

**Minutes of the Public Meeting
United States Election Assistance Commission**

1225 New York Avenue, NW
Suite 150
Washington, DC 20005

The following are the Minutes of the Public Meeting of the United States Election Assistance Commission (“EAC”) held on Thursday, May 22, 2008. The meeting convened at 10:02 a.m., EDT. The meeting was adjourned at 12:43 p.m., EDT.

PUBLIC MEETING

Call to Order:

Chair Rosemary Rodriguez called the meeting to order at 10:02 a.m.

Pledge of Allegiance:

Vice-Chair Caroline Hunter led all present in the recitation of the Pledge of Allegiance.

Welcoming Remarks

Chair Rodriguez was pleased to announce that Vice-Chair Hunter was nominated to the Federal Election Commission, the nomination hearing was conducted before the U.S. Senate on her pending appointment. Chair Rodriguez extended her best wishes to Vice-Chair Hunter, noting that this could possibly be her last Commission meeting.

Chair Rodriguez was pleased to acknowledge the presence of two international visitors (from the Island of Guam and the Country of England) on behalf of Fair Vote.

Roll Call:

EAC Commissioners:

General Counsel Juliet Hodgkins called roll of the members of the Commission and found present: Chair Rosemary Rodriguez, Vice-Chair Caroline Hunter, Commissioner Donetta Davidson, and Commissioner Gracia Hillman. Four members were present for a quorum.

Senior Staff:

Executive Director Tom Wilkey and General Counsel Juliet Hodgkins.

Witnesses:

Vicky M. Dalton, Spokane County Auditor, Washington State; Lori Guerrero, HAVA Coordinator, Washington State; and, Evelyn L. Arnold, Chelan County Auditor, Washington State.

Presenters:

Olene Walker, Former Governor and Lieutenant Governor of Utah, Co-Chair of the Committee on State Voter Registration Databases of the National Research Council, Dr. Herbert S. Lin, Chief Scientist, Computer Science and Telecommunications Board, National Research Council of the National Academies, Karen Lynn-Dyson, Director of Research, U.S. Election Assistance Commission

Deleted: , Director

Amendment of the Agenda

Chair Rodriguez asked for a motion to amend the agenda to remove consideration of requests from Michigan and Louisiana to amend the State instruction on the NVRA Form due to the fact they were not ready for the Commission's consideration. Vice-Chair Hunter moved to amend the agenda. Commissioner Davidson seconded the motion. The motion carried unanimously.

Adoption of the Agenda

Commissioner Rodriguez asked for a motion to adopt the agenda as amended. Commissioner Davidson moved to adopt the meeting agenda. Commissioner Hillman seconded the motion. The motion carried unanimously.

Old Business

Approval of the minutes from the previous meetings

Chair Rodriguez asked for a motion to adopt the minutes of the April 16, 2008, Commission meeting. Vice-Chair Hunter made a motion to adopt the minutes. Commissioner Davidson seconded the motion. Commissioner Hillman suggested a correction to page three under the Executive Director's report, [that the Standards Board and Board of Advisors held their own individual virtual](#)

meetings. Vice-Chair Hunter made a motion to adopt the minutes as amended. Commissioner Davidson seconded the motion. The motion carried unanimously.

Chair Rodriguez next requested a motion to adopt the minutes of the special Commission meeting that was held on April 30, 2008. Commissioner Hillman made a motion to adopt the minutes. Commissioner Davidson seconded the motion. Commissioner Hillman noted a discrepancy on page two of the minutes regarding the way the vote was recorded to remove from the table for discussion the item pertaining to modifying Advisory Opinion 07-003-A. Chair Rodriguez pointed out that this could be a substantive point and the vote to approve the minutes should be postponed pending further research into the matter. Commissioner Hillman agreed to remove her motion from the table. Commissioner Davidson concurred with Commissioner Hillman's recommendation. Chair Rodriguez noted that the April 30, 2008, minutes would be placed on the June 19, 2008, meeting agenda.

Deleted:

Report from the Executive Director

Tom Wilkey extended a welcome to everyone in attendance at the meeting.

