



# *Protecting Elections and Enhancing Participation: An Agenda for 2021*

---

*Academy Election 2020 Project*  
Working Group:  
Protect Electoral Integrity and Enhance Voter  
Participation



*Page is intentionally blank*



## **ABOUT THE ACADEMY**

The National Academy of Public Administration (the Academy) is an independent, nonprofit, and nonpartisan organization established in 1967 to assist government leaders in building more effective, accountable, and transparent organizations. Chartered by Congress to provide nonpartisan expert advice, the Academy's unique feature is its over 950 Fellows—including former cabinet officers, Members of Congress, governors, mayors, and state legislators, as well as prominent scholars, business executives, and public administrators. The Academy helps the federal government address its critical management challenges through in-depth studies and analyses, advisory services and technical assistance, congressional testimony, forums and conferences, and online stakeholder engagement. Under contracts with government agencies, some of which are directed by Congress, as well as grants from private foundations, the Academy provides insights on key public management issues, as well as advisory services to government agencies.

## **ABOUT THE ELECTION 2020 PROJECT**

The Academy formed a series of Working Groups of its Fellows to address [Grand Challenges in Public Administration](#). These Groups were charged with producing one or more papers to advise the Administration in 2021 (whether reelected or newly elected) on the key near-time actions that should be taken to begin addressing Grand Challenges. This is a paper of the [Electoral Integrity and Voter Participation](#) Working Group. It includes these Fellows' recommendations on actions that should be taken to protect electoral integrity and enhance voter participation in future elections after 2020.

Copyright © 2020 by National Academy of Public Administration.  
All rights reserved. Published and hosted by the Academy.

# ***PROTECTING ELECTIONS AND ENHANCING PARTICIPATION: AN AGENDA FOR 2021***

***A REPORT OF AN ACADEMY WORKING GROUP***

**NATIONAL ACADEMY OF PUBLIC ADMINISTRATION  
ELECTION 2020 WORKING GROUP:  
PROTECT ELECTORAL INTEGRITY AND ENHANCE VOTER  
PARTICIPATION**

## **Working Group Members**

Barry Van Lare, Working Group Chair  
Edie Goldenberg  
Eric Hirschhorn  
Peter Hutchinson  
Nancy Tate

## THE CHALLENGE

In November 2019, the National Academy of Public Administration (the Academy) unveiled its [Grand Challenges in Public Administration](#). One of these Grand Challenges is “[Protect Electoral Integrity and Enhance Voter Participation](#).”

Voting at the federal, state, and local levels is fundamental to American democracy, and citizens must have confidence in electoral systems, processes, and results. Electoral integrity and voter participation are enhanced by (1) ensuring that everyone with a legal right to vote is able to do so; (2) protecting such critical election infrastructure as storage facilities, polling places, and centralized vote tabulation locations; and (3) safeguarding such information and communications technology as voter registration databases, voting machines, and other electoral management systems.

The US Constitution stipulates that state governments have the primary role in the conduct of elections. As a result, the United States has a highly decentralized election administration system, with state and local governments having the primary responsibility for the administration of elections in such areas as:

- Establishing election districts;
- Establishing ID requirements for voting;
- Administering the registration process;
- Selecting election equipment and locating polling places;
- Providing alternatives to in-person voting, including absentee voting, early voting and mail-in voting;
- Conducting elections and certifying results; and
- Addressing threats to election security, particularly cyber threats

Moreover, states and localities may also play a significant role in urging voter participation and in distributing information to assist voters in understanding the ballot and pending issues.

The Constitution also stipulates that the Congress “may at any time by law make or alter” state laws regarding “the time, place, and manner” of electing members of the U.S. House and U.S. Senate. The role of the federal government has grown and evolved slowly over the last 60 years or so, becoming involved in civil rights enforcement and oversight of campaign financing for federal races. The 2000 presidential election highlighted problems in local election technology and management and resulted in the Help America Vote Act and funding to states through the creation of the Election Assistance Commission. With the more recent emergence of cyber threats to election security, the federal government has again expanded its role, taking primary responsibility for identifying cyber threats and providing states and localities with assistance in addressing those threats.

The federal role conceivably may change significantly as the Congress considers legislation to respond to voting issues raised by the coronavirus pandemic.

## **THE NATURE OF THE CHALLENGE**

The emergence of the Covid-19 crisis serves to underscore the uncertainty that may unexpectedly challenge our election system. Similarly, it is unclear exactly how cybersecurity issues may challenge the system or the degree to which the process may be undercut by the massive spread of misinformation through the internet. In addition, due to the complex and decentralized nature of our election system, many opportunities always exist for both operational problems and impediments to voter participation.

