 months prior to filing deadline	In election area for at least 12 months prior to filing deadline	In election area for at least 12 months prior to filing deadline
Age	18 or older	30 or older	25 or older	35 or older; cannot run after age 75	26 or older	21 or older	26 or older	26 or older
Registered to vote in district	By filing deadline				Not required	Not required		

	<b>Applies to all state-level candidates, unless otherwise indicated</b>	<b>Governor, Lt. Governor</b>	<b>Railroad Commissioner</b>	<b>Supreme Court Justice, Court of Criminal Appeals and Court of Appeals Justices</b>	<b>State Senator</b>	<b>State Representative</b>	<b>State Board of Education</b>	<b>District Judge; Criminal District Judge</b>
Other eligibility requirements	Not partially or totally mentally incapacitated without right to vote, or convicted of a felony without pardon			Also practicing lawyer or judge for at least 10 years				
<b>Seeking Candidacy – Major Party</b>								
Filing Fee	\$3,750			Court of appeals: \$2,500 (in district with county over 1 million ppl)	\$1,250	\$750	\$300	\$2,500 (in district with county over 1 million ppl)

	<b>Applies to all state-level candidates, unless otherwise indicated</b>	<b>Governor, Lt. Governor</b>	<b>Railroad Commissioner</b>	<b>Supreme Court Justice, Court of Criminal Appeals and Court of Appeals Justices</b>	<b>State Senator</b>	<b>State Representative</b>	<b>State Board of Education</b>	<b>District Judge; Criminal District Judge</b>
Petition Signatures	5,000			[See discussion in text]	500 or 2 percent of total votes for most recent gubernatorial candidates in the jurisdiction	500 or 2 percent of total votes for most recent gubernatorial candidates in the jurisdiction		[See discussion in text]
Signatures in lieu of filing fee	Yes							
<b>Independents</b>								
Filing Fee	None							
Petition Signatures	1% of total votes for most recent gubernatorial candidates				Lesser of 500 or 5% of total gubernatorial votes in the district	Lesser of 500 or 5% of total gubernatorial votes in the district		Lesser of 500 or 5% of total gubernatorial votes in the district

### ***What it Looks Like on the Ground***

Qualifications to run for state-level elective office are set by each individual state, resulting in a wide range of requirements in terms of age, filing fees, and petition requirements. Many states set age minimums for running for office. Texas' minimum of 26 to run for state senate is higher than all but six other states. While Texas requires that state representative candidates be at least 21, 12 states set a minimum of 18 for this position, while another four set no minimum age for the office. Fifteen states have a minimum age for gubernatorial candidates that is lower than

Texas' minimum of 30; in recent years, news stories have emerged as teenagers sought to run for governor in states without explicit age minimums (e.g., Vermont, Kansas).

Texas is one of 33 states that sets a filing fee from major party candidates in order to run for state office. Among those states that institute filing fees, the amounts vary substantially: for example, fees to run for state senator range from \$10 in New Hampshire to \$7,500 for a Republican in Arkansas. Based on fees reported by the National Conference on State Legislatures, Texas' \$1,250 is among the higher filing fees for this position.

All states offer some alternative to the filing fee for candidates deemed "indigent." In some cases, state law includes an indigent candidate exception to the filing fee; in other cases, no filing fee is required at all. In 13 states, including Texas, candidates can submit a specified number of petition signatures in lieu of the filing fee. Nineteen states require independent candidates for state legislative seats to pay a filing fee; Texas does not.

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## Running for Municipal Offices

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### Home-Rule Cities (e.g., Houston)

#### REQUIREMENTS FOR HOME-RULE CANDIDATES

Texas law specifies that the minimum age for municipal elective office may not exceed 21 years old, and a city cannot institute a minimum residency requirement of longer than 12 months before the election. Beyond these requirements, home-rule cities are permitted to create their own age and residency requirements for elective positions.

Specific eligibility requirements for the City of Houston, a home-rule city are specified in the table below.

Home-rule cities can choose whether to require candidates to pay a filing fee; if so, they are responsible for determining the fee amount and to specify an alternative to the fee. If that alternative is a petition, state law specifies minimum numbers of petition signatures. A large home-rule city (defined as exceeding 1.18 million people in a county of at least 2 million people, like Houston) with non-partisan elections may instead require both a \$50 filing fee and a petition.

*Texas policy sources:* **TEX. ELEC. §141.003; §143.005; §141.062; §141.066; TEXAS SECRETARY OF STATE, CANDIDACY FILING – LOCAL POLITICAL SUBDIVISIONS; TEXAS SECRETARY OF STATE, REPUBLICAN OR DEMOCRATIC PARTY NOMINEES**

*Houston policy sources:* **HOUSTON CHARTER, Article I, Sec. 2-3; Houston Code of Ordinances, ARTICLE V., SEC. 4; SEC. 6; CITY OF HOUSTON, MAY 5, 2018 SPECIAL ELECTION PACKET – DISTRICT K VACANCY**

#### HOME-RULE CANDIDATES MUST TYPICALLY RUN AS INDEPENDENTS

Candidates for city office must run as independents, unless the “home-rule” city charter specifically permits partisan elections. The City of Houston does not permit partisan elections.

*Texas policy sources:* **TEX. ELEC. §143.002-.003; TEXAS SECRETARY OF STATE, CANDIDACY FILING – LOCAL POLITICAL SUBDIVISIONS**

### Non Home-Rule Cities

#### REQUIREMENTS FOR NON-HOME-RULE CITY CANDIDATES

Eligibility guidelines for non-home-rule city candidates are set by state law. See table below.

Most Texas localities do not require submission of petitions in order to run for office; however, state law provides procedures for filing petitions where required.

*Texas policy sources:* **TEX. ELEC. §141.001; §143.002-.003; TEX. LOCAL GOVT. §22.032; 23.024; TEXAS SECRETARY OF STATE, CANDIDACY FILING – LOCAL POLITICAL SUBDIVISIONS; TEXAS SECRETARY OF STATE, QUALIFICATIONS FOR OFFICE**

### **CANDIDATES MUST RUN AS INDEPENDENTS**

Candidates for non-home-rule city office must run as independents.

*Texas policy sources:* **Tex. Elec. §143.002; Texas Secretary of State, Candidacy Filing – Local Political Subdivisions**

## **Counties**

### **REQUIREMENTS FOR COUNTY CANDIDATES**

Eligibility guidelines for county candidates are set by state law. See table below; note that the listed county petition and filing fees are specific to counties of over 200,000 people, like Harris County.

*Texas policy sources:* **TEX. ELEC. §141.001; TEXAS SECRETARY OF STATE, QUALIFICATIONS FOR OFFICE; TEXAS SECRETARY OF STATE, REPUBLICAN OR DEMOCRATIC PARTY NOMINEES; TEX. ELEC. §172.024-.025**

### **PARTISAN AND INDEPENDENT CANDIDATES**

Elections at the county level in Texas are partisan. Candidates running as an independent at the county level have different petition requirements than partisan candidates. Petitions are required, as specified in the table. Signers must not have participated in the general or runoff primary election for the office the candidate seeks.

*Texas policy sources:* **TEX. ELEC. §142.007-.009; TEXAS SECRETARY OF STATE, INDEPENDENT CANDIDATES**

	<b>Applies to all municipal candidates, unless otherwise indicated</b>	<b>Home Rule Cities: Mayor, Controller, Council Member</b>	<b>Non-Home Rule Cities</b>	<b>County Court-at-law Judge; Criminal Court Judge; Probate Judge</b>	<b>County District Attorney; County Attorney</b>	<b>Sheriff</b>	<b>Constable</b>	<b>County Commissioner; District Clerk; County Clerk; Sherriff; Tax Assessor-Collector ; Treasurer</b>
<b>Eligibility Requirements</b>								
U.S. citizenship	Yes							
Residency	12 months in state continuously; in election area for 6 months prior to filing, nomination, or appointment deadline	Resident of Houston 12 months prior to Election Day; 12 months residency in district for district-based Council candidate	Mayor of Type A City (with mayor and city council, but not “home rule”): in city for 12 months prior to Election Day	2 years in state continuously				
Age	18 or older	18 or older		25 or older				
Registered to vote in district	By filing deadline							

	<b>Applies to all municipal candidates, unless otherwise indicated</b>	<b>Home Rule Cities: Mayor, Controller, Council Member</b>	<b>Non-Home Rule Cities</b>	<b>County Court-at-law Judge; Criminal Court Judge; Probate Judge</b>	<b>County District Attorney; County Attorney</b>	<b>Sheriff</b>	<b>Constable</b>	<b>County Commissioner; District Clerk; County Clerk; Sheriff; Tax Assessor-Collector; Treasurer</b>
Other eligibility requirements	Not partially or totally incapacitated without right to vote, or convicted of a felony without pardon			Also practicing lawyer or judge for at least 4 years prior	Also practicing lawyer or judge	Also must possess high school diploma or equivalent and be eligible for licensure	Licensed peace officer; or be eligible for licensure and possess an associates degree, be a special investigator, or an honorably retired peace officer or investigator	
<b>Seeking Candidacy</b>		Must run as independent, unless city charter specifies otherwise	Must run as independent					
Filing Fee		If required by city charter. In Houston, Mayor: 1,250; Controller: 750; City Council: 500		2500 (in county over 1.5 million ppl)	1250	1250 (in county over 200,000 ppl)	1,000 (in county over 200,000 ppl)	1,250 (in county over 200,000 ppl)