Mr. Wilkey reported that the following activities have taken place since the April 30, 2008, special meeting of EAC:

Under EAC administration, drafts of administrative regulations that govern Freedom of Information and Privacy Act requests, in addition to regulations describing how the Commission conducts business consistent with the government in the Sunshine Act will be circulated to the Commissioners by the conclusion of the following week.

The RFP for policy and procedures contractor has been prepared and delivered to the national business center for processing and posting. It is anticipated that the RFP will be posted later in the week.

Under EAC grants, 36 applications for the College Poll Worker Grant Program and 15 for the Mock Election Program have been received to date. Following an independent review process, which is underway, the awards will be announced at the June 19, 2008, meeting.

Ten (10) States have applied for the five \$2 million Election Data Collection grants. Following an independent review process, which is underway, winners, will be selected by May 30.

Under research, the 2008 Election Day Survey comment period has been extended to May 21, 2008.

Under voting system testing and certification program, the series of stakeholder roundtables on the TGDC draft guidelines are now complete and the written testimony that was submitted has been posted to EAC's Web site. The comment period for the draft guidelines concluded on May 5, 2008, and 2,355 comments were submitted. A letter was sent to State election officials providing an update on the testing and certification activities, and the letter is also available on the Web site. A revised test plan for the Premier Solution Assure 1.2 system and a draft plan for the ES&S Unity 4.0 system were also recently posted to the Web site.

Under HAVA funds and election administration, 17 requests for advisory opinions on the use of HAVA funds under the new policy recently adopted by the Commission have been posted to the Web site.

The Glossary of Key Election Terminology will be available in early June in the following five Asian languages: Chinese, Japanese, Korean, Vietnamese and Tagalog. Electronic copies of the Glossary will be made available on the Web site and hard copies will be distributed to all election jurisdictions covered for language assistance in these languages under the Voting Rights Act. Spanish language glossaries are also available.

Two working group meetings were recently held, the first on elderly and disabled voters in long-term care facilities and the second on media and public relations.

Under contingency planning, EAC recently briefed the House Administration, Subcommittee on Elections, on Election Day contingency planning. Testimony is available on the Web site.

A comment period that included a chapter on contingency planning in the Election Management Guidelines recently concluded. A workshop devoted to contingency planning will be held during the July public meeting.

Under EAC's Web site, visitors now have the option to receive email alerts each time a new IG report has been posted. As of mid

May, 1,000 view requests were logged by 429 unique IP addresses.

Alice Miller, the Executive Director of the D.C. Boards of Elections and Ethics will join EAC staff June 2nd as Chief Operating Officer.

Mr. Wilkey concluded his report to extend his best wishes to Vice-Chair Hunter in her new position with the FEC.

Questions and Answers:

In response to questions by the EAC Commissioners:

Mr. Wilkey reported that although he is not aware of a central location where voters can view States' contingency plans at the present time, he would check with both NASED and NASS to determine whether they have something like this currently available, if not whether they would be interested in hosting a central location, and would advise the Commission regarding his findings. Chair Rodriguez pointed out that although the Election Management Guidelines recommends that the States file their contingency plans with the EAC, there have been no such filings to date.

Per the request of Chair Rodriguez, General Counsel Hodgkins provided a brief explanation with regard to the language provisions of the Voting Rights Act and EAC's involvement for the benefit of the international visitors.

Chair Rodriguez was pleased to announce that working groups on the American-Indian languages will be meeting in Albuquerque, New Mexico, during the month of June.

Public Hearing on Proposal to Modify Advisory Opinion 07-003-A regarding Maintenance of Effort

Commission Hillman made a motion to remove from the table Vice-Chair Hunter's proposal that would modify Advisory Opinion 07-003-A regarding Maintenance of Effort, Pursuant to HAVA Section 254(a)(7). Commissioner Davidson seconded the motion.

Chair Rodriguez introduced and welcomed the following panel of witnesses from Washington State, Lori Guerrero, HAVA Coordinator, Vicky Dalton, Spokane County Auditor, and Evelyn L. Arnold, Chelan County Auditor

Witness: Ms. Lori Guerrero addressed the Commission to provide an overview of how the grant process works in Washington State, to suggest that consideration be given towards a third category of MOE which would be that States give money to counties for specific purposes to fulfill a specific request, and to also review in detail the internal controls that Washington State has established to eliminate the supplanting of any type of Federal funding.

