Minutes of the Public Meeting
United States Election Assistance Commission

1225 New York Avenue, NW
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Washington, DC 20005

The following are the Minutes of the Public Meeting of the United States Election Assistance Commission ("EAC") held on Thursday, October 8, 2009. The meeting convened at 1:05 p.m., EDT. The meeting was adjourned at 2:44 p.m., EDT.

PUBLIC MEETING

Call to Order:

Chair Gineen Bresso Beach called the meeting to order at 1:05 p.m.

Pledge of Allegiance:

Chair Beach led all present in the recitation of the Pledge of Allegiance.

Roll Call:

EAC Commissioners:

Associate General Counsel Tamar Nedzar called roll of the members of the Commission and found present: Chair Beach, Vice-Chair Gracia Hillman and Commissioner Donetta Davidson. Three members were present for a quorum.

Senior Staff:

Associate General Counsel Tamar Nedzar; Executive Director Thomas Wilkey

Panelists:

Dr. Lisa Schur, Department of Labor Studies & Employment Relations, Rutgers University; and, David Baquis, Accessibility Specialist, U.S. Access Board

Adoption of the Agenda

Chair Beach had two updates: the panelists would be Dr. Lisa Schur and Mr. David Baquis. Vice-Chair Hillman mentioned removal of the MOU with OAS from the new business portion of the agenda. Commissioner Davidson moved to adopt the agenda with the panelists added and the MOU with OAS removed which was seconded by Vice-Chair Hillman. The motion carried unanimously.

Welcoming remarks

Chair Beach extended a welcome to everyone in attendance and briefly discussed contingency planning and the flu season. Chair Beach recognized that election officials prepare for many different scenarios and H1N1 flu season is no different. She stated that some of the things election officials may want to consider is coordination strategies with state and local health departments, backup staffing, technology solutions and prevention measures like the addition of hand sanitizer at polling places. She spoke about the EAC's role as a clearinghouse and hoped to share best practices in contingency planning with election officials throughout the nation in preparation for the flu season.

Vice-Chair Gracia Hillman expressed her deepest condolences to Congresswoman Carolyn Maloney for the recent loss of her husband Clifton Maloney. The Vice-Chair noted that Congresswoman Maloney was a major supporter of UOCAVA Voters' rights. Vice-Chair also expressed her concern for colleagues/friends and the people of America Samoa who were affected by the recent tsunami.

Commissioner Davidson concurred with Chair Beach's recommendations regarding EAC's involvement with respect to sharing best practices in contingency planning in preparation for the flu season. She also expressed her condolences and best wishes to Congresswoman Maloney.

Old Business:

Approval of the minutes from the previous meeting

Vice-Chair Hillman submitted a written amendment to the minutes concerning the NASS Resolution that was discussed at the September meeting. The Vice-Chair then moved acceptance of the minutes of the September 2, 2009, meeting/hearing as amended, which was seconded by Commissioner Davidson. The motion carried unanimously.

Report from the Executive Director

Mr. Wilkey extended a welcome to all in attendance, providing an update on activities pertaining to Voting System Testing and Certification,

Requirements Payments, Grants, Research, Policy and Programs, NVRA, Tally Votes and Other News that have occurred since the September 2, 2009, public meeting.

With regard to Voting System Testing and Certification, Mr. Wilkey reported that the 120-day comment period for the VVSG 1.1 closed and over 300 comments were received. EAC will be working with the National Institute of Standards and Technology (NIST) to resolve the comments, make changes to the draft and make policy decisions regarding the proposed revisions to the 2005 VVSG, after which, EAC will publicly publish the final version of the VVSG 1.1. The following items have been posted on EAC's Web site: ES&S's updated registration applications due to their purchase of Premier Election Systems; the ES&S Unity 3.2.1.0 test plan version 1.0; a recommendation from iBeta on reuse of source code for the Unity 3.2.1.0 M100 precinct scanner; EAC's approval of iBeta's recommendation to reuse the source code review previously conducted by SysTest for the Unity 3.2.1.0 M100 precinct scanner; MicroVote's Election Management System version 4.0 modification test plan and EAC's approval thereof; the final iBeta Policy and Procedures Audit Assessment Report; the final SysTest Policy and Procedures Laboratory Audit Report, SysTest's response to EAC on its site assessment; and, the Notice of Clarification on the determination of changes to a system's Technical Data Package as being a de minimis change or not. Mr. Wilkey further reported that decisions on Requests for Interpretation relating to battery backups for central count systems, audit log events and T-Coil requirements were recently issued.

With respect to Requirements Payments, $15 million in FY 2008 funds were disbursed to Massachusetts, Mississippi, New York, South Carolina and Washington since September 2009, and $18.8 million in FY 2009 funds were disbursed to Kentucky, Massachusetts, Minnesota, Mississippi, Montana, New York, Oregon, South Carolina, South Dakota, Washington and Wyoming since September 2009. A total of $54.4 million of the $115 million of 2008 funds and $28 million of the $100 million in 2009 funds have been disbursed, to date.

