

**United States Election Assistance Commission**  
**Board of Advisors Annual Meeting**

Held at

1:30 p.m.

Tuesday, June 16, 2020

Via Zoom Meeting

VERBATIM TRANSCRIPT

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The following is the verbatim transcript of the United States Election Assistance Commission (EAC) Board of Advisors Annual Meeting that was held on Tuesday, June 16, 2020. The meeting convened at 1:33 p.m. and adjourned at 3:20 p.m.

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CHAIRMAN HOVLAND:

Good afternoon. I am U.S. Election Assistance Commission Chairman Ben Hovland. Thank you for joining us today for today's virtual EAC Board of Advisors meeting on the Voluntary Voting System Guidelines. We are operating in unique conditions right now, and I and my fellow Commissioners appreciate the participants and everyone watching online for taking time to discuss this important topic.

The Board of Advisors was originally scheduled to meet in person in mid-April. Unfortunately, we were not able to have that meeting but continue to press forward. A silver lining in this conversation, if this conversation was taking place back in April, I would not have been able to tell you that the 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. I think our unanimous votes to show the confidence we have in Mona and Kevin to lead the EAC into its next chapter. And certainly, these days, and in this year, we need all the help we can get.

But despite these challenging times that we're all facing, the EAC recognizes the importance of continuing to move the approval process of the Voluntary Voting System Guidelines, or the VVSG 2.0 requirements, forward. The finalization of the VVSG 2.0 requirements will enable voting system manufacturers to build new and improved voting systems. Today's hearing is another step in the approval process.

Since the EAC quorum was reconstituted last year, the TGDC or Technical Guidelines Development Committee, led by our partners at the National Institute of Standards and Technology, or NIST, have been diligently working to move the technical requirements forward, and today, they are before you for your feedback and recommendations.

The TGDC held six teleconference meetings over the course of the last 15 months and an in-person meeting last September to wrestle with some of the very difficult issues presented here today, in particular, striking a balance that promotes both accessibility and security of future voting systems. Some of these conversations were tough, as I'm sure the Board of Advisors, representatives on the TGDC can tell you, but we got to common ground on a number of issues and ultimately to a place where the TGDC was able to unanimously move the requirements forward on February 7th of this year. NIST provided a final draft version recommended by the

TGDC to then-acting Executive Director Mona Harrington on March 9th, and she forwarded that to the Board of Advisors and Standards Board for consideration on March 11th, consistent with the Help America Vote Act.

The Commissioners welcome your feedback on these technical requirements, as we are committed to moving this process forward and getting to a place where manufacturers can begin designing and building the next generation of voting equipment.

I'll now turn it over to Board of Advisors Designated Federal Officer, Commissioner Thomas Hicks. Thank you.

COMMISSIONER HICKS:

Thank you, Chairman Hovland. This has been a long, exhausting process. Many stakeholders have spent hours contributing to this effort of getting us where we are here today.

VVSG 2.0 is a result of feedback and encouragement from State and local officials, voting machine manufacturers, usability, accessibility, and security interest groups.

I want to thank everyone for their comments and feedback concerning today's requirements -- notice requirements for this meeting. As you know, we are in unprecedented times and are experiencing unique challenges due to the novel coronavirus. Although we originally had it planned to -- for this meeting to take

place in April, we were focused to reschedule to a later date and new format. The logistics created a delay in finalizing a new date, and pursuant to Article 6, Section G of the bylaws, we circulated a waiver for the 60-day notice requirements for each member's consideration, received a majority of votes for this waiver.

Additionally, in confronting with the -- in conforming with the government and the Sunshine Act and the Federal Advisory Committee Act, timely notice was published in the Federal Register June 3rd. The meeting was also announced on the EAC's website beginning on June 3rd. With continued discussions like today's Board of Advisors meeting, we are one step closer to improving this important update. We want to make sure to get this new iteration right so that we can see real advancements in voting system technology.

Since the recommendations -- receiving the recommendations for the requirements from TGDC earlier this year, as Commissioner Hovland talked about, we've held several public meetings, and we've heard testimony from a number of stakeholders. Board of Advisors members were also sent each of these additional hearings. With your help today, combined with the input from our Standards Board, the hearings and other public comments, which are due June 22nd, we are closing -- closer to achieving our goal.

On behalf of my fellow Commissioners, I would like to express my sincere appreciation to the members of this board and the people who contributed to the VVSG 2.0 development process thus far. This includes staff at NIST, the EAC, members of the election community, broader public, who have been engaged in this process, and especially those serving on the TGDC and the EAC's Board of Advisors, the Standards Board, who play a critical role in the development and reviewing the VVSG 2.0.

I look forward to a very productive meeting. I'm sorry that we're not meeting in person, but hopefully, in the near future I'll be able to see your smiling faces in person.

I want to turn this over to Chairman Yaki, who will discuss the format of the -- today's board meeting and other aspects.

Thank you.

MR. YAKI:

Thank you very much, Commissioner Hicks, and thank you for your kind remarks also, Chair Hovland.

Good morning -- good afternoon to all my fellow members of the Board of Advisors. This is what's going to take place as our annual meeting. Normally, as you know, we would have held it in the spring. We would have all been at tables. We would have all been within six feet of each other. We, none of us would have worn masks, but life has changed, and we have to adapt accordingly.

Our charge has been and always will be to advise the Election Assistance Commission, and today, we fulfill one of those major roles, which has to do with the fact that, under our charter, we are charged with advising the EAC through the review of the VVSG, including updates to it, and that's going to be the primary purpose of the meeting today.

I want to thank all of you for hanging on through this very turbulent time, through numerous emails and communications and quorum counts and all those other wonderful things that are preparatory to these types of meetings in order to meet our requirements under the Federal rules. But I hope that this is not going to be the last time that we work together in some form or capacity. We have been -- as you know, last year, we created committees. I'm going to, after this meeting, contact those committees to discuss some more additional work that we can do in preparation for the November election because, as you know, as much as we're going to be working on VVSG, what's first and foremost on all of our minds right now is the ability to have a safe and thorough and complete election in November, and all of you are working so hard on making that happen.

So, to begin this meeting and to ensure that we can actually commence the meeting, I'm going to ask our Secretary Alysoun McLaughlin, to please call the roll.

MS. MCLAUGHLIN:

Call the roll. I see a quorum on the participant list, but I'll go through name by name if you can all unmute yourselves when we get to you.

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[Alysoun McLaughlin, Secretary of the Board of Advisors, called the roll.]

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MS. MCLAUGHLIN:

I have 26 members of the Board of Advisors accounted for and on the call, so we have a quorum. I will ask anyone who I called and if you don't think I've logged you --

MR. MOORE:

Greg Moore is here.

MS. MCLAUGHLIN:

I'm sorry?

MR. YAKI:

We got you, Greg.

MS. MCLAUGHLIN:

If you don't think we got you, go ahead and comment that we've got you, but we do have a quorum present.

MR. YAKI:

Thank you, Alysoun. So, members, we will have presentations by the staff and by NIST experts. I would ask you to



-- they will be pretty brief. I would ask you to -- there is a function on Zoom in which you can raise your hand. You can -- there's a way to do it. I don't know how to do it. Oh, yes, there's -- go to the -- so, Steve, where is the raise-your-hand function on this?

MS. SIMONS:

Michael, there's a chat function. Maybe you can -- we can use that -- oh, raise your hand if you -- if you click on chat, you'll see raise your hand on the right-hand side.

MR. YAKI:

Okay.

MS. SIMONS:

Do you see it?

MR. YAKI:

Thank you. So, if you --

MS. SIMONS:

Click on chat --

MR. YAKI:

Well, I don't know. I can't -- I can't exactly see it, but --

MS. SIMONS:

Do you see where chat is on the bottom of your screen? If you --

MR. RITCHIE:

It's different on different machines.

MS. SIMONS:

Oh.

MR. RITCHIE:

It's not on my machine, it's not on your machine, but don't worry about it. I mean, it's all we can do. We got chat, we got raise your hand. That's what we have.

MR. YAKI:

Okay. Well, if you chat or raise your hand, whichever one you have, let me know in chat or you can also text me at 415-601-4008 or you can email me at Michael@MichaelYaki.com, and I'll make sure that we get you in line to move this forward.