	<b>Applies to all municipal candidates, unless otherwise indicated</b>	<b>Home Rule Cities: Mayor, Controller, Council Member</b>	<b>Non-Home Rule Cities</b>	<b>County Court-at-law Judge; Criminal Court Judge; Probate Judge</b>	<b>County District Attorney; County Attorney</b>	<b>Sheriff</b>	<b>Constable</b>	<b>County Commissioner; District Clerk; County Clerk; Sherriff; Tax Assessor-Collector ; Treasurer</b>
Petition Signatures		If required by city charter, typically in lieu of filing fee. In Houston: at least 25 or half of 1 percent of total votes of all recent mayoral candidates		The smaller of: 500 or 2 percent of most recent gubernatorial votes (for major party) or 5% of most recent gubernatorial votes (for independent)	The smaller of: 500 or 2 percent of most recent gubernatorial votes (for major party) or 5% of most recent gubernatorial votes (for independent)	The smaller of: 500 or 2 percent of most recent gubernatorial votes (for major party) or 5% of most recent gubernatorial votes (for independent)	The smaller of: 500 or 2 percent of most recent gubernatorial votes (for major party) or 5% of most recent gubernatorial votes (for independent)	The smaller of: 500 or 2 percent of most recent gubernatorial votes (for major party) or 5% of most recent gubernatorial votes (for independent)
Signatures in lieu of filing fee	Yes							

## **Other Municipal Bodies (School Boards, etc.)**

### **REQUIREMENTS FOR CANDIDATES**

See table below.

*Texas policy sources:* **TEX. ELEC. §141.001; §144.002; §172.024-.025; TEX. EDUC. §11.066; TEXAS SECRETARY OF STATE, QUALIFICATIONS FOR OFFICE**

### **REQUIREMENTS FOR HARRIS COUNTY DEPARTMENT OF EDUCATION TRUSTEE CANDIDATES**

See table for requirements for Harris County Board of Education Trustee candidates. Elections are partisan. See “Partisan and Independent Candidates” under “Counties” above for more information about independent candidates.

Note: The requirements regarding moral character, supporting public schools, and English proficiency were included in a state law that was repealed in 1995 (former Tex. Educ. §17.05). Although the law was repealed, boards are eligible to continue to operate under this law. Harris County Board of Education materials dated in 2018 indicate that it still operates under this law.

*Harris County policy sources:* **HARRIS COUNTY DEPARTMENT OF EDUCATION, BOARD OF TRUSTEES, ELECTION PROCESS; HARRIS COUNTY DEPARTMENT OF EDUCATION BOARD MEMBERS ELIGIBILITY/QUALIFICATIONS; HARRIS COUNTY DEPARTMENT OF EDUCATION, BOARD OF TRUSTEES, ELECTION PROCESS**

	<b>Applies to all other municipal candidates, unless otherwise indicated</b>	<b>ISD Board of Trustees</b>	<b>Harris County Board of Education</b>
<b>Eligibility Requirements</b>			
U.S. citizenship	Yes		
Residency	12-months continuous residence in state; in election area for 6 months prior to filing, nomination, or appointment deadline		
Age	18 or older		
Registered to vote in district	By filing deadline		
Other eligibility requirements	Not partially or totally mentally incapacitated without right to vote, or convicted of a felony without pardon	A person who has been convicted of knowingly offering or agreeing to pay another person for sexual conduct is ineligible to serve	Must not have been convicted of paying for sexual conduct. Must “possess good moral character,” “be persons of good education and in sympathy with the public free schools,” be able to read and speak English, and not be an official or employee of any public school.
<b>Seeking Candidacy</b>		Must run as an independent	
Filing Fee		300	750
Petition Signatures		½ of 1% of most recent gubernatorial votes in that single member district	The smaller of: 500 or 2 percent of most recent gubernatorial votes (for major party) or 5% of most recent gubernatorial votes (for independent)
Signatures in lieu of filing fee	Yes		

## ***What it Looks Like on the Ground***

### **Candidates Running Unopposed**

We first examine the supply of candidates in Harris County to gauge the extent to which local races are contested. More candidates running for office tends to mean more competitive races and a more diverse set of choices for voters. On the other hand, elections with a larger number of unopposed races can discourage voters from turning out since they have few actual choices to make on Election Day.

Table 8 displays the percentage of candidates who ran unopposed in Harris County elections held between 2005 and May 2016. We classify candidates by office type and level of government to investigate potential differences in where unopposed races are more or less likely. The data indicate that roughly one in five candidates running for office on Harris County ballots during this period did not face a challenger. State-level offices have the highest incidence of unopposed races, with about one third of candidates seeing no opponent. In elections held between 2005-2016, candidates running for the mayor's office and party offices always faced opponents. Overall, it appears that the supply of candidates in Harris County is generally quite good and that the vast majority of races are contested.

<b>Table 8: Candidates Running for Office in Harris County, 2005-2016</b>			
Office Type	<i>Percent Unopposed</i>	<i>Percent Female</i>	<i>Total Candidates</i>
U.S. Congress	14.5	14.8	310
State Legislative	33.7	29.4	588
State Other*	33.3	46.8	47
Judicial/Law Enforcement**	33.4	33.5	1,560
County Legislative	22.2	17.7	17
County Other	14.9	26.9	67
Community College Trustee	6.7	33.3	45
Mayor	0	27.7	47
City Council	5.6	29.0	369
City Controller	16.7	16.7	18
School Board	13.7	47.5	137

Special District	0	12.5	8
Party Office	3.2	31.0	714
<b>Total Candidates</b>	<b>21.9</b>	<b>30.8</b>	<b>3,927</b>

\*These offices include State Board of Education and Attorney General.

\*\*This includes all state, county, and municipal judicial offices as well as constables, justices of the peace, county district attorney and sheriff.

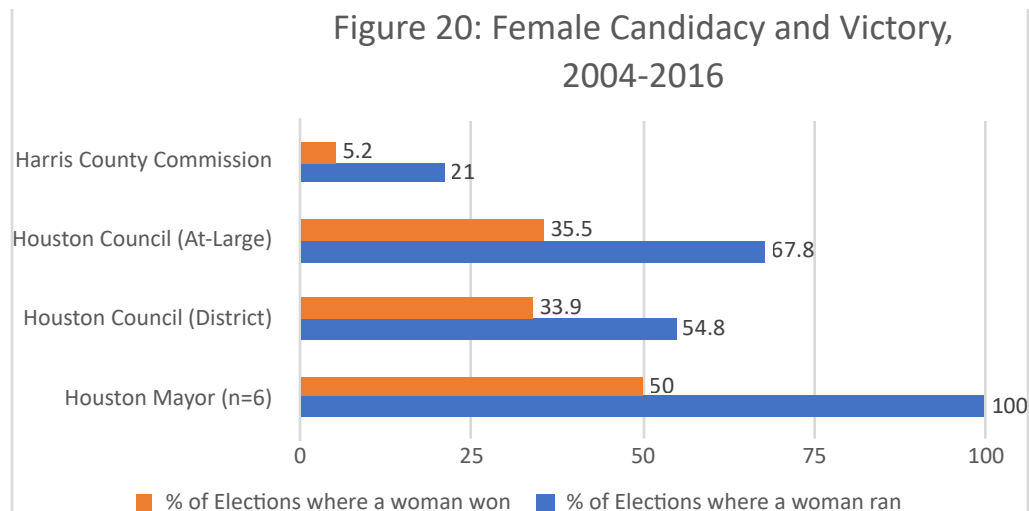
## Female Candidates

The table also includes data on the percentage of female candidates running for offices in Harris County. Women are underrepresented in nearly all elected offices in the U.S. While many people assume that this is because women face greater challenges getting elected, the reality is that women tend to do quite well when they run. The problem, however, is that too few women run for office in the first place. While the surge in female candidates during the 2018 mid-term elections is encouraging, women are significantly underrepresented in the candidate pool across all offices in Houston, Harris County and the state of Texas.

Overall, just under 31 percent of all candidates running for office in Harris County between 2005- May 2016 were women. Women were least likely to run for congressional seats (14.8% of congressional candidates were women), special district positions (12.5%), and county legislative seats (17.7%). On the other hand, female candidates are most likely to seek positions on local school boards and the state board of education.