Under Grants, Mr. Wilkey announced that the Chiesman Center for Democracy in South Dakota, the Institute for the Formation of Democracy in Puerto Rico, Kids Voting North Carolina, the League of Women Voters of Greater Pittsburgh, the League of Women Voters of Illinois, Miami-Dade County, Florida and the State of Nevada Secretary of State were the recipients of a $300,000 grant to fund student mock elections. Awards totaling $750,000 were awarded to the following 11 colleges and universities and two nonprofits to recruit students to serve as poll workers: The Catskill Center for Independence, New York; Hampton University, Virginia; LaGuardia Community College, New York; Missouri Western

State University; Palmetto Project, South Carolina; Regis University, Colorado; Salish Kootenai College, Montana; University of Missouri; University of Baltimore, Maryland; University of Central Florida; University of Texas, Austin; University of Southern Mississippi; and, Vassar College, New York. A roundtable discussion is being held on October 13, 2009, at Gallaudet University for the purpose of soliciting input on EAC's accessible voting technology initiative grant. Public comments on this initiative, as well as a pre-election logic and accuracy testing and post-election audit initiative are being solicited through October 15, 2009.

Regarding Research, Policy and Programs, Mr. Wilkey reported that work has begun on three Election Management Guidelines (EMG) chapters related to technology in elections, office management and accessibility. Working groups were recently held on each of these chapters and input was solicited from state and local election officials, disability advocates and Department of Justice officials. Five (5) EMG chapters on: Building Community Partnerships, Canvassing and Certifying an Election, Communicating with the Public, Conducting a Recount and Provisional Ballots are in the final stages of completion. Mr. Wilkey also reported that the public has until November 9, 2009, to comment on proposed information collection for an evaluation of EAC educational products and a 2010 Election Administration and Voting Survey.

Under NVRA, EAC is currently reviewing the findings from a report that it had commissioned which provides recommendations for translating the NVRA form into Chinese, Japanese, Korean, Tagalog and Vietnamese.

Five tally votes relating to the 2009 Mock Election Program, the 2009 Help America Vote College Poll Worker Final Recommendations, the Appointment of an Alternate Agency Ethics Official, the Appointment of a Designated Agency Ethics Official and the FY 2011 Budget Request were certified since the September 2, 2009, meeting.

With regard to other news, Mr. Wilkey reported that the EAC Office of Inspector General recently issued HAVA funds audit reports for Iowa and Rhode Island, and EAC is currently recruiting for a communications intern, for which the job posting will close on October 16.

Questions and Answers:

In response to Vice-Chair Hillman's inquiry with regard to a timeline in connection with the accessible voting technology initiative grant, that will award up to $5 million to fund research and technology adoption to make voting systems more accessible to all voters, Mr. Wilkey noted that it will most likely be early 2010 before the program gets underway. He also commented that while he would like to see the initiative acted on as soon

as possible, it will be important that the Grants Division and the Commission take their time to ensure that it comes up with the best possible way to move forward with this initiative.

In response to Commissioner Davidson's question regarding NIST's involvement in moving forward with the accessible voting technology initiative grant, Mr. Wilkey pointed out that a preliminary meeting was held with NIST on how to utilize their resources regarding this matter and a Memorandum of Understanding between EAC and NIST is in the process of being drafted with respect to this initiative.

Update on iBeta Lab Assessment

Brian Hancock, Director of EAC Testing and Certification, addressed the Commission to review the 14 recommended findings that the assessment team identified during EAC's on-site review of iBeta Quality Assurance (5/14/09 – 5/15/09) pursuant to the requirements of Section 4.5 of EAC's Laboratory Accreditation Program Manual.

Mr. Hancock reiterated that the assessment of iBeta found no non-conformities in the lab's policies and procedures determined to be critical to their technical capability to test voting systems. In addition, the audit assessment found no items that would require the laboratory to initiate immediate corrective action to formally resolve a non-critical non-compliance. EAC will be working with iBeta to address the 14 recommendations and will also share this information with the National Voluntary Laboratory Accreditation Program (NVLAP) for review during their next regularly scheduled audit of iBeta. Mr. Hancock further pointed out that constant communication and information sharing between NVLAP and the EAC is critical to the success of its Testing and Certification Program.

Questions and Answers:

In response to Vice-Chair Hillman's question regarding whether Mr. Hancock would be doing a similar follow-up on the five items that were noted by the assessment team during SysTest Lab's on-site review, Mr. Hancock explained that SysTest has since responded to and corrected all five recommended findings. Both the report and SysTest's responses are posted on EAC's Web site. In response to Vice-Chair Hillman's inquiry concerning why obsolete information not clearly identified as "obsolete" such that it could be inadvertently used in the course of testing is not considered a critical finding, Mr. Hancock explained that while this is a concern because the lab's own standard procedure is to utilize electronic documents, it is something that will be monitored closely.

