



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

Rule of Agency Procedure No. 1:
Procedures for Voting by Circulation.
Version 2.0

I. Purpose.

This procedure establishes guidelines for circulation voting at the Election Assistance Commission. It also clarifies procedures when matters originally circulated for a vote are subsequently addressed at a Commission meeting.

II. Procedures Generally Applicable to Circulation Voting.

A. General.

1. A matter requiring formal Commission action that has not been placed on a meeting agenda may be circulated for a vote in accordance with this procedure.

2. A matter may be submitted for circulation voting by a Commissioner, by the Executive Director, or the General Counsel.

3. Circulations shall be made by the Director of Administration. In certain instances, the Executive Director may determine that direct circulation by his or her office is warranted for administrative matters not requiring certification.

4. All documents circulated for a vote must include a ballot.

5. Time periods and deadlines indicated in this policy: For purposes of this policy, the time periods shall run during business days only. A consensus vote issued at 4:30 PM on a Friday will be due at 4:30 PM on the following Monday. Similarly, a tally vote issued at 4:30 PM on a Friday will be due at 4:30 PM on the following Tuesday.

B. Objections.

1. If a Commissioner timely *objects* to a matter circulated for voting by so noting on a signed ballot submitted prior to the circulation-voting deadline, the matter will be added to an agenda for a meeting of the Commission, unless,

- i. The Commissioner withdraws the objection in writing; or,
- ii. The Commissioner indicates in writing that the objection is “for the record” only. In such a case, the Commissioner will be recorded as voting “no,” and as objecting for the record.

2. The General Counsel shall be consulted, as necessary, with regard to compliance with the Government in the Sunshine Act before a matter is placed on a meeting agenda subject to paragraph II.B.1, above.

C. Withdrawal.

1. The Commissioner, Executive Director, or General Counsel who submitted a matter for circulation voting may withdraw the matter, if the withdrawal is delivered in writing to the Director of Administration before the end of the voting period. The Director of Administration shall promptly notify all Commissioners of the withdrawal.

2. Withdrawal of a matter nullifies votes on the matter previously submitted to the Director of Administration.

D. Revisions.

Minor revisions may be made to documents circulated for a vote, with the agreement of the Commissioner who submitted the matter for circulation. For purposes of this paragraph, “minor” means changes that do not affect the substantive content of a

document, such as, but not limited to, correcting typographical errors or correcting an address or the title of a person in a letter. If a Commissioner wishes to revise substantively a document circulated for vote the document must be withdrawn and recirculated, even if the Commissioner who submitted the document agrees to the substantive revisions. Alternatively, a Commissioner who wishes to revise a document circulated for vote may object, and cause the matter to be placed on the agenda for a meeting of the Commission.

E. Changing Votes.

1. A Commissioner may cast, change, or withdraw his or her vote at any time before the close of the voting period, or before the vote is certified by the Director of Administration if all four Commissioners have properly voted before the close of the voting period.

2. Any timely changed or withdrawn vote shall have the same effect as an original vote.

i. If a Commissioner timely changes his or her original “yes” or “no” vote to an objection with regard to the matter to which another Commissioner had not previously objected, the matter will be placed on a meeting agenda.

ii. If a Commissioner changes or withdraws his or her original objection with regard to a matter to which no other Commissioner has objected, the matter will be resolved by circulation voting.

3. If a Commissioner casts a circulation vote on a matter that is subsequently placed on the agenda of a Commission meeting, the vote of that Commissioner will stand

unless he or she changes or withdraws his or her vote on that matter at the meeting; provided, however, that if an intervening motion is made at a Commission meeting, prior votes are superseded.

F. Certification of Votes.

1. Tally Votes. The Chairperson's Office shall prepare a certification of the result of the tally vote as soon as possible after the vote is final. The original certification will be kept in the Chairperson's Office and copies will be distributed to each Commissioner.

2. No-Objection Votes. The Director of Administration shall notify all Commissioners by memorandum of action on no-objection matters, except for matters submitted under paragraph III.A.1.iii, below, which must be certified if the matter was originally circulated for tally voting.