Ms. Guerrero concluded her testimony to opine that there is no compelling reason to require MOE at the county level in Washington State, not only because of the burdensome task that it creates but the fact that several steps have already been put into place to ensure that counties are not supplanting Federal funds.

Witness: Ms. Vicky Dalton addressed the Commission to provide brief testimony on the control processes that are in place in Washington State to ensure that grants are well thought out, documented and will produce an achievable result.

Ms. Dalton provided a detailed explanation regarding the various elements that makes identifying a baseline with the MOE requirement problematic.

Ms. Dalton also spoke about efforts versus dollars, noting that even if Washington State could provide dollars of expenditures it would not truly explain what has been accomplished with HAVA funds. It was pointed out that the grant process that is in place provides a specific trail of what the money will be used for and achieve.

Ms. Dalton concluded her comments to request that EAC keep in mind that as it works its way through the MOE requirements, some of what may be requested may be impossible to perform because the information does not exist.

Witness: Ms. Evelyn Arnold addressed the Commission on behalf of all the county auditors in Washington State. Ms. Arnold's testimony centered around the difficulty of creating a baseline with the MOE requirement, there is a concern with regard to the funds that the State have received, the fact that accepting HAVA funds would create a cost increase in elections beyond what Federal money would supply in years to come, and although HAVA funds have created wonderful improvements there is a concern with regard to what the consequences will be for States that cannot create an MOE baseline, the difference in costs of provisional ballots today versus 1999, and the fact that provisional ballot costs were not kept separately in 1999.

Ms. Arnold concluded her testimony to request that EAC reconsider the MOE Advisory that it is proposing to work with States.

Questions and Answers:

In response to questions by the EAC Commissioners the witnesses provided additional details regarding the type of activities that States would grant monies to counties for to fulfill their specific requests if a third category of MOE were established, the mechanisms that are in place to monitor how grant money is being spent by counties, why Washington State cannot come up with an MOE baseline for 1999, whether there is a possibility that allegations could be made that the State used Federal funds to supplant State activity based on the 1999 fiscal year, the importance of sticking with retention schedules for liability purposes and the impact that vote by mail has had on both the costs and numbers of provisional ballots.

Chair Rodriguez noted that all the public comments that were submitted in connection with the meeting would be entered into the record. Commissioner Hillman pointed to the letters that were submitted by several organizations dated May 21, 2008, and April 29, 2008, notifying the Commission that they would have preferred to testify in person but were unable to do so because of the short notice period that was given for the meeting.

The floor was open for discussion on Vice-Chair Hunter's proposal to modify Advisory Opinion 07-003-A regarding Maintenance of Effort, Pursuant to HAVA Section 254(a)(7). Vice-Chair Hunter advised the Commission that her intention would be to table the motion for further discussion. Vice-Chair Hunter's comments centered on how States were originally made aware of HAVA funding, how OMB Circulars A-87 and A-102 were interpreted and implemented by States, the need for additional guidance so that States do not find themselves at crossroads with the law in the future, the need for EAC to look at the law and Circulars and provide helpful guidance to States. Vice-Chair Hunter introduced into the record a letter dated May 8, 2008, from the Inspector General containing information regarding the status of States that have been audited, those that are currently being audited and their ability/inability to comply with the MOE requirement.

Commissioner Hillman recommended that the Commission establish a working group with State election officials to expedite

discussions on HAVA funding issues, and also that EAC request time to discuss this issue with NASED during their upcoming summer meeting.

General Counsel Hodgkins provided a summary of the meeting that took place with OMB, representatives from the General Counsel's Office, and representatives from the offices that deal specifically with grants and support agencies in making grants to States, and private organizations. The meeting was based upon a memorandum that Commissioner Hunter sent over with a series of questions from individuals at EAC, including the Inspector General, one of which was whether or not Circular A-102 would require the transmission of the MOE requirement through to a sub-awardee or sub-grantee.