So, without much further do, I will turn this over to -- one quick thing, though. I do have to say this. This is my standard paragraph. Please refer to the Board of Advisors bylaws for this meeting as you need, and please take time to review the bylaws in preparation for the executive officer elections. As you're aware, election of the executive officers will be postponed to a later meeting and not just because I'm power-hungry. Members are encouraged to resubmit earlier nominations, as well as any other nominations for executive officers during the new nominating period, which will begin today, June 16th, and a month from now on July 16th. And we anticipate having a vote on August 17th. And, pursuant to the bylaws, the sitting officers will remain in their

elected capacity until the board is able to meet and new officers are elected. So, we're crossing our fingers.

And, so, I'm going to move on first to a review of the FACA board membership guidelines and policies --

COMMISSIONER HICKS:

Mr. Chairman, before you get to that --

MR. YAKI:

-- by Associate Counsel -- yes?

COMMISSIONER HICKS:

Before you get to that, we need to approve the agenda and the previous board minutes.

MR. YAKI:

Oh, God, you're right. Okay. So, Steve, could you put the agenda on the screen? Okay. So, we have the agenda. You should also have received this. If you've not, here it is. It's not very long.

MR. IVEY-SOTO:

Mr. Chairman?

MR. YAKI:

Yes.

MR. IVEY-SOTO:

This is Vice Chair Daniel Ivey-Soto. I move that we approve the agenda for this meeting.

MR. YAKI:

There's a motion to approve the agenda. Is there a second?

MR. HATCH:

I second, Ricky Hatch.

MR. YAKI:

Ricky Hatch has seconded it. Any -- are there any objections to approving the agenda?

Hearing none, the agenda is approved.

MR. IVEY-SOTO:

Mr. Chairman?

MR. YAKI:

Recognizing the Vice Chair.

MR. IVEY-SOTO:

Thank you. I move that we approve the minutes of previous Board of Advisor meetings that have not yet been approved.

MR. YAKI:

Well, I would like to do that, but if we don't have the minutes in front of us, I would hate for us to approve something that we haven't seen. And I don't know if we have those minutes before us, so I think that what we would want to do is postpone that to an additional time when we've been able to send those minutes to everyone, unless they've been -- because I don't recall seeing them being sent out prior to this meeting, so --

MR. IVEY-SOTO:

Mr. Chairman?

MR. YAKI:

Yes.

MR. IVEY-SOTO:

If it would be in order, then, I would -- and perhaps you can just do this by unanimous consent, but I would either move or ask that the approval of minutes of previous meetings be deferred until the next meeting and that the minutes be distributed in advance of that.

MR. YAKI:

Thank you very much, Mr. Ivey-Soto. Motion to defer that agenda item to a time in the future when we can distribute the meeting minutes. Any second to that?

MR. RITCHIE:

Second, Mark Ritchie.

MS. MCLAUGHLIN:

Chairman Yaki, just to clarify, there were minutes --

MR. YAKI:

Yes.

MS. MCLAUGHLIN:

-- distributed along with the call-in information for our meeting.

MR. YAKI:

Well, that's a good -- that's good.

COMMISSIONER HICKS:

Yes, that's what I was looking for.

MR. YAKI:

Well, I don't think --

MS. MCLAUGHLIN:

In the email from --

MR. YAKI:

Well, then let's do this.

MS. MCLAUGHLIN:

-- on Friday afternoon there was a link to the minutes.

MR. YAKI:

Thank you very much. Well, let's do this. I am going to skip over this agenda item and give people time to review this prior to the end of the meeting and then would come back to it and approve it till then. So, that's going to be my method of dealing with it right now because, obviously, like so many, I didn't look at it as closely as I should have.

Okay. So, after that, we will move on to Amanda Joiner, the EAC Associate Counsel, to review FACA board membership guidelines and policies. Ms. Joiner, the floor is yours.

MS. JOINER:

Thank you, Mr. Chair. Good morning, everyone -- or, excuse me, good afternoon. I am the Associate Counsel of the EAC, and I will give you guys 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.

If you give me just a moment, I will share my screen so that you can see my presentation. Okay. Can every -- if you can't see that, please let me know. Otherwise, I will assume that you're able to see it. Okay.

So, as I said, I'm giving a presentation today on the Federal Advisory Committee Act, which is the act that -- one of the acts that governs the Board of Advisors, which is an advisory committee that was formed by HAVA. HAVA established three permanent advisory boards to assist the EAC in carrying out its mandates under the law. As you know, that includes the Standards Board, the Board of Advisors, and the Technical Guidelines Development Committee. As I mentioned, each of these are subject to the Federal Advisory Committee Act, among other Federal laws and regulations.

The duties of advisory committees are generally limited to advising their main body on whatever the issues are that the main body is tasked with in statute. In our case, the Standards Board and the Board of Advisors are required to review the Voluntary

Voting System Guidelines, voluntary guidelines -- guidance under Title III, and best practices recommendations contained under Section 242(b). The TGDC assists the Executive Director of the Commission in developing the Voluntary Voting System Guidelines, which are what you guys will be reviewing.

And if you're sending a question to me, I will get to that in a moment. Sorry.

It's important to note that in -- or in developing these advisory committees in statute, Congress determined that you have a direct voice on what these guidelines do and how they manage the voting systems. So, through that process, which you will discuss later today, as I said, the TGDC developed the guidelines, and you will have an opportunity to comment on those guidelines, and the public also has an opportunity to comment on those guidelines. Eventually, the EAC Commissioners will vote to accept or reject those guidelines.

Just a brief overview of FACA, what is the purpose of the Federal Advisory Committee Act? It regulates how committees operate. As you can imagine, there are many different committees created by the Federal Government and many different methods in which they can be created.

Who does FACA apply to, what are the applicable laws and directives of board membership, and what are the ethics and



lobbying issues associated with being a member on the board?

FACA was established in -- or, excuse me, enacted in 1972. Some FACA committees are required by statute, such as the committees for the EAC, some are created by presidential authority, and some are created by the authority of the agency. Each of those three tracks has separate requirements to come into fruition.

The operations and management of the committees are handled by the Designated Federal Officer. The DFO of the Board of Advisors is, of course, Commissioner Thomas Hicks.

As you know, here is the list of the Board of Advisors membership. The Board of Advisors members serve two-year terms, is a 37-member committee, and each of you are enumerated as a stakeholder in HAVA. Again, this demonstrates how important your role is and what Congress intended for you to do in reviewing these guidelines and advising the EAC on your recommendations and feedback.

As just a brief background, the Standards Board has 110 members, and the TGDC has 15 members. The duties and responsibilities for any advisory committee member are generally as follows. You are to participate in meetings and on subcommittees, 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, do not use your service as a representative

on the board to promote yourself, your services, or products or those of private parties.

The law also requires that any permissible direct communications with Congress in your official capacity as a board member may be made only through official channels. That is bolded, just for your information, because, of course, as a private citizen, you're within your rights to contact your Congressman or State officials about issues that concern you as a private citizen. But, as a board member for the Board of Advisors, you may only make those connections through official channels of the EAC.

To that note, there's also something important regarding lobbying. Federal law prohibits you from being a Federal -- federally registered lobbyist. By law, you cannot be a federally registered lobbyist, so if you are now, please contact me so we can address that at another time. That is a very important, so if you're new, please do not hesitate to reach out. If you're communicating with Congress in your capacity as a Standards Board member, then you need to reconsider how you're doing so and make sure that you are following the proper channels.

As I mentioned earlier, 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 the EAC, the Senate, and the House committees

that have jurisdiction over these committees, the Library of Congress, and the Committee Management Secretary for conducting committee business. I'm sure all of you remember that your charter was renewed last year in 2019, so your charter is good until next year 2021 when, hopefully, we will all be meeting again in person.

Generally speaking, the member selections for any committee must be balanced in terms of point of view represented and geographic representation. Also of consideration, the meetings are required to be open to the public except for subcommittee meetings. There are different rules for those, which we can discuss at another time, but whatever matters are taken up in a subcommittee meeting must be put before the main body in order to remain in compliance with this portion of the law.