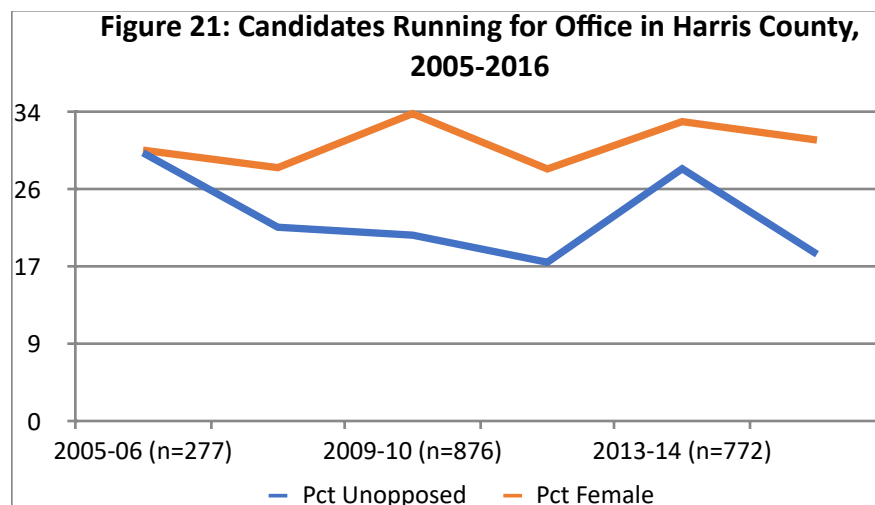
Figure 20 hones in a bit more on key offices at the local level, examining races that featured both female candidates and winners. What we see is a rather stark difference across county and municipal offices. Only one in five Harris County Commissioner's Court races between 2004 and 2016 included a female candidate and in only 5 percent of these races did the female candidate win.<sup>15</sup> On the other hand, 100 percent of mayoral races in Houston included at least one female candidate and female candidates (Mayor Annise Parker) won 50 percent of these contests. Female candidates were also present in more than half of all Houston city council races between 2004-2016 and women won about one in three of these contests. Overall, the supply of female candidates in Harris County varies significantly across office and level of government. In most cases, women continue to be underrepresented. However, in the City of Houston, women are competing in council and mayoral races and holding their own on Election Day.

<sup>15</sup> As this report was being completed in Fall 2018, Harris County elected a female candidate as Harris County Judge.



### Variation Over Time

We also examined candidate data over time to see if the percentage of female candidates or candidate running unopposed had changed much between 2005 and 2016. As Figure 21 indicates, while there is some variation over time, there is no clear trend.



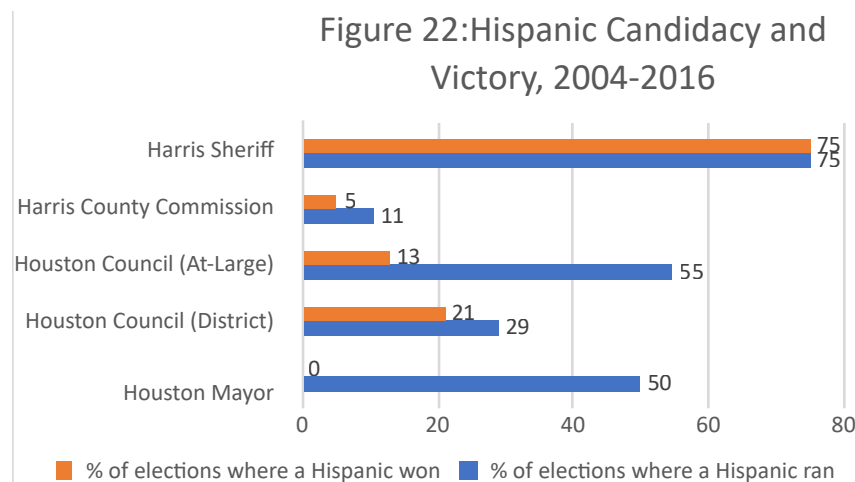
### Latino/a Candidates

Beyond the gender of local candidates, we reviewed the racial/ethnic composition of candidates who run for and win elections in Harris County. Here we focus on Latino/as not only because at 43 percent of the population, Latino/as represent the largest ethnic group in Harris County (U.S. Census 2017), but also because relatively reliable methods of coding Hispanic candidates exist, whereas for other racial/ethnic groups, this is not the case.<sup>16</sup>

<sup>16</sup> Specifically, we rely on Hispanic surname lists published by the Census Bureau. Comparable lists do not exist for African Americans or other racial/ethnic groups.

Extensive reporting by the *Austin American-Statesman* revealed statewide underrepresentation of Hispanics on city councils and commissioners' courts. Compared to the 38 percent of Texas' population that is Latino/a, approximately 10% of Texas mayors and county judges are Latino/a. Over 1.3 Hispanics residing in Texas are represented by commissioners' courts and city councils without Hispanic members.

When we examine Hispanic candidates running for office in Harris County and the City of Houston we find a similar story (Fig. 22). As the graph below shows, between 2004 and 2016, just 10 percent of candidates for Harris County Commissioners' Court had Hispanic surnames, and five percent of office holders during this period had Hispanic surnames. The stronger showing of Hispanic surname candidates for Harris County Sheriff is in large part due to one specific candidate, Adrian Garcia, who served as sheriff from 2009 until 2015, when he stepped down to run for mayor. Garcia was the first Latino elected to this position; in 2016, Ed Gonzalez, became the second Latino to hold this office in Harris County<sup>17</sup>.



While a substantial share of candidates for Houston mayor and at-large city council seats had Hispanic surnames (at least 50%), few of these candidates were electorally successful. Indeed, to date, the city of Houston has not elected a Hispanic mayor. Between 2004-2016, only a small fraction of city council seats were held by Hispanics (13 and 21 percent respectively for at-large and district seats).

### **Latino/a Representation Post *Shelby County v. Holder*: Pasadena**

We see similar underrepresentation in Pasadena, the second largest city in Harris County. In fact, an attempt by the city's mayor that many perceived was intended to further limit Hispanic representation on the City Council led to Pasadena being the only locality in Texas whose election-related laws are currently required to be reviewed by the DOJ under the Voting Rights Act.

<sup>17</sup> As this report was being completed in Fall 2018, two Latino/a candidates were elected to the Harris County Commissioners Court: Adrian Garcia as commissioner and Lina Hidalgo as county judge.

One month after the U.S. Supreme Court struck down the preclearance requirements of the Voting Rights Act in *Shelby County v. Holder*, the Pasadena mayor proposed replacing two of the nine City Council districts with at-large seats and merging two Hispanic-majority districts into one. Voters narrowly approved this plan with 50.6 percent of the vote in a city-wide referendum in 2013. While turnout is typically low in off-cycle elections, just under 12 percent of registered voters in Pasadena voted in the referendum to amend the city charter.

Litigation challenging the plan claimed that the revised districts intentionally discriminated against Hispanic voters; a federal court judge subsequently ruled that it violated the Voting Rights Act, and applied preclearance requirements to the city for subsequent election-related proposals. Despite significant media attention at both the local and national level, turnout in Pasadena remains low and Latinos have not increased their representation in City Council. The 2017 municipal elections returned three Hispanic councilors to office.

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# **POLICIES ON VOLUNTEERING AND CHARITABLE DONATIONS**

## WHY IT MATTERS

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Civic engagement, broadly, focuses on public involvement in activities that promote the common good. It incorporates an array of activities in the public arena through which individuals care for one another and their communities both individually and as a communal activity. These activities commonly take place within two spheres of action: political and social.

Civic engagement of a political nature encompasses many of the arenas of action discussed previously in this audit – political expression, voting, running for office – and provides a critical means through which individuals come together to influence and shape communal decision-making. Civic engagement of a social nature refers to ways that individuals come together to provide support to others in need and to strengthen communities, including through such arenas of action as volunteering and donating to help those in need.

One community leader illustrates ways that these concepts of social and political civic engagement may come together, while also sharing some concerns about public willingness to volunteer in a communal way:

*There has to be more volunteer time, a lot of people don't like volunteering for free.  
For example, walking from door to door and asking people to vote.*

Both volunteering and donating can take place between individuals, or in conjunction with groups, organizations, and communities, and are linked to positive impacts for the volunteer, donor, *and* those who are served. They also can take place both informally and formally, in both cases, offering opportunities for communities to become more socially connected. The more socially connected and civically engaged a community is, the better able its residents are to define and address public problems. In fact, volunteering specifically emerged in a number of community leader conversations as a valuable way to enhance inter-community communication.

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# POLICY: IN STATUTE AND ON THE GROUND

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## Volunteerism

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### **Voluntary Service**

#### **FEDERAL PROGRAMS PROMOTE VOLUNTEERISM**

The 2009 Edward M. Kennedy Serve America Act reauthorized and expanded a range of federally-sponsored programs that promote volunteerism in local communities, including Senior Corps and the three primary AmeriCorps programs (AmeriCorps National Civilian Community Corps, AmeriCorps State and National, and AmeriCorps VISTA). Each program is administered by the federal Corporation for National and Community Service.

[Originally, the law also included federal support for the national school-based service-learning program Learn and Serve America; however, this program was subsequently eliminated by Congress in 2011.]

*Federal policy source: EDWARD M. KENNEDY SERVE AMERICA ACT (2009)*

#### **FEDERAL TAX CODE ALLOWS VOLUNTEERS TO DEDUCT EXPENSES**

The federal mileage reimbursement level for volunteers is 14 cents per mile. Volunteers who itemize deductions on their personal federal taxes can deduct unreimbursed mileage expenses, either at the 14 cents per mile rate, or using actual costs.

Volunteers who itemize deductions on their taxes may deduct other approved expenses associated with their volunteering, including parking fees and tolls when an automobile is used for charitable purposes.

