



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

Statement by Commissioner Gracia M. Hillman
In Response to August 16 New York Times Article on Voting System Flaws

Washington, DC - August 18, 2008: On August 16, *The New York Times* (NYT) ran an incomplete and outdated article that reports on “a government backlog in testing (voting) machines’ hardware and software.” The article suggests that the backlog has been created by the U.S. Election Assistance Commission’s (EAC) voting system certification process and leaves the impression that EAC is doing nothing while States are left to fend for themselves to fix problems before the November elections.

The essence of the NYT article reports on “flaws” in voting machines and needed software fixes or upgrades that presumably won’t be fixed before the November election in states that require federal (EAC) certification. The systems at issue were certified by the National Association of State Election Directors (NASSED), which terminated its program toward the end of 2006, just as EAC was finalizing the details of its own voting system testing and certification programs, as mandated by the Help America Vote Act. Information about EAC’s programs is available at www.eac.gov under Program Areas (<http://www.eac.gov/program-areas>).

EAC’s testing and certification programs, which took effect in January 2007, contain all of the right components to provide rigorous testing. The programs require that all systems, whether currently in use or newly manufactured, undergo and pass end-to-end testing before they can receive EAC certification. A period of transition is underway from when NASSED ended its certification and when the first systems will receive EAC certification. Caught in the abyss are the NASSED systems that have “flaws” and need software fixes and/or upgrades.

If the NYT article had been complete and up-to-date, it would have reported that EAC is actively exploring all options to determine if or how it can provide interim certification for software fixes and/or upgrades that need attention now, even though EAC did not certify the systems with the “flaws.” While I wholeheartedly subscribe that EAC should not take any action that would ever undermine the integrity of any of its programs, I do not see this as an “either/or situation” – either help the States with an interim solution or maintain the integrity of our voting system testing and certification programs.

Rather, I see this as “both/and” – EAC should maintain the integrity of its testing program while developing and offering interim solutions so that states whose laws require federal certification can get the EAC assistance they need in time for the November elections.

At my request, EAC heard testimony at its July 21 meeting about a resolution passed in June by the EAC Board of Advisors encouraging “EAC to continue working to resolve

the impasse created by developing certification systems and remove certification barriers and roadblocks in order to ensure certification of needed system improvements in time for use in the 2008 general election.” We also heard a presentation of options from EAC staff in response to the resolution.

The options include 1) Emergency Certification of Voting System Modifications; 2) Waiver of EAC Certification; or 3) Stay the (Current) Course. Staying the course is not an option for me. During our July 21 meeting, I requested information as to precisely which states and/or local jurisdictions were affected by this dilemma. I also offered a hybrid option, which would be for EAC to try and create a contingency plan for states to consider that could help move them closer to having systems that would be in compliance with state law before November 4, 2008.

The full contents of EAC Board of Advisors Resolution 2008-3, the July 21 testimony, including the options that were presented by staff and the commission discussions are available at www.eac.gov. The testimony and webcast of the meeting can be found on the sites for the July 21 EAC Meeting at News Center and Webcasts on the homepage. The board’s resolution can be found on the Board of Advisors page at About EAC on the homepage.

At this point, EAC is working against the clock to find solutions, which could include anything ranging from interim certification to technical assistance and guidelines to States – things that could be included in what I refer to above as the hybrid option. The states cannot continue to wait. While I do not know what EAC will decide in the end, I know that I, for one, will be deeply disappointed if EAC is not able to offer concrete assistance to those jurisdictions that need our services at this critical time.

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