

**Meeting Minutes**  
**United States Election Assistance Commission**  
**BOARD OF ADVISORS MEETING**  
**JUNE 16, 2020**  
Virtual via Zoom

The following are the Minutes of the United States Election Assistance Commission (“EAC”) Board of Advisors held June, 16 2020 via Zoom and YouTube. The meeting convened at 1:33 p.m. and adjourned at 3:20 p.m.

**EAC Chairman Introduction**

EAC Chairman Ben Hovland welcomes all and introduces the Voluntary Voting Systems Guidelines process. Chairman Hovland addresses that the pandemic changed the Board of Advisors meeting from in person in mid-April to the current, online format. Additionally he notes that the EAC Commissioners unanimously voted on June 3rd to have Mona Harrington serve a four-year term as Executive Director and Kevin Rayburn to serve a four-year term as General Counsel.

Commissioner Thomas Hicks, as Board of Advisors Designated Federal Officer, notes the difficulty of the pandemic and the legal process in order to make this meeting happen. He thanks everyone in the VVSG process and introduces Board Chairman Michael Yaki.

**Call to Order**

Board Chairman Michael Yaki thanks the EAC commissioners and notes the difficulty of the process under the pandemic. He thanks the Board Members.

**Roll Call**

Secretary Alysoun McLaughlin called roll for the Board of Advisors and finds 26 present and declares a quorum.

**Introductory Business:**

Chairman Yaki reminds the Board Members of the bylaws and the election of executive officers.

**Adoption of the Agenda.** Vice Chair Daniel Ivey-Soto moves to adopt the Agenda. Ricky Hatch seconds the motion. There are no objections and the agenda is approved.

**Meeting Minutes.** Vice Chair Daniel Ivey-Soto moves to adopt the prior meeting minutes. It is delayed until the end of the current meeting for further review.

**Review of FACA Board Membership Guidelines and Policies.** EAC Associate Counsel Amanda Joiner presents a brief presentation on what it means to be a member of

a FACA board and especially what it means to be a member of the Board of Advisors for the EAC. This is primarily governed by the Federal Advisory Committee Act (FACA) and the Help America Vote Act (HAVA), which establishes the Board of Advisors. There are no questions.

**Introduction from EAC Executive Director Mona Harrington.** Executive Director Harrington provides an update highlighting EAC activities. The EAC is working to support states and the voters they serve during COVID-19. This includes tracking new developments and preparing to marshal Federal assistance where necessary. On December 20, 2019, the President signed the Consolidated Appropriations Act of 2020 into law, which included \$425 million in new HAVA funds made available to the States to improve the administration of elections for Federal office, including to enhance technology and make election security improvements. The EAC has awarded all the fiscal year 2020 HAVA grants to all the States and territories with the exception of three that have not made their request yet. On March 27, 2020, the President signed the Coronavirus Aid Relief and Economic Security Act into law, which included \$400 million in new HAVA emergency funds made available to States to prevent, prepare for, and respond to the coronavirus for the 2020 Federal election cycle. The EAC awarded all 56 CARES Act grants as of April 6. Much of these expenditures will be used for increased mail voting and accessible in-person voting. Executive Director Harrington also makes a note of EAC hiring and highlights the cybersecurity staff. She also highlights EAC work on VVSG and election security, including numerous hearings. In terms of COVID-response, the EAC established a dedicated COVID-19 webpage in mid-March and assisted with establishing a working group at the beginning of the outbreak in coordination with the Elections Infrastructure Government Coordinating Council and Sector Coordinating Council. Finally, the kickoff for 2020 EAVS took place on May 15<sup>th</sup>.

Chairman Yaki asks Executive Director Harrington what guidelines applied when a state applied for COVID-19 funding. Executive Director Harrington responds that the CARES Act legislation language guided the EAC, which primarily was that the funds had to be used on Coronavirus or the 2020 Election. Chairman Yaki asks if there is more specific guidance and Executive Director Harrington reiterates that it is the language of the statute.

Larry Norden asks Executive Director Harrington if there are upcoming report deadlines for the States on how the funds are being used. Executive Director Harrington responds that States have 20 days after the primary to report and the specific details on 2020 funds could be provided at a later date.

**Panel Introduction.** Chairman Yaki notes that there is no formal presentation in the meeting, but the Board of Advisors will be able to ask EAC and NIST staff questions on VVSG 2.0. Staff members include Jerome Lovato, the Director of Testing and Certification at the EAC. NIST, the National Institute of Standards and Testing, staff members include Mary Brady, Voting Program Manager; Andy Regenscheid, the Technical Lead for NIST Voting Security; Jeff Marron, Technical Lead for NIST Voting

Security; Sharon Laskowski, the Technical Lead for NIST Human Factors; John Wack, the NIST Voting Team; Ben Long and Patricia Wilburg, also from the NIST Voting Team.

## Questions and Answers

Philip Stark ask if there is any Federal law or regulation that requires all voters to use the same method to mark ballots, and in particular, whether the Principle 5.1 of the draft VVSG 2.0 is intended to apply that, and if not, what is meant by the term "consistent experience". Sharon Laskowski from NIST explains consistent experience means if they're using audio, for example, as their interaction mode, the visual -- as -- the nonvisual interaction mode, that is consistent throughout that method of voting that they're using. If you're using a visual interaction mode throughout your interaction with the system, you have the visual interaction mode. After a follow up clarification question from Mr. Stark, Ms. Laskowski explains that "consistent experience" means that the entire voting transaction should be able to occur in one interaction mode. Ms. Joiner, Associate Counsel, then explains that there is no one Federal law that requires the same method to mark ballots.