**Federal policy source: TAX CUT JOBS ACT OF 2017; INTERNAL REVENUE SERVICE (IRS) NOTICE 2018-03; IRS, PROVIDING DISASTER RELIEF THROUGH CHARITABLE ORGANIZATIONS: WORKING WITH VOLUNTEERS (JUNE 2018)**

#### **FEDERAL DISASTER VOLUNTEER MATCH**

Volunteer hours and material donations from individuals and organizations may count towards a local government's match requirements when seeking grants for response, recovery, and repair of municipal infrastructure after a natural disaster.

*Federal policy source: **FEDERAL EMERGENCY MANAGEMENT AGENCY, MEMORANDUM FOR FEMA REGIONAL ADMINISTRATORS ABOUT DONATED RESOURCES POLICY (JUNE 2018)***

### **PROMOTION OF VOLUNTEER SERVICE IN TEXAS**

**A 2003 TEXAS** executive order explicitly encouraged volunteer action in Texas. It created the OneStar National Service Commission, run by the Texas nonprofit OneStar Foundation, to promote volunteerism and community service in Texas, serve as the state liaison to the national Corporation for National and Community Service, administer statewide volunteer and community service initiatives, and promote volunteerism through annual administration of the Governor's Volunteer Awards.

*Texas policy source: **EXECUTIVE ORDER RP-30 (2003)***

## **Mandatory Service**

### **FEDERAL INITIATIVES LINK VOLUNTEERISM TO MEDICAID ELIGIBILITY**

**CENTERS FOR MEDICARE & MEDICAID SERVICES POLICY** Supports state efforts to explore incentives for community engagement, including volunteering, as a condition for Medicaid eligibility for non-elderly, non-pregnant adults without disabilities.

*Federal policy source: **CENTERS FOR MEDICARE & MEDICAID SERVICES, SMD 18-002, RE: OPPORTUNITIES TO PROMOTE WORK AND COMMUNITY ENGAGEMENT AMONG MEDICAID BENEFICIARIES (2018)***

### **FEDERAL LINKAGE OF VOLUNTEERISM WITH PUBLIC HOUSING**

The U.S. Department of Housing and Urban Development requires all non-exempt adult residents of public housing to provide volunteer service within their housing community or to work 8 hours each month.

*Federal policy source: **24 CODE OF FEDERAL REGULATIONS 960, SUBPART F***

## ***What it Looks Like on the Ground***

Most government action to support volunteerism in Harris County appears to be federal in nature, whether through national volunteer service programs or through tax incentives for volunteerism (which generally target individuals wealthy enough to itemize tax deductions). National service programs in Texas are supported by Texas' OneStar Foundation, which currently administers \$18.2 million annually in AmeriCorps Texas programs. Multiple of the 2018-19 AmeriCorps Texas grantees are located in the Houston region.

Local efforts to encourage volunteerism include the City of Houston's Volunteer Initiatives Program, in existence since 2004. This program partners with nonprofits in the region to connect residents with volunteer opportunities through an online portal. Overall, however, the 2018 Houston Civic Health Index Report found that just 21 percent of Greater Houston respondents reported volunteering through an organization in the prior 12 months, and a smaller 15 percent reported engaging in more informal volunteerism by doing favors frequently for a neighbor.

Outside of the criminal justice system, most volunteerism to date in Texas is of a voluntary nature. This stands in contrast to the increasing number of federal programs and state partnerships that mandate volunteer (or work) participation for program participants. With the support of the federal government, five states have instituted a volunteer or work requirement for Medicaid recipients with the support and another ten have submitted applications for such a requirement as of November 2018. Texas is not currently included among these states. The benefits of such requirements lack strong research support in terms of both encouraging civic engagement and promoting recipients' health.

The Houston region saw extensive informal volunteering in the wake of Hurricane Harvey, as individuals around the region stepped up to help each other. Houston's experience with volunteerism around national disasters has, in fact, helped it become a leader in making national change in how FEMA counts volunteer support in supporting regions through crisis and recovery. In previous disasters, FEMA counted volunteer hours as a local match solely for grants that help localities with emergency disaster response and debris removal. After Houston's leadership post-Harvey, FEMA now counts volunteer hours as a local match also for grants focused on the repair and recovery of municipal infrastructure. This policy shift applies to volunteer efforts focused on municipal infrastructure; however, Congressional action would be needed in order to allow volunteer efforts focused on individual's homes to count towards a FEMA match.

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## **Volunteer Restrictions and Liability**

### **VOLUNTEERING FOR EMPLOYERS MUST BE DISTINCT FROM WORK**

Public sector and nonprofit employees are permitted to volunteer for their employer, but only when those services are distinct from an employee’s regular job duties and cannot be carried out during the employee’s working hours.

*Federal policy source:* **FAIR LABOR STANDARDS ACT**

### **FEDERAL VOLUNTEER LIABILITY PROTECTIONS**

This law outlines cases where a nonprofit or government volunteer cannot be held liable for any harm that occurs while volunteering. States may provide additional liability protections and add further limits to punitive damages against a volunteer.

*Federal policy source:* **VOLUNTEER PROTECTION ACT (1997)**

## TEXAS VOLUNTEER LIABILITY PROTECTIONS

Building on the federal Volunteer Protection Act, Texas law specifies when volunteers cannot be held liable for harm that occurs while they are volunteering.

A volunteer is protected from liability for their acts within the scope of volunteer duties if volunteering with a charitable organization that: has 501c3 or c4 status; is solely engaged in activities that further the organization's purpose(s); has assets dedicated to the organization's purpose even upon dissolution; receives at least one-third of its support from gifts, grants, contributions, or membership fees; and does not directly participate in any political campaign. The one exception to this protection is if death, damage, or injury has resulted from the volunteer's operation of motor-driven equipment.

This liability protection extends to volunteers with homeowner's associations, volunteer centers, and local chambers of commerce, as long as these organizations do not engage in political campaigns or contribute to political action committees.

*Texas policy sources: **TEX. CIV. PRAC. & REM. §84.001-.008 ("CHARITABLE COMMUNITY AND LIABILITY ACT")**;*

## VOLUNTEERS DURING NATURAL DISASTERS

Volunteers are permitted to utilize professional or skill-based licenses, certification, or permits in a political jurisdiction in which they are not certified, if their assistance has been requested due to an emergency or disaster.

The Texas Division of Emergency Management must have a liability awareness program for volunteers during natural disasters.

*Texas policy sources: **Tex. Govt. §418.043**; **TEX. GOVT. §418.117***

## ***What it Looks Like on the Ground***

Some argue that "the willingness of volunteers to offer their services...is deterred by the perception of personal liability arising out of the services rendered to these organizations." In order to promote volunteerism, states offer various levels of liability protections to volunteers, particularly those who help in cases of emergency and natural disasters. Texas' Charitable Community and Liability Act was written with the explicit goal of encouraging volunteerism in the state.

**References:**

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## Charitable Donations

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### FEDERAL CHARITABLE DONATION DEDUCTIONS

For taxpayers who itemize, charitable donations of money or property to a qualified tax-exempt organization can be deducted, with written notice from the charity. Donations of property can often be deducted based on the property's fair market value.

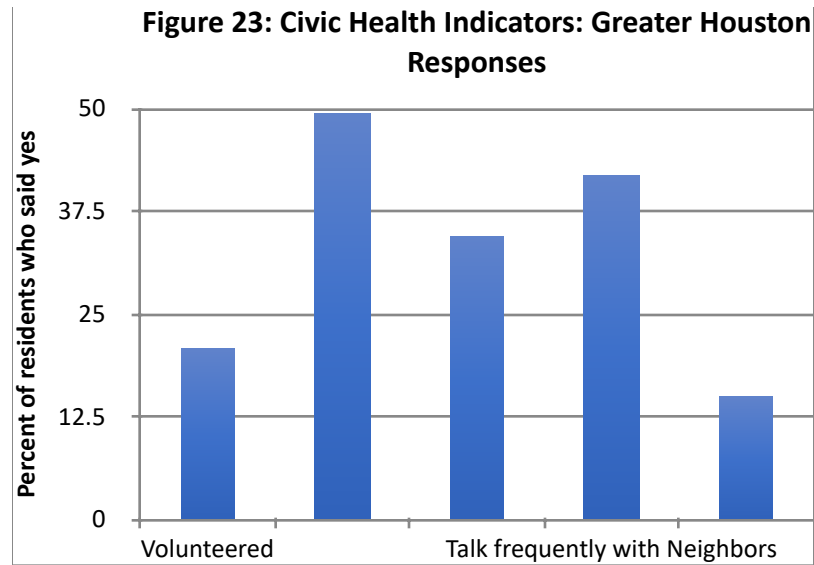
Disaster relief donations can be deducted if made to a qualified organization, but not for relief targeted to a particular individual or family.