Commissioner Hillman presented the Commission with a copy of her suggested revisions to Advisory 07-003-A, which will be posted for public comments, noting that her proposed revisions introduces an explanation about the MOE application to a county or unit of local government when that unit of government receives HAVA funds, but she does not attempt to define State.

Chair Rodriguez reported that she submitted a letter to OMB requesting that they opine on a number of questions, including are the payments to States subject to the provisions of OMB Circulars A-87, A-133 and the common rule. The letter will be posted on EAC's Web site.

Witness: Jim Dickson, EAC Board of Advisors

Mr. Dickson addressed the Commission to provide testimony on behalf of the following organizations: AFL/CIO, American Association of People with Disabilities, the American Federation of State, County and Municipal Employees, the Asian- American Justice Center, Demos, Fair Vote, the Leadership Conference on Civil Rights, the League of Women Voters of the United States, the Mexican-American Legal Defense Fund, People for the American Way.

Mr. Dickson's testimony centered on the following two topics:

1. Concern regarding the short notice that was provided for the hearing and to request that the Commission provide more notice when scheduling public hearings
2. To urge that the Commission oppose the proposal to modify Advisory 07-003-A and to suggest that EAC consider setting up

a set of regulations that will meet Congress's intent to document that local and State governments are maintaining effort, which can be done without providing a huge burden on the State and local election officials.

Mr. Dickson concluded his comments to point out that GAO would be conducting a voting access survey on Election Day 2008, which will be a replication of the 2000 survey, and to request that the Commission consider issuing a statement that encourages both State and local election officials to cooperate with the GAO during this process.

Vice-Chair Hunter made a motion to table the proposal to amend Advisory 07-003-A. Commissioner Davidson seconded the motion. Commission Hillman voted in opposition. The motion passed on a vote of 3 in favor and 1 opposed.

The Commission recessed at 11:40 a.m. and returned to open session at 11:52 a.m.

New Business

Interim Report on the Statewide Voter Registration Database Study

Presenter: Karen Lynn-Dyson, Director of Research, U.S. Election Assistance Commission

Ms. Lynn-Dyson was pleased to introduce Olene Walker, Co-Chair, Committee on State Voter Registration Databases of the National Research Council along with Dr. Herb Lin, Chief Scientist, Computer Science and Telecommunications Board, National Research Council, and to present the Commission with the interim report entitled "State Voter Registration Databases: Immediate Actions and Future Improvements" compiled by the National Academy of Sciences, noting that the final report would be issued in approximately 18 months which will detail ways to achieve inter-State interoperability among State voter registration databases, along with advice on how to obtain systems that are both accurate and secure.

Section 303 of HAVA required that all States implement a single, uniform, official, centralized, interactive and computerized statewide voter registration list by January 1 of 2006.

Ms. Lynn-Dyson pointed out that the National Academies would be convening several additional regional workshop meetings in the

upcoming months for the purpose of gathering information from local election officials, advocates, academics and policy makers regarding the implementation of Statewide voter registration databases.

Presenter: Olene Walker, Co-Chair, Committee on State Voter Registration Databases of the National Research Council

Ms. Walker expressed her pleasure for the opportunity to address the Commission and to also thank and complement Dr. Lin for his leadership.

Ms. Walker discussed in detail the following five principal areas, which the Committee has identified where processes and practices can be improved upon to statewide voter registration databases prior to the November election:

1. Better education about the importance of legible and complete voter registration cards.
2. Implementation of fill-in online forms to improve data quality.
3. Improvements to administrative processes and procedures related to verification and matching by voter registrars.
4. Enhanced transparency of procedures for adding voters and for list maintenance.
5. Empirical testing to determine the adequacy of existing processes and publishing the results of the testing.

Questions and Answers:

In response to questions by the EAC Commissioners:

Ms. Walker pointed out that some States are keeping records of why some voter registration applications were rejected, noting that this is a good procedure because it allows the States to re-analyze their policies for both adding and removing voters from their databases.

