



U.S. ELECTION ASSISTANCE COMMISSION
1225 New York Ave. NW – Suite 1100
Washington, DC 20005

Funding Advisory Opinion

FAO-09-006

Date Issued: July 14, 2009

Requestor: Sacramento, California

Question: May Section 251 funds, without either of the Section 251(b)(2) certifications, be used for ongoing voter education programs? Specifically, can Section 251 funds be used to both establish and perform a voter education program on a paper ballot or central count voting system?

Determination:

Jurisdictions may use Section 251 funds without Section 251(b)(2) certifications to establish an education program for paper ballot or central count voting system and to conduct initial training on the new system. Ongoing training (after the first year of implementation of a new system) must, however, be funded as an improvement to the administration of elections for Federal office with Section 251(b)(2) certifications or with Section 101 funds.

The Election Assistance Commission established its policy on the use of Section 251 funds for training in FAO-08-011, which says that:

Voter education may be funded with Section 251 funds, regardless of a certification filed under HAVA Section 251(b)(2), in only the following three circumstances:

- 1) Pursuant to HAVA Section 301(a)(1)(B), States using a paper ballot voting system or central count voting system (including mail-in absentee ballots and mail-in ballots) may establish a voter education program. This voter education program must be specific to the voting system used in the jurisdiction, notifies voters of the effect of over-voting, and provides instructions to voters on how to correct a ballot before it is cast and counted (including obtaining a replacement ballot).
- 2) States must post voter information at each polling place on Election Day pursuant to HAVA Section 302(b). Voter information, as defined by HAVA Section 302(b)(2), means a sample ballot, the date of the election and the hours which polling places will be open, instructions on how to vote, instructions for mail-in registrants and first-time voters under Section 303(b), general information on voting rights under applicable Federal and State laws, and general information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation.



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3) States may conduct an educational program for poll workers and voters when they implement a new voting system that complies with the requirements of Title III of HAVA. However, this is a one-time training expenditure and does not include expenses to train poll workers prior to each election for state, local and/or federal office.

Note that States which subgrant or reimburse HAVA funds to counties or other local units of government have the authority to limit how funds are used.