**THE 2017 TAX CUT JOBS ACT changed prior tax law to increase taxpayers' standard deduction amount, while instituting a \$10,000 cap on deductions for paid state and local taxes and doubling the estate tax exemption. This law permits taxpayers who itemize deductions to itemize donations of up to 60% of the amount of their adjusted gross income.**

***Federal policy source: TAX CUT JOBS ACT OF 2017; IRS PUBLICATION 526: CHARITABLE CONTRIBUTIONS (MARCH 2018); IRS PUBLICATION 3833: DISASTER RELIEF: PROVIDING ASSISTANCE THROUGH CHARITABLE ORGANIZATIONS (DEC. 2014)***

### ***What it Looks Like on the Ground***

The 2018 Houston Civic Health Index Report found that despite Greater Houston's economic and cultural vibrancy, it ranks on average 36th out of the 50 largest metropolitan areas in the country on 21 indicators of civic health compiled by the National Conference on Citizenship (NCoC). Figure 23 presents several of these indicators of civic health based on survey responses of Greater Houston residents. Of particular interest in this section, a larger percentage of Houstonians participate in donating to charity than in many other civic activities. In the 12-month period asked by the survey, just under half of all Houston-area respondents reported that they had donated at least \$25 to charity during the past twelve months.



Source: U.S. Census Bureau, *Current Population Survey (CPS) 2013-16*.

While some people certainly make charitable donations because they want to provide support to the individuals or communities an organization serves, charitable donations in the U.S. have long been incentivized through the federal income tax system. Through this system, taxpayers who itemize deduct charitable contributions when calculating their federal taxes. However, the nonprofit community has expressed concerns that changes adopted in the Tax Cut Jobs Act of 2017 will reduce the number of taxpayers who benefit from claiming this deduction.

As a result of this policy change, the National Council on Nonprofits estimates that over 87% of taxpayers will not claim a charitable deduction moving forward. Without the tax-based incentive to donate, they argue that there will be a sharp decline in charitable giving, with an estimated decrease of at least \$13 billion per year. Proposed bills in Congress include provisions to re-introduce incentives to donate, such as allowing charitable deductions for non-itemizers; however, such provisions have so far not been adopted.

#### References:

- 1) Tax Cuts and Jobs Act, H.R. 1: Nonprofit Analysis of the Final Tax Law. 5 April 2018. National Council of Nonprofits. Retrieved from <https://www.councilofnonprofits.org/sites/default/files/documents/tax-bill-summary-chart.pdf>
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# YOUTH CIVIC ENGAGEMENT

## WHY IT MATTERS

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Current Population Study (CPS) data compiled by the NCoC and broken down by age shows that younger residents (ages 18-37) in Greater Houston participate in an array of civic activities at lower rates than their older counterparts. While the 2018 NCoC data does not provide statistics on the civic activity of youth under age 18, it does help us better understand civic engagement among younger Houstonians. Just 45% of this age group reported voting, as compared to 57.4% of Generation X Houstonians and 67.8% of Houston-area Baby Boomers. The gap between older and younger voters is even starker when it comes to voting in local elections, with just 29.2% of Houston adults under age 37 reporting that they always or sometimes do so. Just 2.8% of young people have contacted or visited a public official, and 4.6% have attended a public meeting.

To have a long-term impact on civic engagement in the Houston region, it is critical to develop young people who are knowledgeable, who are oriented to civic involvement, and who have been explicitly invited to become part of the region's civic fabric. Extensive research makes it clear that civic engagement is habitual; young people who are civically engaged tend to remain engaged as they move forward into adulthood.

Often, civic engagement is seen as beginning at age 18, when young people become old enough to vote. Yet, many civic activities in both the social (e.g., volunteerism, charitable donations) and political spheres (e.g., public expression, canvassing, educating voters, etc.) are not age-limited. Through knowledge-building and experiential activities, elementary and secondary students can begin to develop life-long habits of civic engagement through involvement in a wide array of non-voting activities.

### **References:**

- 1) U.S. Census Bureau, "Current Population Survey (CPS) 2013-16."

# POLICY: IN STATUTE AND ON THE GROUND

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## Youth Below Voting Age

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### Classroom-Based Civic Education

#### **CURRICULAR CONTENT RELATED TO CIVIC ENGAGEMENT**

Among the core objectives of public education in Texas is to “prepare students to be thoughtful, active citizens.” The required state curriculum for grades K-12 specifically includes content related to civic engagement.

The Texas Essential Knowledge and Skills for Social Studies specify knowledge expected of students at all grades. Among these standards:

- 1<sup>st</sup> – 3<sup>rd</sup> grade: “identify characteristics of good citizenship, including...participation in government by educating oneself about the issues, respectfully holding public officials to their word, and voting.”
- 7<sup>th</sup> grade: “explain and analyze civic responsibilities of Texas citizens and the importance of civic participation”
- 8<sup>th</sup> grade: “identify examples of responsible citizenship, including...staying informed on public issues, voting;” “understand the importance of voluntary individual participation in the democratic process”
- High school: “understand the responsibilities, duties, and obligations of citizenship;” “understand the voter registration process and the criteria for voting in elections.”

*State policy sources:* **TEX. EDUC. §4.001; §28.002; 19 TEX. ADMIN. CODE §113.12-.44**

#### **STATEWIDE ASSESSMENTS RELATED TO CIVIC ENGAGEMENT**

TEA is required to develop and administer a statewide social studies assessment to be taken in 8<sup>th</sup> grade and an end-of-course U.S. History assessment to be taken in high school.

*State policy source:* **TEX. EDUC. §39.023**

### ***What it Looks Like on the Ground***

Like all other states, Texas has social studies standards that its students must meet; these standards are under review by the State Board of Education in 2018-19. Like 40 other states, Texas requires students to complete at least three years of social studies coursework in order to graduate from high school. With its 8<sup>th</sup> grade assessment, Texas joins 20 other states in requiring students to take a state-designed test on social studies content. In 2018, 64% of Texas 8<sup>th</sup> graders

met the minimum passing standard on this test, while a lower percentage, 54%, of HISD 8<sup>th</sup> graders met the minimum passing standard.

As of 2012, Texas was one of only nine states requiring passage of a social studies test (in U.S. History) in order to graduate from high school. In 2018, 92% of Texas students and 89% of HISD students passed this test.

In 2017, the Texas House of Representatives passed a bill (HB 1776) that would have replaced this high school history exam with a civics exam similar to that taken by immigrants to become U.S. citizens. A recent movement to get states to require passage of this civics exam prior to graduation has resulted in successful legislation to do so in eight states; other states require the exam, but do not make passage a graduation requirement. Supporters of this bill argued that such an exam would help address a civics gap in current Texas curricula, while opponents argued that memorizing civic facts for such an exam may not sufficiently contribute to students' civic learning. Although the bill had strong bipartisan support, it died without committee consideration in the Texas Senate.

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- 7) Preliminary HISD STAAR scores show strong gains across multiple grades, subjects, and student groups. 19 Jun 2018. HISD News Blog. Retrieved from <http://blogs.houstonisd.org/NEWS/2018/06/19/HISD-STAAR-SCORES-SHOW-STRONG-GAINS-ACROSS-MULTIPLE-GRADES-SUBJECTS-AND-STUDENT-GROUPS/>

## **Community Service/Service-Learning**

## **VOLUNTEER SERVICE OPPORTUNITIES AT SCHOOLS**

When each district evaluates its schools and assigns them a performance rating, one of the many categories of performance that must be evaluated is “opportunities for students to participate in community service projects.”

*State policy source: **TEX. EDUC. §39.0545***

### ***What it Looks Like on the Ground***

Community service and service-learning are two common forms of engaging people in volunteerism. Community service typically involves youth participating in volunteer activities, while service-learning refers to volunteer activities which are explicitly tied to curricular goals and which offer young people the opportunity to reflect on their volunteerism.

Along with almost all other states, Texas has no statutory requirement requiring community service or service learning; it should be noted that the evidence base for the long-term civic benefits of mandatory youth volunteerism is mixed. Both Maryland and Washington, D.C. require volunteer service prior to graduation. As of 2014, six states permit school districts to adopt their own volunteer service requirements prior to graduation. While Texas doesn’t have a law explicitly permitting districts to create their own volunteerism requirements, several Texas school districts (e.g., Duncanville ISD; Midlothian ISD) and some individual specialized schools currently require students to complete service hours prior to graduation.

An alternative to mandatory volunteer requirements is to provide incentives for volunteerism. Five states, not including Texas, enable students to receive recognition on their diplomas (i.e., an endorsement or seal) if they participate in community service or service learning.

Texas permits students to gain credit for community service or service-learning within two courses that can help meet graduation requirements, if offered by their school districts. Tex. Admin. Code §74.27 permits school districts to seek state approval to offer innovative courses. According to the state’s Legislative Budget Board, one state-approved innovative course is “Service Learning,” which was offered by eight Texas districts or charter schools between 2007 and 2012 and continues to be offered.

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- 2) Community Service and Service-Learning Programs in Public High School. April 2013. Legislative Budget Board. Retrieved from [http://www.lbb.state.tx.us/Documents/Publications/Issue\\_Briefs/363\\_PE\\_CommunityService.pdf](http://www.lbb.state.tx.us/Documents/Publications/Issue_Briefs/363_PE_CommunityService.pdf)

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## **Political Socialization**

### **CHILDREN MAY ACCOMPANY PARENTS TO VOTE**

A child under the age of 18 is permitted to accompany their parent in the voting station.

*Texas policy source:* **TEX. ELEC. §64.002**

### **MOCK ELECTIONS CAN BE HELD IN CONJUNCTION WITH REGULAR ELECTIONS**

State law provides guidelines for a governing body, e.g., a commissioners court, to call mock elections for students in grades K-12, in conjunction with any general, special, or primary election. Mock elections involve students casting an unofficial ballot on the same measures and offices as on the official ballot.