The DFO approves all committee and subcommittee meetings and agendas. The DFO also posts the agenda and meeting -- and minutes to the website and attends all the meetings, adjourns meetings when it is in the public interest and chairs meetings when it is directed -- when he is directed to do so.

Detailed meetings of every -- every -- or, excuse me. Detailed minutes of every advisory committee meeting, including those that are closed or partially closed, must be kept and include date, time, and location of meetings, a record of attendees present,

and a complete and accurate description of each matter discussed. You can find these minutes on EAC's website right now. We have been going through our website to ensure that all of our meetings and agendas, minutes, et cetera, are up-to-date. That will be the same for today's meeting, so, you know, if you have any questions about that, please do let me know.

As I mentioned, of course, Commissioner Hicks is the Board of Advisors DFO, Commissioner Don Palmer is the DFO for the Standards Board, and Commissioner Ben Hovland is the TGDC DFO.

I understand that was a very brief overview. The format, of course, this year is different from the -- all previous years. And I am new, so I wish I could have met all of you in person, but I do hope that you found this interesting or at least informative. I've listed the laws and regulations that apply to you here. There are -- of course, anytime you have a question, I am here to help. I am the resource, and I'm happy to assist all of you in satisfying your role here at the -- in the Board of Advisors for the EAC.

Again, I know that was quick and a bit of a, you know, 36,000-foot overview review of everything, but if you do have questions, please let me know. If I can figure out how to open the chat box here, I can check there as well.

MR. YAKI:

Thank you very much, Amanda. Thank you for that -- the guidelines and policies update. Are there any questions from any of our members right now?

Seeing none, we'll move on to a general update on EAC activities by our new Executive Director Mona Harrington, yay. Mona, sorry for the indignity there, but, please, congratulations, and take it away.

MS. HARRINGTON:

Thank you. Good afternoon. I'm the EAC Executive Director Mona Harrington. I'll be providing you with an update highlighting EAC activities.

The EAC is working to support election officials and the voters they serve during COVID-19. These are unprecedented circumstances for everyone across the elections community. Currently, many jurisdictions are preparing to implement new pandemic-related election policies and procedures. In this environment, election officials are striving to meet the wide-ranging needs of all voters. We stand ready to assist them.

We are closely monitoring the needs of election officials and actively expanding available guidelines and resources. We're tracking new developments and preparing to marshal Federal assistance where necessary. The EAC Commissioners and I look

forward to working with you during the crisis to ensure that the right to vote is safe, secure, and accessible for all Americans.

As you are all aware, on December 20, 2019, the President signed the Consolidated Appropriations Act of 2020 into law. The act 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. We have awarded all the FY '20 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. The act 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 is pleased to report that we awarded all 56 CARES Act grants on April 6. As of today, all States have requested disbursement of the funds and submitted descriptions of their anticipated activities.

The EAC has reviewed the description of requests that States are anticipating, as well as -- as a result of the pandemic. Over 75 percent of the States are anticipating increased printing costs due to accommodate expanded absentee or mail voting

activities. Postage costs are expected to significantly increase in order to cover the cost of prepaid postage on returns.

Also, additional voting equipment such as high-speed scanners will need to be purchased. Some States are conducting their upcoming primaries completely by mail, and all States expect to spend funds for various cleaning and sanitizing functions. Many States are preparing for in-person voting and will hire additional poll workers to ensure physical distancing and to control the number of voters in a polling place at any one time. Communication and education to voters of changes in the voting processes is also a major area of planned expenditures.

The EAC has hosted numerous webinars for States about the CARES Act and on meeting the 20 percent match. While officials prepare for increased mail voting, modified polling place locations, and other new costs, accessibility must be a priority. The right to a private and independent vote for those with disabilities is protected both by HAVA and the equal access provisions of the Americans With Disabilities Act.

A little update on staffing. The EAC has worked hard to staff up since receiving our FY '20 budget in January. New staff -- key new staff include Communications and Clearinghouse Director, Associate Counsel, a Senior Grants Program Manager, a new cyber division with multiple staff members, two new additions to the

Testing and Certification team, a financial officer, and several other positions have been hired assisting the agency in performing its core mission.

The new cyber staff have extensive security credentials and are implementing cybersecurity capabilities to assist State and local jurisdictions. They are working on releasing cybersecurity training modules, cybersecurity best practices, blogs, workshops to assist with crisis and risk management and enhanced election security preparedness page with cyber resources from our Federal partners, as well as information on how to secure nonvoting election technology for State, local, tribal, and territorial election officials.

The EAC has also committed to moving the process of adopting VVSG 2.0 forward. We have hosted VVSG 2.0 virtual hearings on March 27, May 6, and another on May 20th, and we're reviewing the Testing and Certification program manuals and working on draft test assertions to make the changes required to support the VVSG 2.0.

During 2019 and 2020, tremendous progress has been made toward the adoption of VVSG 2.0. The VVSG 2.0 represents a significant leap forward in defining standards that serve us well as a template for the next generation of secure, accessible, and accurate voting systems.



Following extensive work by the EAC Commissioners and staff, the TGDC, and NIST, the EAC submitted the proposed VVSG 2.0 requirements to the Standards Board and Board of Advisors for review on March the 11th. On March 24th, the EAC initiated a 90-day public comment period on the VVSG 2.0 requirements, which will run through June 22nd.

The EAC hosted several key conferences to assist election officials leading up to the 2020 election. On January 14th, we hosted a 2020 Election Summit. The summit focused on several important topics in the field of election administration, including efforts at all levels of government to strengthen U.S. election infrastructure and protect against new and evolving threats to our elections, as well as the nuts and bolts of election administration issues that election officials face leading up to the 2020 election.

On February 20th, the EAC hosted a 2020 Elections Disability, Accessibility, and Security Forum. The forum brought together election officials, people with disabilities, disability advocates, election security experts to discuss pressing issues to assist voters with disabilities and election officials amidst growing security needs.

On April 22nd, the EAC held a virtual public hearing on administering elections during COVID-19 pandemic, including considerations for absentee and mail voting and in-person voting.

A little bit on the EAC COVID-response, the EAC established a dedicated COVID-19 webpage in mid-March. The EAC also 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. The EAC, as an executive committee member, chaired the working group. The working group has produced numerous resources for State officials addressing such issues as expanded mail voting and in-person voting in a social distancing environment.

The EAC has also brought together numerous State and local election leaders for informative videos discussing increased mail and absentee voting and safety for in-person polling places.

Finally, the EAC has worked with election system manufacturers to create and distribute cleaning guidelines for their in-person voting technology. All these resources can be found on the EAC's COVID-19 response pages and are being continually updated as new information is received.

My final update is about EAVS. The kickoff for 2020 EAVS took place last month on May 15th. Research is currently working with our vendor FMG to collect information on who the appropriate States' point of contact will be for this iteration of EAVS. In an effort to improve survey administration, usability testing is a new feature

in the preparation phase for the administration of both the policy survey and EAVS.

In late June, early July, FMG will begin reaching out to a select group of users and get feedback on items such as survey navigation, how questions are paginated, hard prompts for some questions, and some of the design elements. Beginning this fall, EAVS technical assistance resources, including user guides, newsletters, and webinars will be available and will incorporate users' feedback collected during the EAVS assessment.

Thank you. That concludes my update.

MR. YAKI:

Thank you very much, Mona. I actually had a question that came up during some of the discussions after the CARES Act funding. And just so everyone here can get the benefit of the answer that you gave me at the time, which is what -- when a State applied for COVID-19 funding, what, if any, guidelines were there in terms of your ability to determine the appropriateness or non-appropriateness of the funding that they were seeking?

MS. HARRINGTON:

So, the legislation addresses how the CARES Act funding can be used, and the language included in there is that the funding must be used on coronavirus for the 2020 election. So, the same

guidance we're using is the same guidance that we need to have the States use.

MR. YAKI:

So, were there any -- so that's a pretty broad definition, so pretty much as long as they were -- said they were going to justify -- as long as they justified it by saying it's going to be used for COVID-19 impacts to the 2020 elections, that would -- that's all, and beyond that, there was no further inquiry or appropriateness standard that you might be able to use?

