

Response and Analysis to Election Assistance Commissioners' Removal

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(Note, this analysis is shared as a docsend as circumstances are changing rapidly and may require updating. A final version will be made available when able)

On July 9, 2026, it was publicly reported that all three serving commissioners of the Election Assistance Commission (EAC) were relieved of their positions by the president. The EAC's fourth commissioner, Don Palmer, previously resigned on April 29.

Since the EAC was created, the commissioners have worked in partnership with state and local election officials to advance the professionalization and integrity of the election profession. A fully functioning EAC is critical for promulgating the Voluntary Voting System Guidelines (VVSG) to certify voting equipment, serving as a clearinghouse of best practices and training support, disbursing Help America Vote Act (HAVA) Security Grants and any new grant programs, and compiling the biennial Election Administration and Voting Survey (EAVS) report.

The EAC is a bipartisan, independent commission that was established by HAVA in 2002. It requires a quorum of three of its four commissioners to transact official business or establish policy. Historically, the EAC has operated for extended periods without a quorum (such as from 2010 to 2015, and 2018 to 2019) and even spent years with zero sitting commissioners.

New commissioners must be nominated by the president and confirmed by the Senate, and statutorily no more than two appointees can be of the same political party. Under HAVA, before any individual is appointed to fill a vacancy, the Senate Majority and Minority Leaders, the Speaker of the House, and the House Minority Leader shall each submit a candidate recommendation to the President with respect to each vacancy on the Commission affiliated with their respective political party. Each member of the Commission is also required to have experience with or expertise in election administration or the study of elections.

Who is Left With Authority When the EAC Has No Commissioners?

With no commissioners, the agency's authority will now go to the EAC's Executive Director with limited authority to continue running Commission operations, as outlined in the EAC's Roles and Responsibilities policies.

The Executive Director: By statute, the day-to-day administrative and personnel purview falls to the Executive Director and management staff. If there is no Executive Director, the staff line of succession is as follows:

- General Counsel
- Chief Operating Officer
- Chief Financial Officer

Career Staff: Career agency staff are given delegated authority to maintain existing programs, manage administrative duties, and carry out strictly routine tasks.

What CANNOT Happen?

Without a vote of at least three commissioners, the EAC essentially loses its ability to take definitive action, create new policies, or execute its highest-level statutory duties. The following actions cannot happen:

Establishing New Programs, Policies, or Guidelines: The EAC cannot adopt, update, or fully approve new updates to Commission guidelines such as the VVSG (for example, establishing VVSG 2.1 standards). The EAC also cannot generally establish new programs or modify the scope of existing policies or programs. Staff and working groups can still collect data and draft recommendations, but they would be stalled at the finish line without a commissioner vote.

Decertification Appeals: While staff can handle the routine certification and decertification of voting systems, they cannot process formal voting system decertification appeals.

Hiring Executive Leadership: A quorum of commissioners is legally required by HAVA to hire a new executive director or general counsel.

What CAN Happen?

Despite the lack of commissioners, the agency remains functional under the leadership of career staff. The following actions can continue:

Disbursing Existing Funds: Each year Congress appropriates new funds under the existing statutory language of HAVA. Agency staff can continue to disburse appropriated HAVA grant funds to states, including future congressional appropriations, provided the parameters of the grants were already established.

Voting System Certification: The staff is explicitly authorized to continue managing the testing and certification of voting systems based on the existing guidelines. This means states that replace equipment to be in alignment with VVSG 2.0 in advance of the 2028 election will still be able to source certified, new equipment.

Clearinghouse Duties: The EAC can maintain its role as a national clearinghouse for election administration. Staff can continue to maintain websites, publish best practices, conduct research, and administer the National Voter Registration form.

Public Meetings: The EAC can still hold public meetings and hearings without a quorum to gather information or hear from experts, though they cannot execute any votes during these meetings.

Functioning Advisory Boards: the EAC's advisory boards – the Standards Board, the Board of Advisors, and the Technical Guidelines Development Committee (TGDC) – can remain active and functional without commissioners. To ensure they aren't dissolved during a vacancy, departing commissioners can designate the executive director or a career staff member to serve as the "designated federal officer" for these boards. If they fail to do so, the executive director assumes the power to appoint a staff designee, ensuring these boards can continue to meet and provide feedback.

When the Commission lacks the necessary three members to vote as a board, staff authority is frozen at the outer limit of the last valid Commission approval. Staff may execute existing certification programs but may not expand their scope, change standards, or create new programs absent renewed three-member approval.

For voting system certifications, this means certifications may continue only under previously adopted VVSG 1.0 and 2.0 and program rules. For newer initiatives, such as the Election Supporting Technology Evaluation Program (ESTEP), continued operation in the absence of Commissioners depends on the scope and delegations to staff previously approved by Commissioners.

Other Relevant Details

Fixed-Numerosity Voting Rule: The EAC does not just have a standard quorum rule; HAVA imposes “fixed-numerosity” voting. This means the EAC absolutely cannot transact official business without the affirmative vote of at least three members, acting as a safeguard to ensure bipartisanship but also leaving the agency highly vulnerable to partisan gridlock or prolonged vacancies.

Impact on Election Security: Because the EAC issues the VVSG — the standards that dictate the security and functionality of voting machines used nationwide — operating without commissioners means that vital technical and cybersecurity updates cannot be officially adopted. For example, the lack of a quorum from 2011 to 2015 caused a lengthy gap in updated EAC guidance regarding voting system technology.

Sources

“Organizational Management Policy Statement,” Election Assistance Commission, February 24, 2015, [\[Link\]](#)

“The U.S. Election Assistance Commission (EAC): Overview and Selected Issues for Congress,” Congressional Research Service, May 6, 2026, [\[Link\]](#)

Matthew Weil, “The Election Assistance Commission Has a Vacancy. Now What?,” Bipartisan Policy Center [\[Link\]](#)