Mock elections are permitted to take place within either a precinct polling place or alternate location, but if they are held at an adult polling location, voting booths must be at least 50 feet away from an adult voting booth. If a mock election is ordered by a governing body to be held in an adult polling location, it must be held on Election Day or the day prior. Mock elections should seek to adopt the most common voting system in the students' community, but must use a distinct set of election officers from the regular polling place.

Results of the mock election can be made public after adult polling locations close on Election Day. Expenses for conducting this election can only be paid for from private sources.

*State policy sources:* **TEX. ELEC. §276.007; 1 TEX. ADMIN. CODE §81.301**

## ***What it Looks Like on the Ground***

As noted previously, research consistently finds that civic engagement is habitual. Engaging children and youth in civic activity at a young age sets the stage for subsequent civic participation as they continue to grow. Research also finds that programs that engage children under 18 in election-based learning and mock elections impacts both youth attitudes towards civic engagement and increases voting among their adult family members.

The Texas Secretary of State partners with Project V.O.T.E., a national nonpartisan civic education nonprofit, to implement a statewide mock election program to teach young people about the electoral process. Partner schools are listed on a special Secretary of State mock elections website. This website provides resources to school staff, as well as an after-election tally of how students across the state voted in the mock election.

Among the school districts listed as 2016 participants, several were located in Harris County, including Aldine ISD, Galena Park ISD, Houston ISD, Katy ISD, Spring ISD, Spring Branch ISD, and Tomball ISD. Based on the individual high schools, junior high schools, middle schools, intermediate schools, and elementary schools explicitly listed as participants on the Secretary of State's website, 2% of Aldine ISD (1 of 66 schools), 4% of Galena Park ISD (1 of 24 schools), 2% of Houston ISD (5 of 273 schools), 8% of Spring ISD (3 of 38 schools), 3% of Spring Branch ISD (1 of 36 schools), and 5% of Tomball ISD (1 of 20) schools participated. While Katy ISD was listed as a district partner, no individual Katy schools were listed.

**References:**

- 1) Texas Administrative Code: Title 1: Part 4: Chapter 81: Subchapter J: Rule 81.301. n.d. Texas Secretary of State. Retrieved from [http://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p\\_dir=&p\\_rloc=&p\\_tloc=&p\\_ploc=&pg=1&p\\_tac=&ti=1&pt=4&ch=81&rl=301](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=1&pt=4&ch=81&rl=301)
  - 2) 2016 Presidential Student Mock Elections. n.d. Project V.O.T.E. Retrieved from <https://www.sos.state.tx.us/elections/projectvote/mock-election-archives-2016.html>
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## High School Students Of or Near Voting Age

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### **Preregistration**

#### **REGISTERING TO VOTE AT 17 YEARS AND 10 MONTHS**

Individuals may register to vote once they are at least 17 years and 10 months old. The registration becomes effective on the last of: 30 days after submission to the registrar, or the applicant's 18<sup>th</sup> birthday.

If the registration will be effective on Election Day, it is also effective during the preceding early voting period, even if the voter is not yet 18.

*Texas policy sources:* **TEX. ELEC. §13.001; §13.143**

### ***What it Looks Like on the Ground***

Preregistration laws allow young people to register to vote before they turn 18 with the goal of increasing youth turnout. Texas permits preregistration on the part of young people two months in advance of turning 18.

States vary widely in terms of preregistration. 13 states plus the District of Columbia allow preregistration at age 16; 6 allow preregistration at age 17; 4, including Texas, allow preregistration at some point between 17 and a half and 17 years and 10 months, regardless of whether the young person will be 18 on the next Election Day.

#### **References:**

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### **Registration in High Schools**

#### **HIGH SCHOOLS REQUIRED TO REGISTER STUDENT VOTERS**

In every Texas public and private high school, the principal or a staff/teacher designee serves as a deputy registrar in the county where the school is located. This individual is required to secure

voter registration application forms directly from the Secretary of State; distribute applications twice a year to every student who will be 18 or older during the semester; and receive and review completed applications from students and school employees.

Each application should be accompanied by a notice informing the student or school employee that they may return the application to the school deputy registrar, or they can deliver it on their own to the county voter registrar.

High school voter registrars must deliver applications they receive to the county registrar within 5 days of receipt; failure to do so constitutes a Class C misdemeanor.

*Texas policy sources: **TEX. ELEC. §13.046; 19 TEX. ADMIN. CODE §81.7***

### ***What it Looks Like on the Ground***

In a recent report by Project Vote, 16 states reported having a high school voter registration program in state law, and nine states reported that their law requires high schools to participate. Texas' law doing so has been in effect for approximately 25 years. However, data suggest that most public high schools in Texas do not adhere to this law. School staff are expected to reach out directly to the Secretary of State to request specific application forms; however, the TCRP calculates that 34% of public high schools and just two private high schools in the state have reached out to order applications. TCRP's analysis finds that there is extensive lack of clarity and confusion at schools about this law and school staff's responsibilities in implementing it.

The Secretary of State's website includes a list of more than 140 Texas superintendents who have signed a pledge to engage their high school principals in this voter registration initiative. Among these 140 districts, some are located in Harris County, including Houston ISD, Houston Gateway Academy, Inc., Pasadena ISD, Tomball ISD, La Porte ISD, Crosby ISD, Galena Park ISD, and Aldine ISD. However, evidence from TCRP's analysis of high school voter registration data in Harris County indicates that just two districts in the county (Tomball ISD and Alief ISD) and 47 individual high schools requested voter registration applications. The majority of high schools, 99, did not request voter registration forms from the state.

#### **References:**

- 1) Malewitz, J. and Alexa Ura. 15 Sep 2017. "Principals aren't registering high schoolers to vote. Texas is turning to superintendents." Texas Tribune. Retrieved from <https://www.texastribune.org/2017/09/15/principals-arent-registering-high-schoolers-vote/>
- 2) Texas Superintendents Commit to Cultivating Lifelong Voters. n.d. Project V.O.T.E. Retrieved from <https://www.sos.state.tx.us/elections/projectvote/superintendents.html>
- 3) Texas High School Voter Registration: A How to Guide. Sept 2017. Texas Civil Rights Project. Retrieved from <https://texascivilrightsproject.org/wp-content/uploads/2018/02/HSVR-Guide.pdf>

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- 8) Herman, J. and Lauren Forbes. n.d. “Engaging America’s Youth through High School Voter Registration Programs.” Project VOTE. Retrieved from [https://funderscommittee.org/files/high\\_school\\_voter\\_registration\\_programs.pdf](https://funderscommittee.org/files/high_school_voter_registration_programs.pdf)

## **Transporting Youth to Polls**

### **SCHOOL FUNDS CANNOT BE USED TO TRANSPORT STUDENTS TO VOTE**

The Attorney General writes that while school districts are expressly directed to encourage voter education by the Legislature and the State Board of Education, there is no explicit academic purpose for transporting students or employees to polling locations. “Absent an educational purpose in providing students transportation to the polling location, a court would likely conclude that the transportation serves no public purpose of the school district and therefore violates...the Texas Constitution.”

***State policy source: TEXAS ATTORNEY GENERAL OPINION KP-0177 (2018)***

### ***What it Looks Like on the Ground***

This opinion by the Texas Attorney General was in response to an effort by Texas Educators Vote, a non-partisan advocacy organization, to encourage school boards to authorize administrators to use district vehicles to transport students and/or employees to polling locations. He was asked whether public funds could be used to do so. The Attorney General’s opinion explicitly sets a state policy that school district funds cannot be used for transporting students to the polls.

### **References:**

- 1) Platoff, E. 9 Feb 2018. “Civic Engagement or Illegal Electioneering? How a School Voting Project Became a Conservative Target.” KERA News. Retrieved from <https://www.keranews.org/post/civic-engagement-or-illegal-electioneering-how-school-voting-project-became-conservative-target>
- 2) Swaby, A. 17 Jan 2018. “Texas attorney general says it’s illegal for schools to bus kids to polling places in some cases.” Texas Tribune. Retrieved from <https://www.texastribune.org/2018/01/17/texas-attorney-general-says-using-school-buses-drive-kids-polling-plac/>

- 3) Paxton, K. 17 Jan 2018. Attorney General of Texas. Retrieved from <https://www2.texasattorneygeneral.gov/opinions/opinions/51paxton/op/2018/kp0177.pdf>

## **Student Election Clerks**

### **TEXAS STUDENT ELECTION CLERK PROGRAM**

**TEXAS HAS** Created a student election clerk program, for Election Day and for early voting. A student who is at least 16 years old, a U.S. citizen, and who completes a training program is eligible to serve as a student election clerk.

Students must attend a public or private secondary school or be home-schooled, and have the appropriate principal's (or parent/guardian's) consent. No more than two student election clerks are permitted per precinct polling location on Election Day; no more than four student election clerks are permitted at an early voting polling location. A student election clerk may be compensated, as other election clerks are.

At the discretion of the teacher or sponsor, a student may apply time spent as an election clerk toward a school project requirement or a service requirement for an advanced course or extracurricular activity.

