

Election Assistance Commission Organizational Management Policy Statement

Purpose: The purpose of this statement is to define the Election Assistance Commission (“EAC” or “Commission”) organizational management policy with regard to leadership definition and statutory duties, policymaking and day-to-day operations, an order of succession in case of vacancy, and a procedure for ongoing operation of the Commission’s Boards and Technical Committee.

Effect on Other Documents: This document supersedes the Roles and Responsibilities Statement dated September 15, 2008; the EAC Order of Leadership Succession Memorandum dated January 3, 2012; the EAC FACA Board Activity Suspension Memorandum of January 12, 2012, and replaces any existing EAC policy or document that is inconsistent with its provisions.

Effective Date: February 24, 2015

Summary: Part I defines the Commission and its duties; Part II provides for the division of duties with regard to policy making and day-to-day operations; Part III establishes an order of succession in case of vacancy/ies in leadership and/or executive management; Part IV provides a procedure for ongoing operation of the Commission’s Standards Board, Board of Advisors and Technical Guidelines Development Committee.

I. The Election Assistance Commission

The U.S. Election Assistance Commission was established as an independent entity by the Help America Vote Act of 2002 (“HAVA”) 42 U.S.C. § 15321. The Commission consists of four members appointed by the President, by, and with the advice and consent of the U.S. Senate. 42 U.S.C. §15323.

The duties of the Commission are to serve as a national clearinghouse and resource for compiling information on and reviewing procedures with respect to the administration of Federal elections. 42 U.S.C. §15322. The Commission has no regulatory or rulemaking authority, nor is it authorized to impose any action or requirement on any State or unit of local government, except to the extent permitted under the National Voter Registration Act of 1993 (for the purpose of developing the mail voter registration application form for elections for Federal office). 42 U.S.C. §1973gg-7(a).

Any action of the Commission authorized by HAVA requires approval of at least three of its members. 42 U.S.C. §15328. As an agency defined by the Government in the Sunshine Act, 5 U.S.C. §522(b), deliberations resulting in official agency business must be properly noticed and conducted in public (with specific exceptions). 5 U.S.C. §522(b)(a)(2), (c)(1)-(10).

HAVA provides the Commission with a staff, including an Executive Director, General Counsel and other staff. 42 U.S.C. §15324. The Executive Director is appointed by the Commissioners, following the procedures established by HAVA, including taking into

consideration the recommendations of candidates nominated by the Standards Board and by the Board of Advisors (each established by HAVA, 42 U.S.C. §15341). 42 U.S.C. §15324. The General Counsel is appointed by the Commission and serves under the Executive Director. Id. Other Staff may be appointed by the Executive Director as he or she considers appropriate subject to rules prescribed by the Commission. Id.

II. Division of authority regarding policymaking and day-to-day operations

1. **The Commissioners shall make and take action in areas of policy.** Policymaking is a determination setting an overall agency mission, goals and objectives, or otherwise setting rules, guidance or guidelines. Policymakers set organizational purpose and structure, or the ends the agency seeks to achieve. The EAC makes policy through the formal voting process.

2. **The Executive Director in consultation with the Commissioners is expected to:** (1) prepare policy recommendations for commissioner approval, (2) implement policies once made, and (3) take responsibility for administrative matters. The Executive Director may carry out these responsibilities by delegating matters to staff.

III. Order of succession upon vacancy of all the Commissioners and the Executive Director

Pursuant to National Security Presidential Directive-51/Homeland Security Presidential Directive-20 (May 2007), and Department of Homeland Security Federal Continuity Directive (FCD) 1 (February 2008), an agency “is responsible for establishing, promulgating, and maintaining orders of succession to key positions As a minimum, orders of succession must do the following: 1. Establish an order of succession for the position of agency head. There should be a designated official available to serve as acting head of the agency until that official is appointed by the President or other appropriate authority, replaced by the permanently appointed official, or otherwise relieved.” (FCD 1 p. E-1)

Under the present organizational structure, upon a vacancy of all Commissioners and the Executive Director, the head of the agency shall assume the responsibilities of the Executive Director and the order of succession shall be as follows:

1. General Counsel
2. Chief Operating Officer
3. Chief Financial Officer
4. Communications & Clearinghouse Director
5. Voting Systems Certifications Director
6. Election Administration Research & Programs Director
7. Grants Administrator

Should any position in the order of succession be held by an individual in an “acting” capacity, that position is passed over in favor of the next in line. Once

position has been designated head of the agency in the order of succession, the succession does not revert back up the line when a vacant position (or position previously held by an individual in an acting capacity is replaced by a permanent employee in that position) is filled. Filling vacant positions passed over in the line of succession will only retroactively alter the exercise of the acting Executive Director responsibilities if done so by a majority vote of a quorum of Commissioners in the absence of a full time Executive Director.

IV. Procedure for ongoing operation of the Commission's Boards and Technical Committee

HAVA created two advisory boards and a committee ("boards") that serve to help inform and comment on various aspects of the EAC's policy development. 42 U.S.C. §§15341-15362. These boards were created because Congress recognized the importance of the Commission receiving feedback from the various stakeholder groups represented on the boards throughout the policy development and implementation processes.

The three boards are as follows:

1. Standards Board
2. Board of Advisors
3. Technical Guidelines Development Committee

Should the EAC again find itself in a position where a Commissioner departs the agency or all Commissioner positions become vacant, it is imperative that the boards remain constituted and functional. The following procedure shall be used to ensure the continued operation of the boards:

- The Chair of the Commission shall assign Commissioners to serve as Designated Federal Officers ("designee") to each of the boards.
- Prior to the departure of the Commissioner assigned as the EAC designee to a specific board, that Commissioner may designate another Commissioner to be the EAC required designee to the board. If there are no Commissioners remaining, then the departing Commissioner may designate the Executive Director or an appropriate staff member to serve as the official EAC designee to the board.
- Should a departing Commissioner assigned to a board fail to assign a replacement EAC designee to the board then the duties shall be assigned by the Chair to a remaining Commissioner. If all four Commissioner positions become vacant, and a designee has not been assigned to a board or boards, then the Executive Director may assign an appropriate designee to be the official EAC designee to a board or boards.

- If after a period when all Commissioner positions are vacant, the President appoints one or more Commissioners to fill a vacancy or vacancies on the Commission, the new Chair of the Commission may replace the Executive Director or staff member designee to a board with a Commissioner as the official designee.
- Membership of the Boards and Committee should continue within the parameters as defined by HAVA, 42 U.S.C. §15323 & 42 U.S.C. §15343.

Biannually, the Executive Director shall work with the Office of Personnel Management in consultation with the Commission to do an assessment of the agency's staffing needs to accomplish HAVA's requirements.

Should there be a change in the law that invalidates one provision of this document, the rest of the document remains in effect unless or until the Commission votes on a new document.