

# Election Statute Navigator: Idaho

The Election Law Program prepared this Election Law Navigator to highlight state election statutes particularly relevant to the 2020 cycle. The Election Law Navigator is updated as of March 1, 2021. Please contact [elect@wm.edu](mailto:elect@wm.edu) with questions or suggestions. To access COVID-specific legal information impacting this state's election process, please use this link:

<https://ebenchmarkbook.org/idaho/covid/#tracker>.

## Voter Registration

- Voter permitted to register up to and including Election Day (aka Same Day Registration) – [§ 34-408A](#)
- Voters (other than above) register prior to Election Day – [§ 34-408\(1\)](#)
  - Deadlines: No elector may register in the office of the county clerk within twenty-four (24) days preceding any election held throughout the county in which he resides for the purpose of voting at such election.
- Online registration available – [§ 34-409](#)
- Registration via mail available – [§ 34-410](#)
- In-Person registration available – [§ 34-408A](#)
  - Locations: An individual who is eligible to vote may register on election day by appearing in person at the polling place for the precinct in which the individual maintains residence.
- Preregistration allowed – [§ 34-402](#); [§ 34-408\(2\)](#)
  - Every male or female citizen of the United States, eighteen (18) years old, who has resided in this state and in the county for thirty (30) days where he or she offers to vote prior to the day of election, if registered within the time period provided by law, is a qualified elector.
  - Any elector who will complete his residence requirement or attain the requisite voting age during the period when the register of electors is closed may register prior to the closing of the register.
- Residency requirement – [§ 34-413](#)
  - An elector who moves to another county within the state or to another state within thirty (30) days prior to any election shall be permitted to vote in the ensuing election by absentee ballot or at the polling place assigned to the elector's prior address.
- Prior conviction eligibility – See state code for specifics: NOTE: not in election code
- Idaho is exempt from [the National Voter Registration Act of 1993 \(NVRA\)](#)'s provisional ballot requirements.
- Other:
  - Any county clerk or official registrar shall register without charge any elector who personally appears in the office of the county clerk or before the official registrar, as the case may be, and requests to be registered – [§ 34-407](#)

## State Absentee, Early, and Mail Voting

- Early voting allowed – [§ 34-1012](#)
  - Early voting shall begin on or before the third Monday before the election and end at 5:00 p.m. on the Friday before the election.
- In-Person early voting only – [§ 34-1006](#)
- No-excuse absentee voting – [§ 34-1001](#)
- Online absentee ballot application available – [§ 34-1002\(7\)](#)
- Absentee ballot application is verified – [§ 34-1003](#)
- Absentee ballot verification details – [§ 34-1005](#)
  - Upon receipt of an absent elector’s ballot the county clerk of the county wherein such elector resides shall verify the authenticity of the affidavit
- Deadline by which election official must receive absentee/mailed ballots – [§ 34-1005](#)
  - 8:00 p.m. on the day of election
- Absentee/Mail ballot processing and counting procedures – [§ 34-1005](#); [§ 34-1008](#)
- Spoiling/Replacement/Correction ballot restrictions – [§ 34-1109](#)
- Other:
  - The clerk shall issue a ballot, by mail, to every registered voter in a mail ballot precinct and shall affix postage to the return envelope sufficient to return the ballot – [§ 34-308\(2\)](#)

## In-Person Voter ID

- Photo ID requirements – [§ 34-1113](#)
- Options for voters without ID – [§ 34-1114](#)
  - If a voter is not able to present personal identification, the voter may complete an affidavit in lieu of the personal identification. The affidavit shall be on a form prescribed by the secretary of state and shall require the voter to provide the voter’s name and address. The voter shall sign the affidavit.

## Provisional Voting

- Idaho is exempt from [HAVA](#)’s provisional ballot requirements.

## Polling Place

- Electioneering or campaigning must not be closer than 100 feet to the entrance of the polling place NOTE: not in election code
- Rules governing poll observers – [§ 34-304](#)
- Poll watcher qualifications – [§ 34-304](#)
  - Persons who are authorized to serve as challengers or watchers shall wear a visible name tag which includes their respective titles. A watcher is entitled to observe any activity conducted at the location at which the watcher is serving, provided however,

that the watcher does not interfere with the orderly conduct of the election. If the watchers are present at the polling place when ballots are counted they shall not absent themselves until the polls are closed. A watcher serving at a central counting station may be present at any time the station is open for the purpose of processing or preparing to process election results and until the election officers complete their duties at the station. If the county clerk does not receive the list of names of those desired to be present for the purpose of either poll watching or challenging within the time prescribed above, the clerk shall not allow the presence of such persons later seeking to serve in those capacities.

- Police presence
  - Electors are privileged from arrest, except for treason, a felony or breach of the peace, during their attendance at a polling place – [§ 34-401](#)

## State Emergency Rules and How Elections are Affected

- The governing board of a political subdivision has authority to set rules and procedures (after declaring “election emergency”) – [§ 34-106\(1\)\(c\)](#)
- Listed triggers for Emergency Rules – [§ 34-106\(1\)\(c\)](#)
  - An emergency exists when there is a great public calamity, such as an extraordinary fire, flood, storm, epidemic, or other disaster, or if it is necessary to do emergency work to prepare for a national or local defense, or it is necessary to do emergency work to safeguard life, health or property.
- Explicit remedies in election statute – [§ 34-106\(1\)\(c\)](#)

## Counting Rules

- Voting system requirements – [§ 34-2409\(5\)](#)
- Counting procedures – [§ 34-1201](#)

## Contest/Protest, Recount Rules

- Challenging a voter – [§ 34-1111](#)
- Contest/Protest recount – [§ 34-2301](#)
  - Any candidate for federal, state, county or municipal office desiring a recount of the ballots cast in any nominating or general election or person supporting or opposing a state, county or city measure, may apply to the attorney general therefor, within twenty (20) days of the canvass of such election, by the state board of canvassers if for federal and state office, or within twenty (20) days of the canvass of such election by the county commissioners if for a county or municipal office.
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