Most likely, the newly elected or re-elected president will be called upon to address concerns relating to the recently completed election during the transition period as well as during the early days of his administration.

Most immediate may be the need to ensure public confidence in the election results. This will likely mean that a coordinated information strategy will be needed to combat misinformation and provide accurate and timely information on the nature and validity of any issues that may have been identified.

## **WHAT'S HAPPENING NOW**

This section provides a brief overview of major existing federal programs, largely as described on the relevant agency websites.

### **Federal Election Commission**

The Federal Election Commission (FEC) is the independent regulatory agency charged with administering and enforcing the federal campaign finance law. The FEC has jurisdiction over the financing of campaigns for the U.S. House, Senate, Presidency and the Vice Presidency.

Federal campaign finance law covers three broad subjects:

- Public disclosure of funds raised and spent to influence federal elections
- Restrictions on contributions and expenditures made to influence federal elections
- The public financing of presidential campaigns

The Commission works to protect the integrity of the federal campaign finance process by providing transparency and fairly enforcing and administering federal campaign finance laws.

The FEC has six commissioners appointed by the President and confirmed by the Senate. No more than three of these can be from the same political party. At least four votes are required for any official Commission acts.

### **U.S. Election Assistance Commission (Help America Vote Act)**

The U.S. Election Assistance Commission (EAC) was established by the Help America Vote Act of 2002 (HAVA). The EAC is an independent, bipartisan commission charged with developing guidance to meet HAVA requirements, adopting voluntary voting system guidelines, and serving as a national clearinghouse of information on election administration. The EAC also accredits testing laboratories and certifies voting systems, as well as audits the use of HAVA funds. The EAC provides technical assistance to the states to conduct and protect elections. In 2018

and 2019, the EAC served as the conduit for almost \$800 million in grants to states for this purpose. The recently enacted Care and Relief Act of 2020 (CARE Act) provides an additional \$400 million in grant funds to help states adjust to the demands imposed by the Covid-19 pandemic.

Other responsibilities include maintaining the national mail voter registration form developed in accordance with the National Voter Registration Act of 1993.

HAVA established the Standards Board and the Board of Advisors to advise the EAC. The law also established the Technical Guidelines Development Committee to assist the EAC in the development of voluntary voting system guidelines.

The four EAC commissioners are nominated by the president, on recommendations from the majority and minority leadership in the US House and Senate, and then confirmed by the Senate. No more than two may belong to the same political party. The EAC is required to submit an annual report to Congress as well as testify periodically about HAVA progress and related issues. The Commission also holds public meetings and hearings to inform the public about its progress and activities.

### **Federal Voting Assistance Program (Department of Defense)**

The Federal Voting Assistance Program (FVAP) works to ensure that service members, their eligible family members, and overseas citizens are aware of their right to vote and have the tools and resources to successfully do so, from anywhere in the world. FVAP resources can assist any service member, voting age dependent, or overseas citizen with voting so long as the individual is absent from his or her voting jurisdiction. FVAP.gov has information on state and national voting guidelines, registering to vote, using the Federal Post Card Application, and requesting absentee ballots.

The Federal Post Card Application (FPCA) is a form military and overseas voters can use to register to vote and request absentee ballots for the year. Many states allow electronic submission of the FPCA. The FPCA

can be completed by using the FPCA online assistant, filling out the PDF, or picking up a hard copy version from a U.S. embassy or consulate.

The FVAP also can provide a Federal Write-In Absentee Ballot if an eligible individual does not receive his or her ballot from the local election authorities.

## **Department of Justice**

### *Voting Section – Civil Rights Division*

The Voting Section within the DOJ’s Civil Rights Division enforces the civil provisions of the federal laws that protect the right to vote. Among other things, it enforces the Voting Rights Act, the Uniformed and Overseas Citizens Absentee Voting Act, the National Voter Registration Act, the Help America Vote Act, and the Civil Rights Acts. DOJ can bring civil or criminal actions against those who violate federal voting right acts.

### *Federal Bureau of Investigation*

The FBI works with the Justice Department to enforce the federal voting rights laws enumerated above.

### *Foreign Influence Task Force*

The FBI is the lead federal agency responsible for investigating foreign influence operations. In the fall of 2017, the FBI established the Foreign Influence Task Force (FITF) to identify and counteract malign foreign influence operations targeting the United States.