III. Circulation Vote Procedures.

A. No-Objection Matters.

1. The following types of matters are appropriate for circulation voting as no-objection matters:

- i. Routine administrative matters.
- ii. Matters that present no substantive issues that have not been previously resolved by the Commission.
- iii. Matters that have been previously considered by the Commission at a meeting that have been returned to the staff with instructions for revisions after such revisions have been made.

2. No-objection votes will generally have a 24-hour deadline; however, the Commissioner, Executive Director, or General Counsel submitting the no-objection matter may specify a longer, but not shorter, deadline.

3. The Chairman, after consultation with other Commissioners, may extend the voting deadline if it appears that less than three of the Commissioners will have an adequate opportunity to review that matter.

4. Matters circulated for voting as no-objection matters shall be deemed approved and become effective when the voting period closes unless an objection has been received. A Commissioner who does not object to a circulated no-objection matter should sign and return his or her ballot as evidence of receipt of the document.

5. If a Commissioner submits a timely objection, the matter shall be handled in accordance with paragraph II.B., above.

B. Tally Votes.

1. Tally votes will generally have a 48-hour deadline; which shall be the default time period. However, the Commissioner, Executive Director, or General Counsel submitting the tally vote matter may specify a longer or shorter time period for consideration if the situation so warrants or if the decision is being made because of an emergency situation. Further, the Commissioner, Executive Director, or General Counsel submitting the tally vote matter *must* specify a time period that is shorter than 48 hours if the subject matter of the tally vote is being considered under an emergency or expedited review provision of an EAC policy. The Commissioner, Executive Director, or General Counsel submitting the tally vote matter for a period that is shorter than 48 hours shall include in his or her recommendation adequate justification for the shorter deadline. All

tally votes, whether being considered in an emergency situation or not, shall provide a minimum deadline of 24 hours.

a. For purposes of this section, “emergency” means a situation or event that is unforeseeable and could not have been prevented through due diligence. Emergencies may include, but are not limited to: (1) An act of God such as a tornado, hurricane, earthquake, flood, or similar weather event, (2) A criminal act such as a terrorist attack, bomb, or similar crisis, (3) A court decision, holding, settlement, or similar judicial ruling that requires EAC to take immediate action, (4) A newly enacted or issued statute, regulation, Executive Order, or similar legal requirement that must be implemented within a timeframe that cannot otherwise be met, or (5) any other unforeseen circumstance which the affected parties could not have prevented through due diligence. EAC will not consider a situation or event to be an emergency where advanced planning would have likely alleviated the need to take action within the emergency timeframes contemplated in this policy.

For purposes of this policy, a situation is less likely to be considered an emergency the more time that elapses between the triggering event and the request for Commissioner consideration. In other words, an unforeseen event that happened 8 days prior to a request for Commissioner consideration is more likely to fall within the definition of “emergency” provided herein than the same unforeseen event that happened 8 weeks prior to a request for Commissioner consideration

2. The Chairman, after consultation with other Commissioners, may extend the voting deadline if it appears that less than three of the Commissioners will have an adequate opportunity to review that matter.

3. Three timely affirmative votes, indicated by signed and duly noted ballots, delivered to the Director of Administration, are required for approval of a tally-vote matter.

4. If a Commissioner submits a timely objection, the matter will be placed on a meeting agenda in accordance with paragraph II.B., above, even if the matter otherwise has three “yes” votes.

5. If a tally-vote matter does not receive three timely “yes” votes, the matter will be placed on a meeting agenda, unless withdrawn.

IV. Document Signing Authority on Circulation Votes

Votes and objections may only be made via a signed ballot delivered to the Director of Administration. A member of the Commission may not delegate to any person his or her vote or decision-making authority. No proxy voting shall be permitted on circulation votes. A Commissioner may authorize his or her staff only if the Commissioner has given express instructions regarding the particular matter being acted on and the staff member is acting in accordance with those instructions; the staff member may then sign a document in a purely ministerial capacity. In each instance in which a Commissioner’s staff member has acted as an agent in casting the Commissioner’s vote, the Secretary shall maintain with the ballot any written authorization, instructions, or after-the-fact ratification provided by the Commissioner.

V. Effective Date

This policy becomes effective on [INSERT DATE] and supersedes all previous versions of these Procedures for Voting by Circulation.