Vice Chair Ivey-Soto ask what the current version of VVSG 2.0 is. Commissioner Hicks responds that the February 29<sup>th</sup>, 2020 version is the most current. Ms. Brady adds that the current conversation is around the TGDC recommended VVSG 2.0 requirements, which is available on the website.

Sachin Pavithran adds that he believes there is still more work to be done in light of COVID-19. He believes access for people with disabilities is still an issue. Ms. Brady agrees that remote ballot marking was not within the scope of VVSG 2.0 and that would be included in next steps.

**Chairman Yaki interjects to note for the record that Senator Kathleen Bernier, Dean Logan, Sarah Ball Johnson, Linda Niendick have all joined for the purpose of attendance.**

Marc Guthrie thanks Ms. Brady for being vocal on behalf of voters with disabilities and notes that it is important to not lose sight of that going forward.

Don Gray asks how the new guidelines rectify or work alongside existing state law and the uniqueness of those state laws. Ms. Brady explains the VVSG process and the use of a public set of working groups that included state officials. She also notes that the HAVA process dictates that first the requirements come from the TGDC and then go through a review process with the board. Mr. Gray adds that he thinks it is important to include State Officials and to make sure that a review of State by State statutes is an important part of the process.

Jim Dickson notes that he thinks not including mail-in voting was a major blunder that will impact voters with disabilities. He also adds that, as a member of a new coalition of disability rights organizations, he is not happy with the five-page VVSG statement.

Barbara Simons finds the new VVSG impressive. She is happy that the State audit working group has already commented on the glossary. She notes, however, that the VVSG should not use trademarked phrases and also shares concerns on recallable ballots. Finally, she urges the EAC to sunset the older versions of the VVSG. Ms. Brady responds that there was a lot of conversation around recallable ballots and provisional ballots. Ms. Brady goes on to say that the TGDC was waiting on additional feedback, particularly from election officials. Finally, Ms. Brady mentions that they will go back through for trademark terms.

Keith Ingram asks when the test assertions will be available and if the test assertions will have a similarly long process. Mr. Ingram also asks if there will be a secondary process for smaller modifications and clean ups. Ms. Brady responds that there is a provisional process in place for VVSG approval and annual updates. Chairman Hovland adds that the next step is the requirements in order to design test assertions. He adds that the public comment period ran parallel with the Board Review, which ends on the 22<sup>nd</sup>.

Dean Logan ask if the staff could address issues raised in Secretary Condo's emails asking which documents the Commissioners intend to act on. Mr. Logan asks about the history behind making the guidelines document the actionable document. Chairman Hovland notes that Secretary Condo had some concerns on transparency, but much of the process had to be shortened or delayed due to COVID. Chairman Hovland also adds that there has been time available for public comment. In terms of documents, Chairman Hovland notes that based on a legal review legal review from last year, even if the principles and guidelines are a separate document than the requirements, that does not excuse the requirements from the HAVA-mandated process, which is the board review starting with the TGDC, then going to the Board of Advisors and Standards Board. The vote on documents has not been determined, but finishing the requirements is the current priority. He also highlights the TGDC resolutions that will help facilitate the process in the future and cites something like a clean-up bill as a possibility.

Secretary McLaughlin comments that HAVA directs the Board to meet annually and there will be more in certain years than in others. Chairman Hovland adds that if the EAC and VVSG adapts to technology on a more regular basis, then it will be easier to get into more specific areas in greater detail.

Neal Kelley comments on the TGDC process and the concern of a lack of quorum amongst EAC Commissioners. He brings up a submitted potential provisional process, which would have to include: stated public review process was followed, the review process was made in good faith, and there were efforts to avoid any conflicts within those changes, the provisional VVSG is in alignment with the public interest and is suitable for public use and the provisional VVSG does not contain unfair provisions.

Vice Chair Ivey-Soto goes back to the issue of recallable ballots. He cites page 285 and the definition of cast vote record. For this definition he recommends that "single voter" be changed to "single ballot". He then cites the definition of recallable ballot on page 317

and recommends that it be changed. Vice chair Ivey-Soto asks to take a motion to recommend to the EAC that these changes be made. Chairman Yaki reminds that there will be no vote today and it is an informational session.

Jim Dickson asks Commissioner Hovland about the annual review on VVSG and what it will like in terms of the EAC annual calendar. Commissioner Hovland adds that the Commission has not adopted anything, but his understanding is that the TDGC would begin that process. Chairman Hovland also notes that conversations about scope are important, but right now the important thing is initially raising the bar.

### **Meeting Minutes**

Chairman Yaki asks for a motion to approve the minutes from the last meeting following two changes to misspelled names. Secretary McLaughlin moves to approve the minutes and Mr. Dickson seconds the motion. There are no objections and the minutes are adopted.

### **Conclusions**

Chairman Yaki thanks all and reminds the Board of the importance of their roles. Commissioner Hicks adds that all EAC Commissioners attended this meeting so they will take note of the Board's comments and questions. He reminds them that nominations are due in approximately a month.

### **Adjournment**

Chairman Yaki moves to adjourn the meeting and Mr. Dickson seconds the motion. There are no objections and the meeting is adjourned.

**The June 16, 2020 virtual meeting of the United States Election Assistance Commission Board of Advisors adjourned at 3:20 p.m.**