Foreign influence operations have taken many forms and used many tactics over the years. Most widely reported these days are attempts by adversaries—hoping to reach a wide swath of Americans covertly from outside the United States—to use false personas and fabricated stories on social media platforms to discredit U.S. individuals and institutions. Influence operations by adversaries include:

- Criminal efforts to suppress voting and provide illegal campaign financing; and
- Cyberattacks against voting infrastructure, along with computer intrusions targeting elected officials and others.

The FITF is made up of representatives from the FBI's Counterintelligence, Cyber, Criminal, and Counterterrorism Divisions; the task force also coordinates with other FBI divisions as needed. Task force personnel work closely with other U.S. government agencies and international partners concerned about foreign influence efforts aimed at their countries.

Through the FITF, the FBI is taking a three-pronged approach to the threats:

- *Investigations and operations:* The FITF works with FBI field offices across the country to counter the extensive influence operations of our foreign adversaries.
- *Information and intelligence sharing:* The FBI works closely with other intelligence community agencies, as well as with state and local law enforcement partners and election officials, to ensure a common understanding of the threat and a unified strategy to address it.
- *Private sector partnerships:* The FBI considers strategic engagement with U.S. technology companies, including threat indicator sharing, to be important in combating foreign influence actors.

## **Department of Homeland Security – Cyber and Infrastructure Security Agency**

The Cybersecurity and Infrastructure Security Agency (CISA) works to ensure the physical security and cybersecurity of the systems and assets that support the nation's elections. Known as election infrastructure, this assembly of systems and networks includes but is not limited to:

- Voter registration databases and associated IT systems;
- IT infrastructure and systems used to manage elections (such as the counting, auditing, and displaying of election results, and post-election reporting to certify and validate results);
- Voting systems and associated infrastructure.
- Storage facilities for election and voting system infrastructure; and
- Polling places to include early voting locations.

## **National Security Agency, Central Intelligence Agency, Director of National Intelligence**

The Intelligence Community, whose numerous agencies include the CIA and NSA, performs analyses of foreign activities as directed by the President. This can include foreign activities relating to elections, as was the case in late 2016 when the IC prepared an analysis of Russian interference in the November 2016 presidential election.

### **KEY APPOINTMENTS**

Filling key positions is a critical initial step in any transition, regardless of whether the incoming Administration has been reelected or newly elected. Election-oriented key positions fall into two categories. The first are those federal officials with election-specific responsibilities. Those include:

- Federal Election Commission (currently, 3 vacancies exist); and
- Election Assistance Commission (currently, there are no vacancies).

In both cases, the transition will need to work closely with congressional leaders to fill any current or upcoming vacancies in order to secure acceptable candidates of both parties.

The second category includes officials with broader responsibility but who are also charged with significant responsibility as it relates to elections as well. They include:

- Assistant Attorney General - Civil Rights Division;
- Director, Cybersecurity and Infrastructure Security Agency;
- Director of the Federal Bureau of Investigations; and
- Director of National Intelligence.

Because public confidence is likely to be a critical concern, special attention should be given to potential appointees who bring both significant substantive experience and a nonpartisan reputation.

## KEY POST-ELECTION ACTIONS

After the election in November, a transition team will be formed whether President Trump is reelected or Joe Biden is elected. Although not directly related to election security *per se*, a critical challenge for this team will be to ensure the integrity of its own computer systems. And, to the extent that the transition presents a public face, it is critical that it be transparent and a source of accurate and trusted information.

Immediately following the election, the newly elected/reelected president should be prepared to publicly address any concerns that emerge as a result of the election and the planned transition. As a result, the transition team should expect to prepare such statements and signal a strong commitment to immediately addressing concerns regarding the 2020 and future elections.

The Administration in 2021 (whether reelected or newly elected) faces various choices related to assessing and improving the integrity of the election process and/or enhancing voter participation. Essentially, it can:

- Strengthen the resources and support to the federal cyber security infrastructure and highlight the importance of this effort;
- Ensure that adequate funding is provided in order for all federal election duties to be performed effectively;
- Ensure that all key election-related positions are filled in a timely manner, with qualified individuals;
- Seek various legislative requirements that states must meet in regard to future elections of federal officials (various bills have been introduced in previous congressional sessions); and
- Seek to improve the capacity of states by providing needed financial and technical assistance resources. This could include:
  - Increasing federal funding to address deficiencies in state and local election systems, including equipment upgrades, enhanced staff training, etc.;
  - Expanding the capacity of the EAC to provide technical assistance and support to state and local election

officials, including support for the interstate sharing of registration data; and

- Identifying additional steps to increase state and local capacity to address cyber security threats identified by the federal government.