MS. HARRINGTON:

Specifically, the Act included \$400 million for emergency funds made available to the States to prevent, prepare for, and respond to coronavirus for the 2020 Federal election cycle. There really wasn't much more as far as guidance is concerned, but that's what we have to work with.

MR. YAKI:

Okay. Larry, did you have a question for the Executive Director or was that for VVSG?

MR. NORDEN:

It's a question for the Executive Director.

Congratulations, Mona, on your new position. We're very happy to have you.

MS. HARRINGTON:

Thank you.

MR. NORDEN:

My question was about reporting around these different tranches of money and if there are going to be any upcoming report deadlines for the States to say how they're spending the two election security sets of funds and the CARES Act funds.

MS. HARRINGTON:

So, we have 23 days after the primaries to report to Congress, so you guys have 20 days. The States have 20 days after the primary for us to report that information to Congress, and we have been getting those reports in a timely manner.

As far as the 2020, there's two different reporting times. I would have to get back to you with details on where we are with that. We do post those -- we request reporting twice a year, but I'd have to get back to you on details on the reporting for the FY '20.

MR. NORDEN:

Okay. Thanks.

MR. YAKI:

All right. Thank you very much, Ms. Harrington. Any other questions for Mona? I think our screen just kind of froze, and I'm not too sure if anyone was trying to message me or not. If not, we will proceed to the main event. Seeing none, okay.

So, folks, as was said in Bert's and my emails, this VVSG 2.0 process, as you know, has been going on for quite some time. They've had a number of hearings across the country. We encourage you to review those hearings and use it as a platform to give questions to staff.

With us today -- there will be no formal presentation by the staff today because most of us are pretty familiar with this process for the umpteenth time. But as it gets refined and as further questions remain, we have today Jerome Lovato, the Director of Testing and Certification at the EAC. And joining us from NIST, the National Institute of Standards and Testing, are 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.

I know that there is a question from Philip Stark. I'd like to recognize Philip to ask the first question. Philip?

MR. STARK:

Sorry, I asked it in the chat. I was wondering 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"? I don't understand what that's supposed to mean.

MS. BRADY:

This is Mary Brady from NIST. Sharon Laskowski, I think this question is probably best handled by you.

MS. LASKOWSKI:

Can you hear me?

MS. BRADY:

We can hear you.

MR. YAKI:

Yes.

MS. LASKOWSKI:

Okay. I've sort of jerry-rigged the phone and screen here. Okay. So, let me ask you to just bring up Principle 5.1 so I get it right. There we go. So, we're talking about 5.1.1. Okay. So, "by consistent experience throughout the voting process within any method of voting" is what the wording is. 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. So, that includes the

ballot activation, voting verification, and casting. Does that answer your question?

MR. STARK:

Actually, I still don't quite understand. Do you mean that the entire transaction should be possible using only an audio interface, or the entire transaction should be possible --

MS. LASKOWSKI:

Whatever --

MR. STARK:

-- using only a visual interface?

MS. LASKOWSKI:

Whatever interaction mode you're using, so if you need the nonvisual interaction mode or if you -- for example, or nonmanual input, in order for accessibility, you want to have that same, consistent experience throughout.

MR. STARK:

I'm sorry, I still don't understand what you mean by consistent. I'm -- the clarifying question is, do you mean that it should be possible to do the entire transaction using audio and the entire transaction using a visual interface --

MS. LASKOWSKI:

Yes. Yes.

MR. STARK:



-- rather than having to go back and forth? So you're not talking about the consistency of the audio interaction. You're just saying you should be able to do it entirely using one mode? Is that correct?

MS. LASKOWSKI:

Yes. Yes, from ballot activation, voting verification, and casting.

MR. STARK:

Thank you.

MS. LASKOWSKI:

You're welcome.

MR. YAKI:

Members, questions? In this case, I'm just going to --

MR. STARK:

Mr. --

MR. YAKI:

Go ahead.

MR. STARK:

May I ask, the other part of the question, is there any Federal law or regulation that requires all voters to use the same equipment to mark their ballots?

MS. BRADY:

Sharon, I believe that question is directed at you as well.

MS. LASKOWSKI:

Can you hear me?

MS. BRADY:

Yes.

MS. LASKOWSKI:

That sounds like a legal question, which is why I didn't answer it. So, we have different methods of voting. We have -- so just in my nonlegal system viewpoint, you have mail-in voting. You wouldn't use the same equipment to mark that ballot, for example, so -- but I'd have to defer to the -- to the legal folks. I'm not aware of anything that requires that you have to -- everyone has to use the same equipment. I've never come across it, but, as I say, not a legal expert or voting law expert.

MS. JOINER:

I can just chime in briefly on that to say that there is no one Federal law that requires the same method to mark ballots. As everyone knows, every State has different laws and regulations in place for how their elections are administered, and there is no Federal law directly on that point that applies to every State. I hope that helps. I'm sorry. If you want to discuss further off-line, I'll be happy to, but that's the best --

MR. STARK:

Thank you.

MS. JOINER:

-- answer I can give right now.

MR. YAKI:

Is that it for now, Philip?

MR. STARK:

Yes, thank you.

MR. YAKI:

Okay. Our next question is from Vice Chair Ivey-Soto.

MR. IVEY-SOTO:

Thank you, Mr. Chair. I actually have a question on three parts. And, first of all, let me just start off by saying I'm currently looking at the TGDC-recommended version of the VVSG. Am I looking -- is that what I should be looking at at this moment?

COMMISSIONER HICKS:

If it says February 29th, 2020, yes.

MR. IVEY-SOTO:

Okay. Apparently, the one I picked up -- I pulled up does not say February 9th, 2020, so --

COMMISSIONER HICKS:

February 29th, 29th.

MR. IVEY-SOTO:

Well, it -- mine is not from 2020, so, it's -- right. So, where -- because I did look back -- well, I saw the link to the minutes that we

all missed. I didn't see the link to them exactly what we're discussing on the VVSGs. If somebody could very quickly walk me through where I should be looking because I went to the VVSG page on the EAC website, and that's where I got the TGDC recommended principles and guidelines. So where should I be looking at real quick?

MS. BRADY:

So, I believe the discussion topic is the requirements, the TGDC recommended VVSG 2.0 requirements, and that's the one that would -- which is a little bit further down on that same page. Because the principles and guidelines were quite a bit before February 2020, but the requirements were released in February 2020. Does that help?

MR. IVEY-SOTO:

That -- no, that's extremely helpful actually. Thank you. And so then that actually I think answers the initial part of my question sufficiently that, Mr. Chair, if I could yield to others for just a moment, so I can glance at something here, and then I will know if I still have a relevant question or not.

MS. HARRINGTON:

Hi, it's Mona. I just forwarded you an email that you also may find helpful that's got links all in one place.

MR. IVEY-SOTO:

Thank you, Mona.

MS. HARRINGTON:

Of course.

MR. YAKI:

Thank you. I'm checking chat, not seeing too much, wondering -- I'm going to be like one of those really nasty teachers that you had in school. So, Jim Dickson or Sachin, do either of you have any questions regarding disability issues, access issues with regard to VVSG as it's constantly -- as it's -- well, as it's presently constituted? Don't be shy. Well --

MR. PAVITHRAN:

This is Sachin.

MR. YAKI:

-- think it over. Okay.

MR. PAVITHRAN:

Can you hear me?

MR. YAKI:

Yes.

MR. PAVITHRAN:

The only thing I want to add is, you know, yes, there's been progress, but the progress doesn't go far enough when it comes to what the -- and this is some -- this is not new information. This is something we've talked heavily. Even though we voted on it, we

still feel like there's a lot yet to be done. And we think what's happening right now with the COVID situation, more things have come to light on how people with disabilities are going to be left behind.

MR. YAKI:

Response from the staff?

MS. BRADY:

Sachin, this is Mary Brady. Was there a question that I missed, or was that a comment?

MR. YAKI:

I think it was a comment and a -- it was a comment, but I think embedded in that comment was a question. Would that be correct, Sachin?

