



United States
Election Assistance Commission

***Federal Advisory Committee Act (FACA)
Overview***

**Standards Board Meeting
Carlsbad, Ca – April 13-14, 2016**



Boards Established by HAVA

- **Help America Vote Act of 2002(HAVA) 42 USC 15301 et seq.**
- HAVA established three permanent advisory boards to assist the EAC in carrying out its mandates under the law. (Sec. 211)
 - The Standards Board
 - The Advisory Board and
 - The Technical Development Guidelines Committee
- HAVA requires the EAC to carry out its duties under this Subtitle C in consultation with the Standards Board and the Board of **Advisors.** (Subtitle C – Studies and Other Activities to Promote Effective Administration of Federal Elections)



Boards Established by HAVA

Membership of The Advisory Boards

- **Standards Board: 110-members (Sec. 213)**
 - 55 state election officials selected by their respective chief state election official.
 - 55 local election officials selected through a process supervised by the chief state election official.
- **Board of Advisors: 37-members (Sec. 214)**
 - Selected by stakeholder organizations and Congressional leadership/oversight.
- **Technical Guidelines Development Committee (TDGC): 15-members (Sec. 221)**
 - TDGC chairperson is the director of the National Institute of Standards and Technology (NIST).
 - 14 other members appointed jointly by EAC and the director of NIST.



Boards Established by HAVA

Duties of Advisory Committees

- Standards Board and Board of Advisors
 - The Standards Board and the Board of Advisors are required to review the voluntary voting system guidelines, the voluntary guidance under Title III, and the best practices recommendations contained in a report submitted under section 242(b). (SEC. 212)
- Technical Guidelines Development Committee
 - The TGDC assists the Executive Director of the Commission in the development of the voluntary voting system guidelines. (SEC. 221)



FACA Overview

- Purpose of the Federal Advisory Committee Act
- Who does FACA Apply to?
- Applicable laws and directives
- Board Membership
 - Ethics
 - Lobbying
- General Committee Management Guidance
- EAC Officers



Purpose of FACA

- FACA governs the establishment, operation, and termination of advisory committees – enacted in 1972
 - Committee Establishment
 - Required by Statute
 - Presidential Authority
 - Authorized by Statute
 - Agency Authority
 - Operations / Management
 - Designated Federal Officer – DFO / Committee Management Officer - CMO
 - Meetings of committees and subcommittees
 - Record retention
 - Duration of Advisory Committees
 - Automatically terminates two years after establishment, unless renewed
 - Standards Board Members serve until replaced



Who must comply with FACA?

- All Executive Branch departments, agencies, offices based throughout the federal system nationwide and overseas
- Compliance with FACA is required unless specified by Congress
- FACA applies to all the Boards created by HAVA

What type of Advisory Committee is the Standards Board?



Board Membership

- **Two Members from each state/jurisdiction**
 - One state level election official
 - One local level election official
 - Each from different political parties
 - Duration of service is unlimited, except for the Board of Advisors – 2 year term, but may be reappointed
- **Member Responsibilities**
 - Comport yourself with integrity so as not to trade upon your position as a member of an EAC advisory board for your own personal benefit.
 - Not use your service as a representative on the Board to promote yourself, your services or products or those of other private parties.



Board Membership - Lobbying

- Federal law prohibits you, from being a federally registered lobbyist.
- The law also requires that any permissible direct communications with Congress, **in your official capacity as a board member**, be made only through official channels of EAC.



Board Membership - Lobbying

- These restrictions do not prohibit you from lobbying members of Congress or state legislatures, or urging others to do so, **on your own time in your personal capacity.**
- If you lobby Congress or state legislatures in your personal capacity, and the issue is related to EAC Board business, **you should make it clear that you are not representing an EAC advisory board, and not acting in your official capacity** as an Advisory Board member.



General Committee Management Guidance

- Agency heads are required to appoint Designated Federal Officials who are responsible for management and supervision of agency committees.
- Committees must have a charter filed with EAC, Senate and House committees having Legislative jurisdiction, the Library of Congress, and Committee Management Secretariat before conducting committee business. (41 CFR 102-3.70)
- Charters must be renewed every two years or be terminated under the sunset provisions of Section 14 of the Act, unless otherwise provided by law.



General Committee Management Guidance

- Generally, advisory committee member selections are to be balanced in terms of the point of view represented, and geographical representation duties performed.
- Advisory committee meetings are required to be open to the public. Meeting locations must accommodate public access and participation.
- Designated Federal Officials must approve all committee and subcommittee meetings and agendas, post agendas and minutes to the website, and attend meetings; adjourn any meeting when it is in the public interest; and Chair meetings when directed to do so.



General Committee Management Guidance

Detailed minutes of each advisory committee meeting including one that is closed or partially closed to the public, will be kept and must contain:

- Date, time and location of meetings.
- A record of attendees present, including guests and members of the public who present oral or written statements;
- A complete and accurate description of each matter discussed, conclusions reached if any, made by the advisory committee regarding such matter including any advice and recommendations provided by the committee. (41 CFR 102-3.165)

The DFO must ensure that minutes are certified within 90 calendar days of the meeting.



EAC Officers

Designated Federal Officers (DFO)

- **Standards Board** – Commissioner Christy McCormick
- **Board of Advisors** – Commissioner Thomas Hicks
- **Technical Guidelines Development Comm.** – Commissioner Matt Masterson



DFO Responsibilities

- Works with the Committee Management Officer to ensure compliance with the FACA and all applicable laws
- Calls meetings
- Ensures that all meeting notices appear in the Federal Register at least 15 days prior to meetings
- Must be present at all Board meetings

ANY questions about the Boards should always be directed to the respective Board DFO. They are the liaison between EAC and the Boards



Applicable Laws & Regulations

- Federal Advisory Committee Act 5 U.S.C.A. App 2, et seq.
- Federal Advisory Committee Management 41 C.F.R. 102-3 et seq.
- Prohibition on Appointment of Lobbyists to Federal Boards and Commissions (OMB Final Guidance 76 FR 61756), dated August 13, 2014.
- The Freedom of Information Act, 5 U.S.C. §552



Questions?

Standards Board – Commissioner Christy McCormick
CMcCormick@eac.gov

Board of Advisors – Commissioner Thomas
HicksThicks@eac.gov

**Technical Guidelines
Development Comm.** – Commissioner Matt Masterson
MMasterson@eac.gov