*Texas policy sources:* **TEX. ELEC. §32.0511; §33.092; §83.012**

### ***What it Looks Like on the Ground***

A youth election worker statute is common across many states. In Texas, the student is responsible for ensuring that their absence from school is excused. A student is permitted to be excused for serving as an election clerk for up to two days within a school year.

### **References:**

- 1) Youth Poll Workers. 2016. American Constitution Society. Retrieved from <https://www.acslaw.org/wp-content/uploads/2018/05/Youth-Poll-Workers.pdf>
- 2) Student Election Clerk Information. n.d. Texas Secretary of State. Retrieved from <https://www.sos.state.tx.us/elections/pamphlets/seci.shtml>

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## College Students

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### STUDENT IDs NOTE ACCEPTABLE FOR VOTING

**AN IN-PERSON VOTER MUST PRESENT ONE OF** Seven forms of identification in order to vote; these do not include a student ID.

*Texas policy source:* **TEX. ELEC. §63.001**

### APPLICABILITY OF RESIDENCY REQUIREMENTS TO STUDENTS

To vote in Texas, one must be a resident of the county in which one seeks to register to vote.

“Residence” is defined in state law as a home or fixed place to which a person plans to return after any brief absence. A place where one is living temporarily without planning to make it their home is not a “residence.” A person does not lose residence during a temporary absence away from one’s home.

In an opinion on residency requirements for college students to be eligible to vote, the Texas Attorney General relies on judicial precedent to determine that state determination of “residence” relies both on physical presence in the county and the applicant’s intention to make that “residence” home.

If a student is physically present somewhere and intends to make that county their home, then the student may register at that location. If the student’s intention remains elsewhere in the state (i.e., a parent’s home), then the student is expected to register at that address instead.

*Texas policy sources:* **TEX. ELEC. §1.015; §13.001; TEXAS ATTORNEY GENERAL OPINION GA-0141 (2004)**

### *What it Looks Like on the Ground*

As outlined in more detail in the “Voting” chapter, school or university ID cards are not permitted Voter IDs in Texas. This stands in contrast with the 17 U.S. states that explicitly list student IDs as an acceptable form of ID when voting. College students who intend to make the address where they live while in college their “residence” are expected to obtain a photo ID from DPS.

If a college student intends to make the address where they live while at college their home, Texas law permits them to register to vote using that address. However, like all other voters, a

student must be registered at only one address. A college student who intends to return elsewhere and maintains that location as their residence may request an absentee ballot from that locality.

At times, controversy has arisen in Texas regarding how voter registration laws are implemented in regards to college students. One recent example took place during the 2018 midterm elections in neighboring Waller County. When initially registering to vote, large numbers of students living on campus at Prairie View A&M had been given incorrect information about which campus address to use on their registration applications. They had been instructed to use one of two campus shared addresses; however, one of these addresses was located in a different precinct than where the students live on campus.

Subsequently, students were informed that they could not cast a ballot in the appropriate precinct without completing a change-of-address form. As controversy grew over the additional paperwork requirements that some feared would harm student turnout, the Texas Secretary of State ultimately determined that the students did not need to complete change-of-address forms.

The Institute for Democracy and Higher Education at Tufts University published a 2018 report outlining steps that can be taken to increase civic engagement on college campuses. Among the Institute's recommendations are specific steps that remove barriers to voting by students, including establishing an on-campus polling location. Some states have sought to limit this; however, in July 2018, a federal judge ruled that a Florida ban on early voting on college campuses violated the U.S. Constitution by discriminating against voters on the basis of age.

Of the 46 early voting locations used by Harris County in the 2018 general election, 5 appear to be located on campuses of higher education institutions – 4 on community college campuses (Houston Community College – Southeast College; Lone Star College – Victory Center; Lone Star College – Cypress Center; Lone Star College – Creekside Center), and one at the Northwest Houston extension of the Prairie View A&M University campus. In the 2016 general election, 6 of the 46 early voting locations were on college campuses (the five listed above, plus Lone Star College – Atascocita Center).

Of the eight largest public universities in Texas, each with projected enrollment in 2018 of over 30,000, only the University of Houston (the 3<sup>rd</sup> largest) did not offer an on-campus early voting location during the 2018 midterm elections. Harris County has previously cited parking limitations as a major obstacle to early voting at the University of Houston.

## References:

- 1) Abbott, G. 4 Feb 2004. Attorney General of Texas. Retrieved from <https://www2.texasattorneygeneral.gov/opinions/opinions/50abbott/op/2004/pdf/ga0141.pdf>
- 2) Student Voting Guide | Texas. 22 Oct 2014. Brennan Center for Justice. Retrieved from <https://www.brennancenter.org/analysis/student-voting-guide-texas>

- 3) Zdun, M. 16 Oct 2018. "Prairie View A&M University's voter registration issues are resolved, but voting barriers remain." Texas Tribune. Retrieved from <https://www.texastribune.org/2018/10/16/Prairie-View-voter-registration/>
- 4) Thomas, N., et al. 2018. "Election Imperatives: Ten Recommendations to Increase College Student Voting and Improve Political Learning and Engagement in Democracy." Institute for Democracy and Higher Education, Tufts University Jonathan M. Tisch College of Civic Life. Retrieved from <https://idhe.tufts.edu/sites/default/files/ElectionImperatives.pdf>
- 5) Bousquet, S. 24 July 2018. "Federal judge calls Florida ban on early voting at college campuses 'discrimination.'" Miami Herald. Retrieved from <https://www.miamiherald.com/latest-news/article215441725.html>
- 6) "Enrollment Forecast 2017-2030." Jan 2017. Texas Higher Education Coordinating Board. Retrieved from <http://www.thecb.state.tx.us/reports/PDF/9111.PDF?CFID=93202373&CFTOKEN=28971153>
- 7) Grant, C. 25 Oct. 2012. "Buses shuttle students to early voting polls." The Cougar. Retrieved from <http://thedailycougar.com/2012/10/25/buses-shuttle-students-to-early-voting-polls/>

# APPENDICES

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## APPENDIX A: COMMUNITY CONVERSATIONS

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## Methods

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One-on-one exploratory conversations were conducted with 19 community leaders across the City of Houston/Harris County. These individuals were selected from Houston In Action member organizations, local civic club and super-neighborhood leaders, as well as leaders of local community-based organizations. Each community leader was sent an email requesting to schedule a conversation and explaining the purpose of the conversation. Respondents then replied to the email if they were interested, and conversations were subsequently scheduled.

The exploratory conversations were conducted from June 2018 to September 2018, and both telephone and in-person approaches were utilized to engage with respondents representing a diverse cross-section of community leaders actively involved with civic engagement efforts. Conversations examined leaders' perceptions of civic life, such as voting activity, community engagement, and Hurricane Harvey-related concerns, as well as barriers they perceived in these areas.

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### Key Barriers Identified During Exploratory Conversations

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1. Voter registration requirements and laws
2. Voter identification laws
3. Illness
4. Work and family responsibilities
5. Changes in polling locations, polling times closing too early in the evening, being unsure of the correct voting location
6. Transportation
7. Ineligibility, specifically in terms of immigration status, criminal record
8. Language challenges: education and media coverage around elections all done in English; rarely in other languages
9. Cultural differences regarding participating in the election process
10. Apathy: Political goals keep changing; feeling of not really belonging in the process
11. Lack of knowledge; lack of voter confidence
12. Intimidation
13. Cybersecurity: Potential for hacking of election results

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## Exploratory Conversations: Highlights

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### **Voting**

- Leaders perceived that most members of the community that they live or work in did not vote in recent presidential or local elections.
- Most felt that votes from members of the community are useful or helpful.
- Issues that make voting difficult for members of the community include the following:
  - Election process
  - Transportation
  - Confusing registration
  - Illness
  - Lack of proper identification
- The majority of community leaders have tried to persuade a friend about campaign related issues.

### **Government Involvement**

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- Less than half of the leaders felt that others in their community have tried to change local politics.
- Participants felt that about 40% of community members have ever contacted an elected official or attended a government meeting.

### **Volunteering/Community Engagement**

- Participants provided additional thoughts about strengthening volunteering:
  - Enhance communication and volunteering
  - People working for the general good instead of personal motives
  - Making sure to include bilingual/multi-lingual volunteers
- 80% of leaders felt that community member involvement with their community or organizations is useful/helpful.
- The following were suggestions of what could be done differently to improve the value of community member involvement:
  - Educational awareness
  - Communication strategies: social media/contact people

- Transportation
- New leaders

### **Impact of Hurricane Harvey**

- Hurricane Harvey impacted residents in the leaders' communities. Some communities did not experience home flooding, but many did.
- Those surveyed felt that a majority of the members in their community or constituency tried to contact elected officials or attend government meetings about Hurricane Harvey.
- A majority of respondents felt that there was no effect on voting in recent elections due to Hurricane Harvey.