MR. PAVITHRAN:

Yes. So, you know, one of the things in the conversation around VVSG 2.0 is, you know, the whole conversation around remote voting is, you know, it's not part of this, you know, this VVSG 2.0, but with the COVID situation, that is something we need to pay attention to. How are we going to, you know -- you're not going to be going to polling places anytime soon, and things are going to -- this is going to put people with disabilities at a disadvantage. And the fact that this -- that's not part of this VVSG

2.0 just limits a lot of future access for people with disabilities. So, I don't --

MS. BRADY:

So, this is Mary --

MR. PAVITHRAN:

-- necessarily have a question. We just need to figure out a solution for this going forward and, you know, we're not going to see a VVSG 2.1 or 2-point-whatever for a long time, but it is going to be a standing problem.

MS. BRADY:

So, Sachin, this is Mary Brady again. I very much agree that, you know, certainly the scope here did not include remote ballot marking. But, as you're aware, inside of the TGDC, we did discuss it as potential next steps. There is certainly more work that needs to be done. The scope here is, you know, anything outside of the polling place is really not within the scope, and so, you know, remote ballot marking itself, whether it's the software that's running on a -- you know, on your own personal machine or you're connecting to, you know, the internet to -- or a network to -- you know, to potentially a server is certainly something that we are discussing now and I think we'll continue to discuss.

It's obviously not going to provide a solution for the November elections, in terms of, you know, rolling out a new set of

standards and having new systems built in time for that, but I agree with you that certainly the current situation we find ourselves in really sort of highlights this as an area that needs more work.

MR. GUTHRIE:

This is Mark Guthrie --

MR. YAKI:

Just one -- wait, wait. Hang on just one second. Just quickly, I want to note for the record that Senator Kathleen Bernier, Dean Logan, Sarah Ball Johnson, Linda Niendick have all joined and have been on for a while. I just want the record to reflect their attendance.

Mark Guthrie, you had a follow-up to that?

MR. GUTHRIE:

Well, I just wanted to say that, you know, I appreciate Mary's comments, and she has been vocal about her commitment here in the past to people with disabilities, and I just think it's real important that all of us don't lose sight of this as we go beyond our business today. Thank you.

MR. YAKI:

Thank you, Mark. Okay. The next question is going to Don Gray. Don?

MR. DICKSON:

This is Jim Dickson. I have a question.



MR. YAKI:

Jim, sorry. Okay. Let's -- well, hang on just a --

MR. DICKSON:

You can go to Don, and then you can come back to me.

MR. YAKI:

Yes, Don's been in the waiting room, so we'll go to Don, then to you, and then to Barbara. So, Don?

MR. GRAY:

Thank you, Chairman. I really appreciate it. It's enlightening as a newer member of the Board of Advisors here to see your faces and be able to see who you are and put the voice now to the face. And I'm looking forward to that interaction together. So, I think, you know --

MR. YAKI:

But you don't know how many of us are actually wearing sweatpants, so --

MR. GRAY:

Don't point out what I'm doing. I guess -- but thank you. As a newer member and as I went through the review of looking at VVSG 2.0, what was pressed upon me and what I'd like a little bit of explanation in this, how does the new guidelines rectify or work along in, you know, kind of existing already State law and procedures in place. Being that predominantly and, really, all

election law and procedures are handled at the individual State level, how do these guidelines take into account the uniqueness of the established law by States or varying different capabilities, the differing forms of procedural things that are allowable from State to State, particularly in polling place and how we conduct ourselves in casting ballots in relation to kind of a more uniform piece that will help give guidance, you know, or global to the future of how this would be in the best interest of casting ballots and crafting and dividing -- or crafting and putting together new equipment for the future?

MS. BRADY:

So, this is Mary Brady again, from NIST. I can tell you a little bit about the process that might help if you're new. Welcome. It's -- we've been at this for several years now, and we're sort of towards the end of a very long process. And what we did initially is we -- as the TGDC, we worked through putting it together, both the principles and guidelines and then later the requirements that went along with the principles and guidelines.

We made use of a set of public working groups, and we had seven public working groups. Three were aimed at elections, so it was pre-election, election, and postelection, and four were what at the time we called constituency groups, but they're really kind of technical groups, and they were cybersecurity, testing,

interoperability, and human factors, which is usability and accessibility.

And what we did was initially in the election groups we went through and defined all the processes of the elections. And there we had pretty widespread participation from election officials, who provided input on what the process was. We put together these large process maps that we took around to NASED, to the Board of Advisors, to the Standards Board, and of course, the TGDC to try to get feedback on them.

And then later, as we began work on the technical requirements, we held -- and throughout the whole process on both sides, both the election side -- as the election side work was sort of finishing up, we started the work on the technical requirements. And there we held biweekly meetings where we had widespread participation from many people on -- and just sort of stepped through, you know, did gap analysis, and so forth, from previous versions, from -- you know, looked at all the research that had been done to date.

And we had widespread participation there from many, many areas, whether they were folks from the computer science community, election officials, manufacturers, folks from testing labs, the election security advocates, usability advocates and accessibility advocates. So they were pretty -- they were open to

everyone. And I'd say we got -- I think -- I don't have it in front of me, but I want to say that there were about 900 participants across all of the groups and somewhere around 600 unique members. So, through all of that participation, we feel like we've captured a lot of what was out there.

In addition to that, of course, as you're aware, the HAVA process dictates that first the requirements come from the TGDC and then go through a review process with the board, so, you know, we have the Standards Board that has two representatives from every State and territory, and of course, this 37-member board here that -- the Board of Advisors where we continue to get input. There's a couple of public comment periods -- or public hearings, as well as a public comment period, so there's lots of opportunities for input I think, and the hope was that, together, we could build something that worked for the large majority of folks. And if it didn't work, then we were hearing from those that it's not working for so we could take that into consideration.

MR. GRAY:

Yes, and I believe that to be wonderful, and it sounds like there was, you know, great involvement, you know, in the, you know, upfront research of, you know, providing for or putting in, you know, the proper information to get to the research the ground to the end product, but I think it's tremendously important, you know,

in kind of moving forward as a local elected official here in Illinois, one that works closely on its legislative committee to craft election policies for its State amongst its peers, that there is a direct kind of review to already existing State laws and procedures relative to any new recommendations that would be made. I would think that the EAC board members would appreciate having much more flexibility in having to also review what's already existing out there as standards that had taken many years, many decades at the local level, at the State level where most of this policy is derived. It's wonderful to get recommendations for the broad across all, but the specifics is in the details at the local level.

So, you know, I -- you know, that's kind of, you know, the piece that I see most of this, and, you know, if there's some sort of, you know, formalized way in which this advisory board maybe through resolution or some other means can impress upon how important it is that a review of existing statutes State by State in relation to these new guidelines is an imperative part, and I think that would be helpful to them.

MR. YAKI:

Okay. Next, we're going to Jim Dickson. Jim?

MR. DICKSON:

Thank you. Hello, everybody. First, if you wish to speak, Alt Y is a toggle. If you hit the Alt key and the letter Y, your hand will

go up. If you hit the Alt key and the letter Y, your hand will go down. And, similarly, if you're having trouble with your microphone, Alt A for audio is a toggle. It will turn your microphone on and off. Alt V for video is a toggle that will turn your video on and off.

I want to echo what Sachin and Mark said, and maybe in my way I will say it a little bit stronger. The decision to not include mail-in voting was a major blunder. It is likely to lead to the disenfranchisement of many, many voters with disabilities.

To the five-page VVSG statement, I have been part of a new coalition of disability rights organizations. We have looked at this in great detail and have submitted detailed written comments signed by -- at the last count by 12 national disability organizations. And we, as a group, find the VVSG to be a major step backwards. We are not happy with it. It is inconsistent, and we feel strongly that it is going to set back voting accessibility.

MR. YAKI:

Thank you, Jim. Okay. We will go now to -- thank you for your statement, Jim. I appreciate that.

We will now go to the next question, Barbara Simons.

MS. SIMONS:

Thank you. Well, I have a slightly different perspective from Jim, so I'm afraid I -- I'm actually -- I find the new VVSG quite

impressive, and I want to thank all the people who worked on developing it. I know a lot of people put a lot of time into it.