In response to Commissioner Davidson's question regarding what the variation/difference is between NVLAP's and EAC's on-site review of laboratories, Mr. Hancock explained that both EAC and NVLAP utilize the ISO 17 025 standards as the basis for their reviews. EAC has additional requirements, as set forth in its Program Manual, which are not a part of 17 025 or in any of the NVLAP program handbooks.

In response to Chair Beach's inquiry into what the assessment team looks for when conducting an on-site review, Mr. Hancock explained the lab is notified of their review in advance and are provided with a briefing. Three or four assessors are divided up into two teams, with one team performing a documentation review and the second team performing personnel interviews. An exit interview is conducted, followed by the preparation of a report, during which there can be some back and forth with the lab. In response to Chair Beach's final question concerning whether EAC or NVLAP must wait until the lab's next scheduled assessment to take action on anything that arises during the course of testing, Mr. Hancock stated that EAC would not wait, to which he cited the suspension of SysTest Labs. He also explained that EAC would also notify NVLAP, so that they could work within their processes.

New Business:

Panel Discussion on Voting Accessibility

Chair Beach extended a special thank you to Bruce Bailey, David Baquis, Paul Lloyd, and EAC staff for their valuable assistance/guidance on how to make documents more accessible and usable.

Panelist:

Dr. Lisa Schur, Department of Labor Studies & Employment Relations, Rutgers University, addressed the Commission to provide testimony regarding the following key points:

The analysis of Census data shows that 14.7 million people with disabilities voted in the November 2008 elections.

Consistent with past research, the voter turnout rate of people with disabilities was 7 percentage points lower than that of people without disabilities. The turnout rate was especially low among people who have difficulty going outside alone, despite the availability of absentee ballots.

Research shows that the lower turnout of people with disabilities can largely be accounted for lower resources, less exposure to social networks, and psychological factors.

Inaccessible polling places directly affect the ability to vote, and have psychological effects by sending the message that people with disabilities are not welcome in the political sphere.

People with disabilities are more likely to report encountering, or expecting to encounter, difficulties in voting at a polling place. They reported problems with difficulties in getting to the polling place, being confused by the voting process, having physical difficulty with the ballot or machine, problems in seeing or reading the ballot, and not receiving enough help from election officials.

Over one-third of people, both with and without disabilities, say that voting by absentee ballot is not as good as voting in person.

Continuing to improve the accessibility of polling places and the training of poll workers should be a top priority, particularly given the growing number of people with disabilities as the population ages.

Panelist:

David Baquis, Accessibility Specialist, U.S. Access Board, began his presentation to personally recognize Presidentially-appointed Access Board members Ron Gardner (UT) and Phill Jenkins (TX), who he pointed out are also members of EAC's Board of Advisors and Technical Guidelines Development Committee. He also recognized the presence of David Capozzi, Executive Director, Access Board, and acknowledged the time and effort that EAC is devoting to accessibility research.

Mr. Baquis outlined the following eight recommendations that EAC may want to consider in connection with the upcoming October 13th roundtable that it will be conducting on accessibility and research:

1. Accessible verification.
2. Development of training curricula.
3. Interoperability between voting systems and assistive technology.
4. Usability of accessibility.
5. Cognitive disability.
6. Personal assistive services.
7. Acoustics.
8. Accessibility of absentee voting.

Mr. Baquis concluded his comments by conveying the pleasure he's had working with EAC over the past eight years and that he looks forward to a continuing close and effective relationship.

Questions and Answers:

In response to Vice-Chair Hillman's request to expound on the category of resources ("Are you able to participate?") which political scientists point to as a contributing factor to lower voter turnout among non-employed people with disabilities, Dr. Schur explained that studies have consistently found that people who have fewer economic resources have more difficulty and are less likely to take part in voting and other types of political participation. Another resource would be education levels. Studies have consistently found that people with higher education levels are more likely to participate in a variety of political activities. Other resources, and this would specifically affect people with disabilities, can be, "Do you have accessible transportation?" "What kind of difficulties would you have in getting to the polling place?" In response to Vice-Chair Hillman's request to expound on the category of psychological factors ("Do you want to participate?") which political scientists point to as a contributing factor to lower voter turnout among non-employed people with disabilities, Dr. Schur explained that studies have consistently found that, on average, people with disabilities have lower levels of both internal and external political efficacy and people that are employed who have disabilities tend to have higher levels of political efficacy. In response to Vice-Chair Hillman's question, whether inaccessible restaurants, stores and other places send a similar message as that of inaccessible polling places to individuals that they are not welcome, Dr. Schur commented she believes the message is similar and that it is particularly egregious in terms of polling places. In response to Vice-Chair Hillman's inquiry into whether providing an alternate accessible voting source lessens the message that disabled voters are not welcome in the political sphere, Dr. Schur commented it is her belief it sends a clear message that it is separate and not equal and, therefore, alternatives are generally not as good. In response to Vice-Chair Hillman's final inquiry into whether any entity or individual has taken exception with the findings contained in her report from the 2008 elections, Dr. Schur commented that she is both not aware of nor believes there were any exceptions taken.