In addition, state and local governments will be critical to the success of any initiative. As a result, the new administration should actively involve them in developing an action strategy. That might be accomplished in a number of ways, including:

- Convening an intergovernmental working group; and/or
- Creation of a bipartisan commission.

Such a group could analyze the completed election and recommend specific actions to secure future elections and how they can best be addressed within the intergovernmental system.

## **CONCLUSION**

Adequately addressing election-related challenges is a task that will require the active involvement of all the parties of the intergovernmental system. Although the federal government can act independently in some areas, many significant changes will likely need to take place at the state and local level.

## *Working Group and Staff*

### **Electoral Integrity/Voter Participation Working Group**

#### *Barry Van Lare, Working Group Chair*

Independent Consultant, Management and Public Policy; Former Deputy Executive Director and Director of Management Consulting and Training, National Governors Association; Senior Vice President for Strategic Marketing, MAXIMUS Inc.; Executive Director, The Finance Project; Senior Manager, Deloitte & Touche Consulting; Special Administrator for Gasoline Rationing, U.S. Department of Energy. Deputy Assistant Secretary for Welfare Legislation and Associate Commissioner of Social Security, U.S. Department of Health and Human Services. Former Commissioner, Erie County Department of Social Services and Director, Division of Community Services, Washington State Department of Social and Health Services. Positions with State of New York: Executive Secretary, Health Planning Commission; Director, New York State Senate Task Force on Critical Problems; Executive Deputy and Acting Commissioner, Department of Social Services; Assistant Secretary to the Governor for Human Resources and Deputy Commissioner, Division of Human Rights.

#### *Eddie Goldenberg*

Professor of Political Science and Public Policy, Gerald R. Ford School of Public Policy, University of Michigan. Former Dean, College of Literature, Science, and the Arts and Director, Institute of Public Policy Studies, University of Michigan. Founder of the Michigan in Washington Program. Chief, Civil Service Reform Evaluation Management Division and Research Division, U.S. Office of Personnel Management. Life Member, Corporation of the Massachusetts Institute of Technology.

#### *Eric Hirschhorn*

Former Under Secretary for Industry and Security, U.S. Department of Commerce. Former Positions with Winston & Strawn LLP: Partner, Counsel to Predecessor Firms; Former Deputy Assistant Secretary for Export Administration, U.S. Department of Commerce; Chief Counsel, Subcommittee on Government Information and Individual Rights, U.S. House of Representatives; Attorney, Cadwalader, Wickersham & Taft LLP; Legislative Assistant to Rep. Bella S. Abzug (D-NY), U.S. House of Representatives; Counsel, Democratic Study Group, N.Y. State Assembly; Lawyer Fellow, MFY Legal Services, Reginald Heber Smith Community.

*Peter Hutchinson*

Managing Director, Public Services Strategy, Accenture. Former President, The Bush Foundation; President, The Public Strategies Group Inc.; Commissioner, Minnesota Department of Finance. Former positions with Dayton Hudson Corporation: Vice President, External Affairs and Chairman, Dayton Hudson Foundation; Director, Metropolitan Programs; Director, Public Affairs and Administration, Dayton Hudson Properties; and Manager of Public Affairs, Dayton Hudson Properties. Former Assistant, Office of the Mayor, Minneapolis, Minnesota; Assistant to the President, Irwin Management Company, Inc.; Director, Policy Research Staff, Department of Planning and Development, City of Trenton, Trenton, New Jersey.

*Nancy Tate*

Co-chair, 2020 Women's Vote Centennial Initiative; Woodrow Wilson Visiting Fellow, The Council of Independent Colleges. Former Executive Director, League of Women Voters of the United States and League of Women Voters Education Fund; Chief Operating Officer, National Academy of Public Administration; Project Director, Irving Burton Associates; Division Director, Office of Utility Systems, U.S. Department of Energy; U.S. Department of Education; U.S. Office of Economic Opportunity.

**Staff**

*Joseph P. Mitchell, III*

Director of Strategic Initiatives and International Programs, National Academy of Public Administration; Member, National Science Foundation Business and Operations Advisory Committee; Associate Director, Office of Shared Services and Performance Improvement, General Services Administration; Director of Academy Programs, National Academy of Public Administration; Project Director, Senior Analyst, and Research Associate, National Academy of Public Administration.

*James Higgins*

Research Associate for Grand Challenges in Public Administration, National Academy of Public Administration; Researcher, Cohen Group; Extern, U.S. Patent and Trademark Office.

*Page is intentionally blank*