Dr. Herb Lin reported that although the study did not look at what obstacles there may be in transferring voter registration data from other State agencies to the State election office, it is safe to say that there would be many difficulties in implementing the transfer of information. Dr. Lin reported that there has been testimony and presentations from both the Social Security Administration and the American Association of Motor Vehicle Registrars concerning verification following the transfer of voter registration information, the matter has been studied and it is still on the agenda for further

discussion. Dr. Lin further reported that while the Committee has not yet looked at ways to redesign the voter registration form in easier to read/plain language in order to deal with the appalling rate of literacy in the country, it is certainly a topic that can be raised during future testimony. Dr. Lin pointed out that the Committee during its last meeting discussed security issues and that while he cannot divulge any of the specific recommendations until the report is released in 2009, both himself and his staff would be willing to talk off line with Mr. Wilkey in a general fashion on previous reports that were completed as EAC looks towards planning its 2010 budget.

Ms. Lynn-Dyson advised the Commission that it did not need to take any action on the interim report.

Consideration of Adoption of Final Voter Hotline Study

Presenter: Karen Lynn-Dyson, Director of Research, U.S. Election Assistance Commission

Ms. Lynn-Dyson was pleased to provide the Commission with the fully edited Voter Hotline Study, compiled by the Contractor Pollworker Institute, which report includes the following:

1. A description of the scope and nature of the hotline.
2. The technological aspects of the hotline including the type of software used to operate the hotline.
3. The types of calls received and the logging of those calls.
4. The organizational requirements and administrative costs associated with operating the hotline.

The contractor's research and recommendations are also included in the study. Ms. Lynn-Dyson recommended that the Commission adopt and publish the study.

Commissioner Davidson made a motion to adopt the Voter Hotline Study and proceed to have it published and put up on EAC's Web site. Commissioner Hillman seconded the motion. The floor was open for discussion at which time that was a brief conversation regarding whether voter hotlines are considered to be useful tools by both election officials and voters. The motion carried unanimously.

Consideration of Adoption of First-Time Voter Study Report

Presenter: Karen Lynn-Dyson, Director of Research, U.S. Election

Assistance Commission

Ms. Lynn-Dyson was pleased to provide the Commission with the fully edited report compiled by Winner's Circle Communications entitled, "Case Studies on the Impact of the Help America Vote Act's Identification Requirements for First-Time Voters."

Ms. Lynn-Dyson recommended that the Commission adopt and publish the report.

Commissioner Hillman made a motion to adopt and publish the First-Time Voter study. Commissioner Davidson seconded the motion. The floor was open for discussion at which time Ms. Lynn-Dyson reported that she would be preparing and sending a memorandum in the next ten days that would outline a series of recommendations to Congress based upon each of the case studies that were conducted for the Commission's review. The motion carried unanimously.

Commissioners' Closing Remarks

Chair Rodriguez noted that the next meeting of the EAC would be held on June 19, 2008. Chair Rodriguez further announced that she has decided to adopt a personal practice where she will be spending a few minutes at the end of each meeting reviewing the agenda items for the next EAC meeting, noting that the agenda will be made public and noticed 21 days in advance. A statement regarding this new practice will be posted on EAC's Web site.

Chair Rodriguez reported that the June agenda would include the following topics: Consideration of the Laboratory Accreditation Program Manual and eight draft chapters of the Election Management Guidelines, consideration and vote on Commissioner Hillman's proposed replacement Advisory, consideration and vote on a draft policy for notice and public comment, consideration and vote on a draft policy for joint partnership task force of EAC and State election officials regarding spending of HAVA funds, consideration of requests from Michigan and Louisiana to amend State instruction on NVRA Form, and consideration and vote on the minutes of the April 30, 2008, special meeting.

Vice-Chair Hunter notified Chair Rodriguez that she intends to have a policy prepared for the Commission's consideration/discussion at its June meeting regarding allocable costs. Commissioner Hillman requested that the MOE working group provide a report at the June meeting, and also noted that the Board of Advisors would be meeting in Washington on June 17-18, 2008. Commissioner

Davidson reported she anticipates being able to update the Commission at the July meeting regarding further details pertaining to State plans.

Chair Rodriguez informed the Commission that a tally vote would be required prior to the June 19th meeting after it receives the final list for the Election Data grants, which is required to be submitted to Congress by the end of the month.

Meeting was adjourned at 12:43 p.m.