I also want to direct the attention of members of this board to some comments that were posted by the State audit working group on the glossary already. I was amazed at how much time they had to put into developing it. There are a number of, I think, excellent comments, one of which I referred to in my chat box where I said that I don't think we should have trademark phrases in the document, and the phrase that I have in mind is 'ballot on demand'. That is a trademarked phrase. We should be using something different. We shouldn't be using trademarked phrases. I'm sure that's a very simple thing to fix, and I urge that it be fixed.

I also share Philip's concerns about recallable ballots because that -- I can see no way that that wouldn't violate the principle of ballot secrecy. And, incidentally, relating to ballot secrecy, I know the comment that is made by the State audit working group about the glossary is that the phrase "secret ballot" can be very confusing because it's not that the ballot is secret, it's the voter's selection is secret. And that really needs to be clarified in the glossary so that -- because the ballot itself is not secret. Everybody can see what the ballot says, but the voter shouldn't be linked to a particular ballot.

And then, finally, I would urge the EAC, once the VVSG 2.0 is adopted, to sunset the older ones. 1.0 was supposed to have been sunsetted when 1.1 was adopted, and it never was. We need to sunset these older standards because we have technology that is really out of date that is still being used based on these old standards, and we need to have better technology available for voters. Thank you.

MR. YAKI:

Any response from staff on the recallable ballot issue?

MS. SIMONS:

Or trademark.

MS. BRADY:

So, sure, I'll see what I can do. This is Mary Brady again. And let me just say before I start here, Jim Dickson, thank you so much for your comments. I'm a little confused as to whether they were submitted based on the principles and guidelines or the requirements, but regardless, I look forward to reading them and seeing how we might be able to address them.

With respect to recallable ballots, I assume, Barbara, that you're talking about the part of the requirements that try to address provisional ballots and keep that connection until the voter is actually -- until the election official knows that the voter is actually a



verified voter or a -- you know, or should be able to vote, I shouldn't say verified voter. And, you're right, we did keep that in there.

There is a lot of discussion on it in the TGDC on whether that should be allowed or not. We -- the thought was -- we were somewhat split within the TGDC, and the thought was that we needed additional feedback, particularly from election officials in terms of, you know, if that were to be taken out, what effect that would have on processing provisional ballots. So, we are looking for additional feedback there. You know, obviously, we're looking for feedback on everything, but that's -- we are aware that, as the TGDC, we discussed it at length and decided to let's leave it there until we can get some additional feedback as part of the process.

MS. SIMONS:

But do we have a principle that voters should not -- it should not be possible to link a voter to the voted ballot? I mean, there are ways of doing this with paper ballots where, you know, we have provisional ballots, and that's -- that's one way of doing it, but if you could just recall a ballot from a voting machine, I think that raises a lot of serious questions if you link it to the voter.

MS. BRADY:

As I mentioned, yes, we had those discussions, you're absolutely right, and, like I said, we are looking for -- you know, and hopefully we will get some additional feedback, both from the Board

of Advisors and the Standards Board and -- with regard to that particular issue.

And, I'm sorry, I think you had another question that you wanted me to --

MS. SIMONS:

Trademark, should trademarked phrases be used in the document?

MS. BRADY:

Yes, you know what, I'm really sort of sorry that those last set of comments that came from that group we weren't able to get in in time, so that's -- you know, so I'm aware that they're submitting them as part of the public comment process and, yes, we'll have to take another look and see if there are other trademark terms.

MS. SIMONS:

Right. And I think the document --

MS. BRADY:

And I believe it's something that's pretty easily fixed.

MS. SIMONS:

Yes, I should think so, too. I just wanted to flag it, that's all. And I think the comments are posted on the EAC website. Anyway, I signed it just to say other people signed the comments.

MR. IVEY-SOTO:

Mr. Chairman, if -- I have a comment on the recallable ballot issue, which, if it's relevant, I can make now, or else just put me at the end of the queue, please.

Mr. Chairman, you're muted.

MR. YAKI:

Mr. Vice Chair, I'm going to exercise my discretion and put you at the end of the queue so we can get to the --

MR. IVEY-SOTO:

That's perfectly fine.

MR. YAKI:

-- other folks.

Mr. Keith Ingram, you're next.

MR. INGRAM:

Yes, I was wondering what the ETA is on the test assertions? And I guess what I'm really asking is, when will VVSG 2.0 be put to a vote and be testable in a lab and, you know, systems start getting tested to it? So, that's the big question.

The secondary question is will the test assertions have to go through this whole process? If not, what process is proposed for those to be approved?

And then, is there going to be a process for interim cleanups and small modifications going forward that doesn't involve the full-blown process for a new VVSG?

MS. BRADY:

So, Keith, this is Mary. I can address some of them in terms of just letting you know what happened at the TGDC meeting. As part of one of the resolutions from the TGDC, we put together a provisional process for adopting a new VVSG that we put forth. It's -- or it discussed a rapid process for review. And as part of those discussions, I think there was somewhat -- I don't want to speak for the TGDC, but -- and perhaps some of those that are TGDC members might also chime in. But I do believe that there was agreement that there should be an annual review for -- you know, for smaller updates, you know, so we were trying to address both, you know, the smaller updates, what should happen in the case of if in fact there's -- we lose our quorum of Commissioners, and I do think there was some thought given to, you know, how to keep the standards up-to-date and relevant using those two mechanisms, the one for the -- you know, the smaller reviews, the smaller updates, and of course, the larger updates would follow the regular HAVA process, and thirdly, what to do if in fact there was a -- we found ourselves in a situation where we didn't have a quorum of Commissioners.

MR. INGRAM:

Thank you for that, Mary. Do you have -- or can the EAC tell us what the timeline is for voting, adopting on the 2.0 and the

completion of the test assertions so that they can be -- systems can be tested to the standard?

CHAIRMAN HOVLAND:

This --

MS. BRADY:

I will defer to the EAC.

CHAIRMAN HOVLAND:

This is Chairman Hovland. I'll jump in. So, obviously, the next step in what's in front of you today is the requirements. We need these requirements obviously to be -- to design test assertions to those, you have to have these test assertions. They have not traditionally been in the HAVA process that has gone through all the boards, and we've got a working group with our Testing and Cert team, with NIST, with the labs and manufacturers, and of course we're figuring out which -- some of these, what we heard through the hearings process, as you may have watched, was that many of the requirements are sufficient to design and build to, some are not and need more specifics. Of course, you can't write test assertions to things that are not adopted in the requirements, and so, we certainly want to do that quickly.

As was mentioned earlier, we're -- we also -- to speed this process up a little bit, we ran the public comment period parallel with the board review, and so that ends on the 22nd, but we're

hoping to get your feedback, the public comments, and the Standards Board feedback. The Testing and Cert team will work along with NIST to process those comments, look to see what adjustments need to be made to the requirements, and then hopefully those will be presented quickly to vote on.

MR. YAKI:

Thank you, Mr. Chair. Keith, if you're finished, we'll move on to Dean Logan.

MR. LOGAN:

Hi. Good afternoon, and thank you, Mr. Chair. I think some of my questions were answered in that last section, and I did join late, so I apologize if this was already addressed. I just wondered if staff could briefly address the issues that were raised in Secretary Condos' email earlier this week just for clarification on which document the Commissioners intend to act on. And I have the same question about the test assertions. And also, if available -- and I apologize; it's probably something I could get on my own, but if the five-page document on the guidelines, if we could get a link to that, it would be helpful to know about that.

And finally, it was referenced in Secretary Condos' email or asserted that in the past this body had passed a resolution to advise or suggest that the guidelines document be the actionable document, and I just wonder about the history on that. Thank you.

CHAIRMAN HOVLAND:

This is Chairman Hovland. I'm happy to jump in on an array of these things because I feel like I get to a lot, but that's part of the job. So, let's see. Secretary Condos' email, I appreciate his feedback. Obviously, he had some concern on transparency. You know, you all voted to waive that, but again, from my perspective at least, very reasonable, this meeting was supposed to be in April. It was noticed appropriately for the April time. Obviously, COVID made it be postponed. You know, I think that made the 60-day piece of it, you know, reasonable to postpone.