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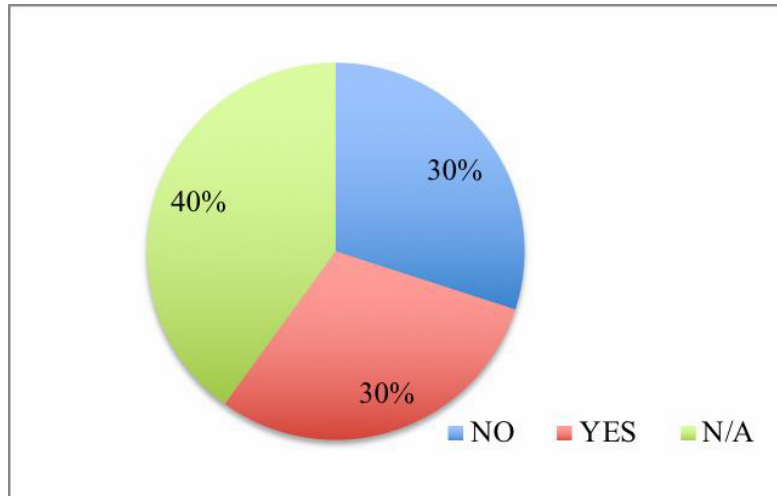
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## Key Findings

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### Voting

1. Did most of the members of the community/constituency you work with vote in the recent presidential or local elections? (n=15)

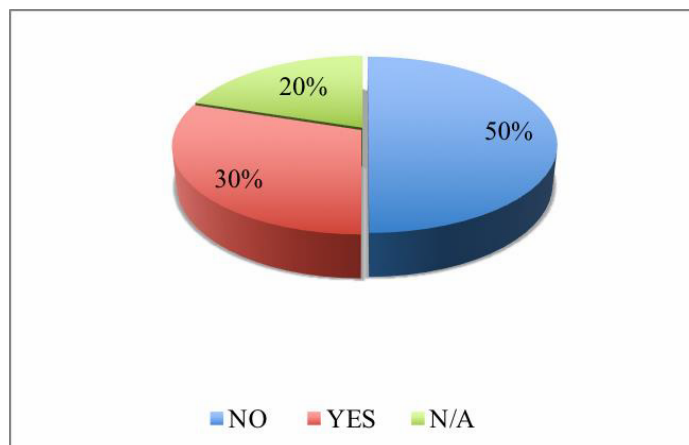


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#### ***Why or why not?***

Common themes centered around a lack of awareness, education, and disenfranchisement.

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2. Do you feel that the votes of members of your community/constituency are useful or helpful? (n=15)



#### ***Why or why not?***

- People don't vote because they don't feel like their community votes are useful.
- People felt like the reason for voting needs to be explained better so people can actually go out and vote.
- Respondents believed that the potential for change influences voting.

3. What makes it difficult to vote for members of your community/constituency? (n=15)

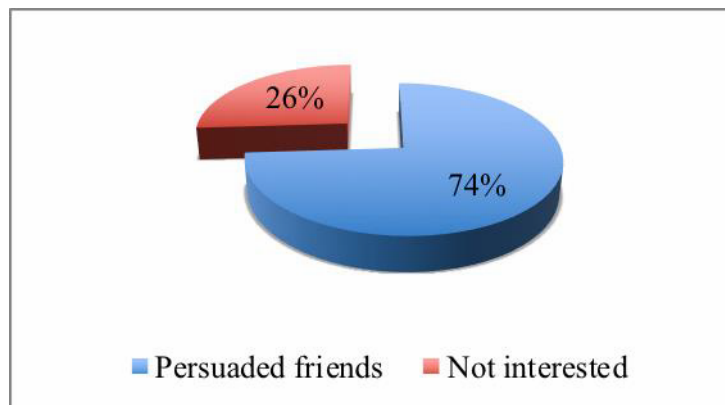
- Confusing polling areas (20%)
- Transportation (20%)
- Misinformation or lack of information about election process (40%)
- Sickness/Illness (10%)
- Difficulty in obtaining identification (10%)

## **Volunteerism/Community Engagement**

4. For community members that you feel have contacted an elected official or attended a government meeting (e.g., city, county, school board, state), what do you think led them to do so? For those who have not, do you have a sense of why they haven't done any of the listed things (n=15)

- If the volunteering directly impacts them, they will volunteer.
- On the other side, many feel as if volunteering does not help.

5. What percentage of community members tried to persuade friends about an issue that was discussed during a campaign? If so, what led them to do so? (n=15)

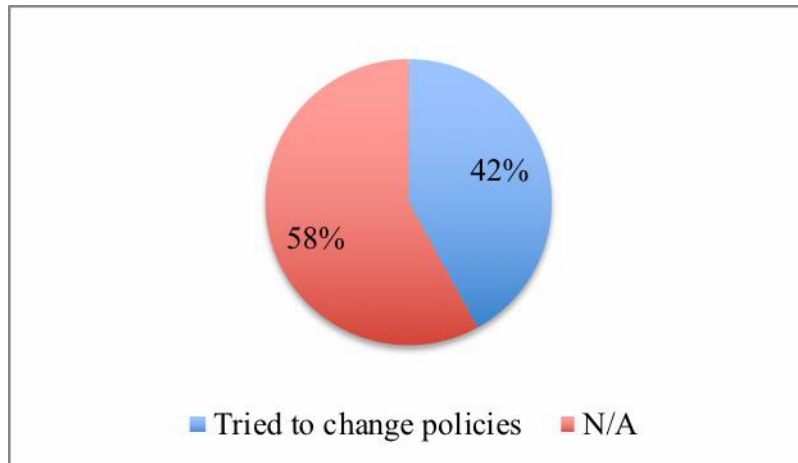


*For those who have not, do you have a sense of why they haven't done any of the listed*

*things?*

- Lack of familiarity or personal connection
- Political corruption
- Poor current community/ neighborhood conditions

6. What percentage of community members have tried to change local policies in a place like a school, workplace, or your neighborhood/community? (n=15)

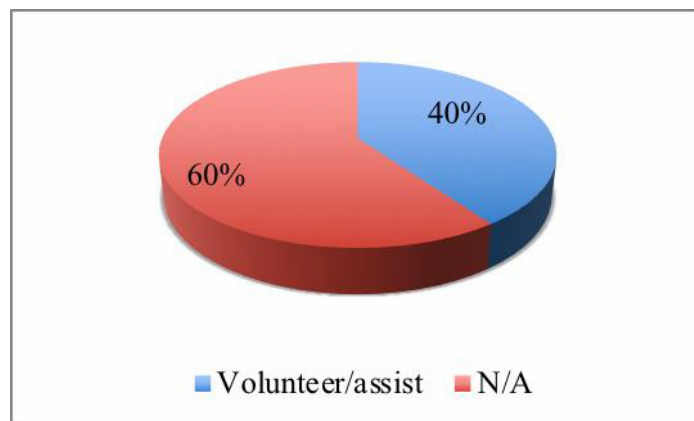


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*If so, what led them to do so? For those who have not, do you have a sense of why they haven't done any of the listed things?*

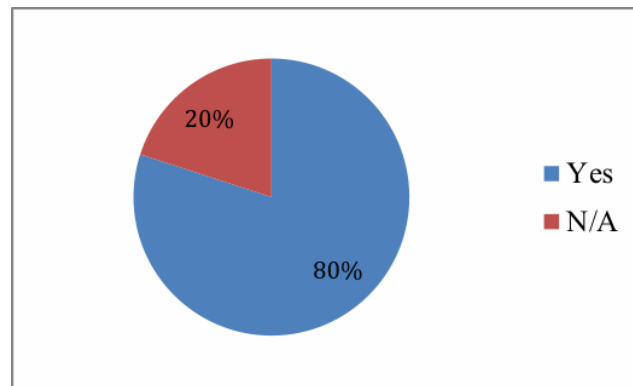
- Leaders felt that over 40% of their community members tried to change local policies.
- Most of the community members tried to change policy if it was pertaining to their community or job.

7. What percentage of community members do you think worked with others or volunteered in the community to solve a problem in the last couple of years? (n=15)



***If so, what led community members to do so?***

- Leaders felt that volunteers like to help to feel better or to support causes of interest.
8. Is community member involvement in your community or with organizations useful or helpful? (n=15)

***Community Leader Responses:***

*“Absolutely. We need to have trusted representatives in government. For example, diversity in government hiring more Asian Americans and appointing them to government agencies, more disability for people to feel comfortable.”*

*“I absolutely do. Our community has showed that being engaged and educated on local issues can allow you to make changes. It is critical to be involved in local community because if you don’t show up, elected officials won’t know you care.”*

9. What could be done differently to make your community members’ involvement more valuable? What would help community members to be more involved? (n=15)

***Prompt responses:***

- Education/awareness (40%)
- Social media/contact (20%)
- Transportation (10%)
- New leaders (10%)
- New start (10%)

10. Would you like to share any additional thoughts or comments about volunteering in your community? (n=15)

***Prompt responses:***

- “Put away personal feelings and do things for the greater good.”
- “Difficult to work on policy when there are so many changes happening especially on the immigration front.”
- “There has to be more volunteer time, a lot of people don’t like volunteering for free. For example, walking from door to door and asking people to vote.”

**Harvey Related Questions**

	<b>Percent Saying Yes</b>
Were people in your community/constituency impacted by Harvey?	79%
Did your community experience flooding?	64%
What percentage of the community members that experienced flooding had to live somewhere other than their homes after flooding?	73%
Have members of your community tried to contact elected officials or attend a city/government meeting because of Hurricane Harvey?	64%
Did your community members experience any problems related to voting in recent elections following Harvey?	27%
Did your organization provide services or assistance to community members?	82%

N=15