



Brigham Young University–Hawaii  
Office of Compliance & Ethics Research Memo  
Higher Education Act: Voter Registration

Law/Act:	Higher Education Act: Voter Registration	
U.S. Code Citation:	<a href="#">20 U.S.C. § 1094</a>	
Hawaii State Regulations Citation:	<a href="#">HAW. REV. STAT. ANN. §§ 11-16 to -24</a>	
Responsible Regulator:	U.S. Department of Education	
BYU–Hawaii Responsible Officer:	Student Life Vice President	
	Updated: Aug. 2022	Updated By: MP
	Version 3.0	Effective Date: 1998

## PURPOSE & HISTORY

Originally passed in 1965,<sup>1</sup> the Higher Education Act (HEA) establishes requirements that institutions of higher education must follow in order to receive funding from the federal government.<sup>2</sup> The law has been reauthorized several times, with significant amendments being made in 1998.<sup>3</sup> The Higher Education Amendments of 1998 introduced the requirement to distribute voter registration information to students before certain federal and state elections.<sup>4</sup> In 2008, most HEA provisions were renewed as the Higher Education Opportunity Act.<sup>5</sup>

## APPLICABILITY TO BYU–HAWAII

The HEA voter registration requirement applies to institutions of higher education that participate in federal student aid programs, and it applies only to institutions located in states that since August 1, 1994 have required voter registration and have not allowed voter registration at the polling place at the time of voting in a general election for federal office.<sup>6</sup>

Like other Church Educational System schools, BYU–Hawaii qualifies as an institution of higher education under the law because it is nationally accredited, a nonprofit institution,<sup>7</sup> only admits individual who have completed high school or the equivalent,<sup>8</sup> is authorized by the state of Hawaii as a postsecondary institution,<sup>9</sup> and offers educational programs that result in a bachelor's degree.<sup>10</sup> The university also accepts federal funding in the form student financial aid.<sup>11</sup>

In Hawaii, voter registration closes 30 days prior to an election.<sup>12</sup> On January 1, 2018, Hawaii began offering late registration on election day for those who failed to register during the standard voter registration period.<sup>13</sup> However, because Hawaii's provision allowing for registration on election day has not been continuously in effect since August 1, 1994, the requirement to distribute voter registration information to students continues to apply to BYU-Hawaii.

## REQUIREMENTS

The HEA requires institutions of higher education to make a good-faith effort to distribute voter registration forms either physically or electronically to all students who are enrolled in a degree program

<sup>1</sup> Higher Education Act of 1965, Pub. L. No. 89-329, 79 Stat. 1219.

<sup>2</sup> 20 U.S.C. § 1094(a) (2020). In order to receive federal funds, higher education institutions must sign a program participation agreement that makes compliance with certain requirements a condition of eligibility. *Id.*

<sup>3</sup> 1998 Amendments to the Higher Education Act of 1965, Pub. L. No. 105-244, 112 Stat. 1582.

<sup>4</sup> *Id.* § 1094(a)(23).

<sup>5</sup> Higher Education Opportunity Act of 2008, Pub. L. No. 110-315, 122 Stat. 3078.

<sup>6</sup> 20 U.S.C. § 1094(a)(23)(A); 52 U.S.C. § 20503(b)(1)-(2).

<sup>7</sup> 20 U.S.C. § 1001(a)(4)–(5).

<sup>8</sup> *Id.* § 1001(a)(1).

<sup>9</sup> *Id.* § 1001(a)(2).

<sup>10</sup> *Id.* § 1001(a)(3).

<sup>11</sup> *Financial Aid & Scholarship*, <https://financialaid.byuh.edu/> (last accessed May 5, 2020).

<sup>12</sup> HAW. REV. STAT. ANN. § 11-24(a) (2020).

<sup>13</sup> *Id.* § 11-15.2.



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and are physically in attendance at the university and to make forms widely available to its students.<sup>14</sup>

The university must distribute voter registration forms for all general and special elections for federal office and all elections for state governor.<sup>15</sup>

If voter registration forms are distributed physically, the university must request registration forms from the state 120 days before the deadline for voter registration.<sup>16</sup> If the university has not received enough forms within sixty days of the registration deadline, it cannot be held liable for failure to comply with the voter registration requirements for that election year.<sup>17</sup>

The university is compliant with the distribution requirements if it sends an electronic message to all students containing either an acceptable state voter registration form or an Internet address where a registration form can be downloaded.<sup>18</sup> The message must contain information solely on the subject of voter registration.<sup>19</sup>

### COMPLIANCE CALENDAR

If a university decides to physically distribute voter registration forms, it must request forms from the state 120 days before the deadline for voter registration.<sup>20</sup>

### STAYING UP-TO-DATE

The following websites provide valuable information regarding this law and its applicability.

DOCUMENT/REFERENCE	DESCRIPTION
<a href="https://www.vote.org">VOTE.org</a>	A website where anyone can register to vote for his or her state.
<a href="https://www.hawaii.gov/elections/voter-registration/">Hawaii Voter Registration Website</a>	Hawaii's voter registration website that provides information for its constituents.

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<sup>14</sup> 20 U.S.C. § 1094(a)(23)(A), (D) (2020).

<sup>15</sup> *Id.* § 1094(a)(23)(C).

<sup>16</sup> *Id.* § 1094(a)(23)(B).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* § 1094(a)(23)(D).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* § 1094(a)(23)(B).