And then, the 15 days versus 14 days in the record, again, we've had public hearings with the opportunity for public comment. There is an ongoing public comment period in this. I think we've been very transparent through this whole process, so at least I am personally satisfied with that. Again, individuals have had opportunities to testify at the end of all three of our VVSG hearings, and again, the public comment period is open for six more days, so anyone who wants to share anything on this, we welcome it.

As far as the principles and guidelines go, that's the five pages you heard about. Again, each of those are within the larger requirements document that you look at because the requirements are tied to those principles and guidelines. Certainly, last year, as you may remember, we did a series of hearings around the

principles and guidelines and reviewed those and had a public comment period. They haven't been voted on yet. They certainly could be. That's a possibility. But the legal review that we got last year indicated that 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, as you all know, the board review starting with the TGDC, then going to the Board of Advisors and Standards Board. Then, we as Commissioners are not allowed to vote for 90 days after that transmission to the advisory boards, and somewhere in there we also have to have a public hearing and a public comment period. And so we continue to move forward to fulfill those HAVA requirements.

Again, I don't know yet if we will vote on the principles and guidelines separately or the requirements or packaged up, but either way, we've got to get the requirements done, and that is why we're here today and that's why we been going through this process because those requirements, as you know, the principles and guidelines are the high level -- the high-level points that frankly most people all agreed to that we should strive for in a voting system, and then these -- the requirements are really much more of the details of what that's going to look like in practice.



And so, again, we're trying to get the details right here, as discussed before, with the test assertions. Within some of those requirements, there's additional detail that's needed. I think that is both to allow for some functionality over time. An example that I liked a lot, obviously wireless has been a hot topic. Well, if you limit connectivity right now in 2020, that may look a lot different in 2020 -- or in 2030. And so, within those test assertions you could redefine what it means to limit wireless in certain aspects. So, certainly, that's one area that provides flexibility that we may not have seen in the past, but also longevity.

And just while I'm talking, Mary Brady mentioned some of the TGDC resolutions. Certainly, I think that those are a big part of this process moving forward and success in this process moving forward. Certainly, as you all probably know, there has been some frustration in this process, and I certainly understand that. In my mind, a lot of that is about stagnation. Some of that stagnation has occurred because of losing a quorum here and there, but I think there are procedures that we can put in place to help alleviate that stagnation as well, and one of those is an annual review or an annual cleanup process.

I know a lot of you have backgrounds working with the legislature, in the legislature. You know, there's always these cleanup bills. I think something similar could be adopted around

VVSG where you review it every year. Some years there's nothing, some years there will be a new advancement in technology. And so, certainly I think there are ways that we can implement procedures in place to reduce or prevent future stagnation, but right now, what's in front of us is moving from the 1.0, which is a 2005 standard, to this 2.0, which is obviously a 2020 standard. What we heard throughout the hearings was these machines -- machines built to the standard will be more accessible than the machines currently in polling places. It'll be more secure than machines currently in polling places.

And so, as I see the mission before us, it is to move this process forward, lead to the next generation of equipment being better, and then work to continue to improve the process going forward in the procedures so that this process can continue to adapt and be responsive for years to come. Thank you.

MR. YAKI:

Thank you. Thank you, Mr. Chair.

Alysoun?

MS. MCLAUGHLIN:

Ben just answered my question and answered it well, I believe. My comment was related to the language in the Help America Vote Act that directs us as a body to meet annually and the recognition that we have been engaged in a very big multiyear

process of upgrading to the VVSG 2.0 and that there are a variety of different questions, concerns, goals that members of this board have but that we will have opportunities to continue moving forward on those as we go through this process year after year in the future.

And I just basically wanted to elicit some statements that I think Ben already spoke to, so if there's anything that has not been said on that and on the expectation of this continuing to be an annual process, some years we may have bigger lifts, some years we may have smaller lifts. If there's anything further that anybody from the EAC or NIST want to say about that, great. Otherwise, I consider my question to have been answered.

CHAIRMAN HOVLAND:

Very --

MR. YAKI:

Thank you very much.

CHAIRMAN HOVLAND:

Very briefly --

MR. YAKI:

Mr. Chair?

CHAIRMAN HOVLAND:

-- I'll just add that I think one piece of that that's particularly attractive, as you all know, if you looked at these requirements, I mean, this is a significant lift. We felt the weight of that I believe in

the TGDC that you're talking about, 15 years of technological advancement and particularly in a time where we've had a lot of technological advancement. And so, if we're able to do that on a regular basis, I think it gives us the ability to really dive deeper into the areas that need to be without having the pressure of this long lift again. And so, I think it's a much more manageable structure as well. Thank you.

MR. YAKI:

Thank you. Thank you, Mr. Chair. Neal Kelley, you had a comment?

MR. KELLEY:

Yes, thank you, Mr. Chairman. I just wanted to follow up on Commissioner Hovland's comments related to how that process moves forward on an annual basis or reviewing. There was a lot of discussion at the TGDC. I'm a member of that body, and there was a lot of, I don't want to say heated discussion, but there was passionate discussion related to that trying to address the issue of a lack of quorum potentially moving forward with the Commission.

You know, what we talked about was that this is very typical in other standards-developing bodies, such as IEEE and ANSI, where you would have a provisional process in place that could move forward important items that needed to be addressed, and I'll give you a great example, like security issues related to voting

systems. There may be something that would come up in between an annual review where there is a lack of a quorum and how would that be handled.

The TGDC did pass a resolution, and I just want to address a couple of bullet items from that because I think it's important to note. Even though it's not binding on the Commission, we understand that, and we're grateful for their consideration. The process for a provisional review of the VVSG 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. It would -- everything would be included from the standpoint of all of the public review process up to the point where the Commission then had a quorum, and they could of course, under their authority, vote to advance -- to keep that provisional process in place or to make changes.

So, again, I just wanted the entire board to understand that we did have a lot of discussion about that and passed this resolution, and again, it's before the Commission for consideration, so thank you, Mr. Chairman.

MR. YAKI:

Thank you very much, Neal. Going back, Daniel Ivey-Soto had a follow-up comment to a previous remark. Vice Chair? Mr. Vice Chair?

COMMISSIONER HICKS:

You're still on mute, Daniel.

MR. IVEY-SOTO:

There we go. Thank you very much, Mr. Chair. I want to follow up on the issue of privacy and that was raised by Barbara and the issue of a recallable ballot. And I want to raise specifically two things.

One, on page 285, where we have there a definition of cast vote record, so, if I may just make a suggestion that the cast vote record, right now, the definition is "archival tabulatable record of a set of contest selections produced by a single voter as interpreted by the voting system" would be to modify that. Actually, instead of saying "produced by a single voter" would be produced on a single ballot as interpreted by the voting system. The voting system should not know who the voter is, so it should be the center contest selections produced on a single ballot as interpreted by the voting system.

The second thing then goes to the definition of a recallable ballot, which is on page 317. And right now, a recallable ballot is a recorded ballot that can be individually retrieved and included or

excluded from further processing. And, now, I come from an all-paper-ballot State, and, as an all-paper-ballot State, we are able easily to segregate provisional votes from votes for which no challenge was interposed by the physical separation of those. However, I can envision that we may have a system where we would allow people on some kind of a DRE system that would of course produce -- that would allow a provisional voter to cast their record.

The problem that I have is the way this is written is that a recallable ballot is a recorded ballot. A recorded ballot, once it is recorded, should be completely disassociated from any voter. And so, your definition to the extent that you want to have a recallable ballot where -- I mean, I can see where that may be helpful under certain circumstances, would be that the recallable ballot should be a ballot that has not yet been recorded that can be individually retrieved and included or excluded from further processing because, otherwise, you are creating a system which, by definition, will have to be able to tie votes to voters.

And once the vote is cast -- and your definition of casting a vote is that that is an irretrievable action by the voter, which, I like that definition. Once the voter makes that irretrievable action and there's no question that that voter -- any question about that voter being able to vote has been resolved, there must be an absolute

separation between the voter and the ballot when that ballot is recorded.

And so, I -- this is an issue of paramount importance, and so, I -- Mr. Chair, I know that the desire is that we recommend this document to the EAC today. My question would be whether it would be in order that we also, by means of a motion, recommend that -- to the EAC that, in the adoption of this, that the -- that the terms be modified in order to ensure a separation of a recorded ballot from any voter.