In response to Vice-Chair Hillman's question concerning what can be done to help individuals become more comfortable with conversations both about accessibility issues and persons with disabilities, Mr. Baquis explained that he would direct them to several resources on disability etiquette, such as the information from Eastern Paralyzed Veterans of America, and further commented there also needs to be a comfort level within oneself to be able to say what you want to know and what you are unsure about. In response to Vice-Chair Hillman's question regarding the proper way to refer to individuals with disabilities, Mr. Baquis commented that the terminology has evolved over the years and there is a "people first

language" concept, so using "voters with disabilities" which puts the voter first would be appropriate. He further explained that, again, there needs to be a comfort level within oneself when speaking to someone with a disability. In response to Vice-Chair Hillman's request to clarify the distinction/differences between intellectual disabilities, learning disabilities and developmental disabilities, Mr. Baquis explained that people with intellectual disabilities were formerly referred to as the mentally retarded; individuals with developmental disabilities, from his experience, tend to be associated similarly with people with intellectual disabilities or people who are mentally retarded, although it could include some physical disabilities as well; and, individuals with learning disabilities could encompass lines merging together or they might need help from a different way of organizing information on the ballot. In response to Vice-Chair Hillman's final question on whether he is aware of any industry that has made remarkable progress in providing accessible equipment, comparable to voting systems, Mr. Baquis pointed to the example of talking photocopy machines.

In response to Commissioner Davidson's question concerning how disabled individuals might feel moving towards absentee voting, Dr. Schur commented that while more studies need to be done on this topic, clearly moving to absentee ballot is not going to be a solution to the low voter turnout among voters with disabilities. In response to Commissioner Davidson's question if there have been any studies that discuss whether some of the newly implemented equipment accommodated/met the needs of voters with disabilities, Dr. Schur stated that while this information/data is not currently available, it is something that needs to be gathered and analyzed.

In response to Commissioner Davidson's question if technology is being explored that could provide voice verification of a cast ballot, Mr. Baquis explained that while somebody who is blind could hear verification, he does not know how a machine would be designed to ensure the independence of one's vote, pointing out that this area needs to be opened up for research to explore different options.

In response to Chair Beach's observation with respect to the percentages set forth in the fact sheet, that it appears voters with disabilities are more motivated to vote as opposed to voters without disabilities, Dr. Schur concurred, stating that if something is more difficult to do and you do it, it shows you have a greater incentive level. In response to Chair Beach's inquiry into what the "Other" reasons would be for why voters with and without disabilities were not registered to vote, Dr. Schur commented that while she could speculate, she does not have hard evidence with respect to this.

In response to Chair Beach's question regarding what the biggest challenge is that voters with disabilities face when casting a ballot, Mr. Baquis commented one would need to look at each specific disability group to determine the individual challenges that they face. In response to Chair Beach's final question regarding whether voters with disabilities prefer using their own devices as opposed to ones provided at the polling place, Mr. Baquis stated that while he is not aware of any survey pertaining to this topic, he is aware that individuals experienced in accommodating their blindness are accustomed to their own headset devices.

In response to Executive Director Wilkey's inquiry into whether there will be one definition of "disability" that everyone can agree on, Dr. Schur commented it is her belief that a universally accepted definition of "disability" will not be achievable. Mr. Baquis directed the Commission's attention to the Interagency Committee on Disability Research (ICDR) who was responsible for setting the federal agenda for research on disability issues, pointing out that they commissioned one of their contractors to collect every definition of "disability" they were able to find, which is publicly available information. In response to Mr. Wilkey's final question, Dr. Schur confirmed that the 56.8 percent, as outlined in her fact sheet with regard to voters with disabilities having difficulty walking or climbing stairs, directly relates to access to the polling place.

Commissioners Closing Remarks:

Chair Beach thanked the panelists for their input, pointing out that the EAC looks forward to working with both them and the disability community as it moves forward with its initiatives.

Vice-Chair Hillman commented that she looks forward to hearing more with respect to Chair Beach's thoughts and plans on best practices for the flu season.

Chair Beach concluded by announcing that EAC's next public meeting would be held on November 5, 2009.

Meeting was adjourned at 2:44 p.m.