MR. YAKI:

Mr. Vice Chair, we're not going to act on any document today. This was an informational session. It was not noticed on the agenda, and I don't see any -- I don't think anyone of us right now are prepared to do it as there are still questions left --

MR. IVEY-SOTO:

Certainly.

MR. YAKI:

-- and processes as the Chair -- Chair Hovland said in terms of when we will actually be getting some of these documents for actually formal review. But I would say that if this is something that we want to express, this is the comment period, and you are free to do so. As I said before, I'm going to be looking at the subcommittees again and seeing whether or not they might be



appropriate to bring some of these issues forward in the interim, but we're not going to be voting on any particular item regarding the VVSG today.

MR. IVEY-SOTO:

That's fair enough, and then, let me just conclude my comments from saying that the comment that I heard from the VVSG is that they were hoping that there would be some election officials that would weigh in on this issue, and so, I just also want to clarify them for the record that even though I am currently and occasionally uncomfortably somewhat a State Senator in the State of New Mexico and I'm here on behalf of NCSO, I am the former State Elections Director for the State of New Mexico, and I also have been previously the Executive Director for the county clerks in my State and continue to work professionally as a technical assistance provider to local election officials throughout the region, and so, please take these comments in the context of somebody who works on both election policy, but who spends a significant amount of his time on the nuts and bolts and the day-to-day process of conducting elections. Thank you very much.

MR. YAKI:

Thank you, Mr. Vice Chair. We appreciate your expertise and your knowledge on this particular subject.

So, team members, we have about 21 minutes left in this scheduled Zoom call. I have nudged some of you. I have received nothing back. Are there any other questions, follow-up comments, remarks that any of you wish to make? If not, we will move to going back to approving the minutes, and then, closing the meeting down, so --

MR. DICKSON:

This is Jim --

MR. YAKI:

-- this is going to be the last call. Okay, Jim, go ahead. Jim?

Is Jim on mute?

MR. DICKSON:

Can you hear me now?

MR. YAKI:

Now we can, yes.

MR. DICKSON:

Yes. I'm -- thank you. I wanted to speak to Commissioner Hovland's point about an annual review on these, and I'm wondering if the thought process on that has proceeded to the point where -- that there's thoughts about when that annual review is going to happen and when will it be done in terms of the EAC's annual calendar.

CHAIRMAN HOVLAND:

So, this is Commissioner Hovland. I'll add on that or just or at least to the TGDC conversations, again, the Commission hasn't adopted anything, though my reading of HAVA says that the TGDC really kicks that off, so I think that the TGDC will begin that process and then forward to the Executive Director their recommendations on an annual basis.

But in addition to concerns about stagnation, you know, I think, again, I haven't been here for the whole thing or for this whole process, but, amazingly, you know, through these TGDC meetings we're coming back to conversations about scope, which, I don't know, as it was reported to me had been more or less settled four years ago. And, again, while there are real reasons to have scope conversations, you know, from my vantage point, we are very much in a potential "perfect being the enemy of the good" spiral situation here. We have got to get these done. We have got to raise the bar. And then, we should absolutely have those conversations about scope.

You know, I hear the accessibility questions loud and clear. I again will say I'm a little bit confused on it because I think if we throw blank ballot delivery into the VVSG, it actually limits innovation in that space. But again, I think those are conversations we should have, you know, through this process. Electronic poll books, in many jurisdictions, are now an integral part of the polling

place but not contained within the VVSG purview or scope. You know, those are conversations to have.

But if we don't draw the line somewhere, if we don't pass this new version, we will never get this done. Like the conversation is endless, so we need to move the bar forward and then start having that conversation. And, again, I think there's plenty to talk about in an annual basis.

So, certainly, with my role within the TGDC, I've encouraged that, and I hope that we see that start to happen, and I hope the Commission pushes and promotes this kind of review because, again, as I've said many times, the end product -- the VVSG is a Voluntary Voting System Guidelines. It is a product, and we only realize the full benefit of that product if every State is using it. That means we have to provide a good product. And so, again, I think that this is part of that process, and I am hopeful that we can move forward.

MR. YAKI:

Thank you, Commissioner Hovland.

Any other -- again, opening this up to the floor, any other comments or suggestions or remarks from anyone? Okay.

In fact, I think I see that -- very quickly, this is not going to be our last crack at VVSG. There's much more process that needs to

be followed, and the good work of the Commission is going -- is onward, as will be the Board of Advisors.

So, with no further ado, I am going to close this section of the meeting down and allow the Commissioners, who have given so much of their time today -- Commissioner Hovland, thank you so much, Commissioner Hicks. We will now proceed back to a part of our agenda that we skipped, and that is to take up the approval of the past minutes from the last meeting.

Quickly, on that note, before we begin, there is a typo on page 3 on Linda Lamone's name. It should be spelled L-a-m-o-n-e, not L-a-m-o-n-i. And on page 9, Alysoun's name is spelled s-o-u-n, not s-o-n. Without any objection, I am going to make those changes to the minutes, and I'd like a motion to approve the minutes of the previous Board of Advisors meeting.

MS. MCLAUGHLIN:

So moved.

MR. YAKI:

Moved by the --

MS. MCLAUGHLIN:

Alysoun.

MR. YAKI:

-- Secretary. Is there a second?

MR. DICKSON:

I second.

MR. YAKI:

Thank you, Mr. Dickson, seconded.

Any objections to adoption?

Hearing none, the minutes from the past Board of Advisors meeting is adopted.

I want to thank all of you. I want to thank the EAC staff for their good work in pulling this together. It is, again, not easy for all of us to deal with the new semi-normal and hopefully not a real big normal, but we should be -- oh, by the way, if I did not mention Sarah Ball Johnson was also present, I don't know if I said it before. If I didn't, I'm sorry.

But we will continue on. There are a lot of questions and comments that came out of this meeting, and I know there are others that have been communicated as well directly to the Commission and Commission staff. I want to thank our new Executive Director for her cooperation in pulling all this together and thank all of the members for taking time out of your day to convene for this virtual meeting and lending your time and expertise to this really important subject.

One comment I'm going to make before I leave, and that is it's something that has always struck me and something that I think all of us should discuss more, and that is the -- we have board --

members of the Board of Advisors on the TGDC, and as you can -- as you have heard, they play an important and vital role in the development of these standards for VVSG, and I am going to be asking them to take a much more active role in conveying information and the work that is going on as our member -- as our advisory board participants on that to keep us involved because I think it's important that we do ensure that our representatives are -- I know that they are communicating in the best efforts of their -- as their role of members of the Board of Advisors, but I would like that to be more transparent to all of us because it will help all of -- inform us going forward as the VVSG rolls on to its hopefully inevitable conclusion.

So, with that, the meeting -- I'm going to move to adjourn the meeting. Is there a second?

COMMISSIONER HICKS:

I would hold off for one second. I just wanted to add one thing before you close --

MR. YAKI:

Okay.

COMMISSIONER HICKS:

-- it Mr. Chair. I would like to --

MR. YAKI:

Thank you, Commissioner.

COMMISSIONER HICKS:

-- say that I believe all four of the Commissioners were present today on the call, so you have had all our ears to hear your comments and questions.

The other thing I would say is that nominations are due in about a month from now, and I want everyone to remain safe and healthy so that we can move forward with actually having a meeting in person relatively soon. And we do take your comments seriously, so if there are things that you wanted to add in written form, the closing period is June 22nd.

So, with that, Mr. Chairman, I'll turn that back over to you and --

MR. YAKI:

Great. Thank you very much, Commissioner, and thank you for your leadership with the Board of Advisors. I move to adjourn.

Is there a second?

MR. DICKSON:

Second.

MR. YAKI:

Thank you very much. There being no objection. Everyone, stay safe. Stay tuned. We'll be in contact with you shortly, and thank you all. And this meeting of the Board of Advisors annual meeting is now adjourned.



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[The Virtual Public Hearing of the United States Election Assistance Commission  
adjourned at 3:20 p.m.]

bw/cms

DRAFT