

Via email

May 29, 2019

The Honorable Christine McCormick, Chair  
The Honorable Benjamin Hovland, Vice Chair  
The Honorable Donald Palmer  
The Honorable Thomas Hicks  
The Elections Assistance Commission  
Silver Spring Metro Center  
1335 East-West Highway  
Silver Spring, MD 20910

RE: Voluntary Voting System Guidelines Comments

Dear Commissioners:

Today we write to formally request the U.S. Elections Assistance Commission (EAC) extend the deadline for receiving comments on the proposed Voluntary Voting System Guidelines (VVSG) 2.0 which closes today May 29, 2019.

According to a notice published by the EAC in the Federal Register Vol. 84, No. 40, February 28, 2019 the EAC instructed submitters to submit comments:

“2) via email at [votingsystemguidelines@eac.gov](mailto:votingsystemguidelines@eac.gov). **Members of the public are encouraged to submit comments electronically to ensure timely receipt and consideration.**” [Emphasis added.]

Common Cause has alerted its one million person membership that the EAC was soliciting comments from the public on its proposed VVSG 2.0, based on instructions noticed by EAC in the Federal Register.

Because of our alert, many of our members took it up on themselves to send in comments. Our internal records show that many of these members took action after midnight on Wednesday, May 22. Because the EAC did not have an auto-reply in place for people who sent in comments to the EAC’s discontinued email address ([votingsystemguidelines@eac.gov](mailto:votingsystemguidelines@eac.gov)) many of our members submitted comments which will now no longer be considered.

On Friday May 24<sup>th</sup>, the EAC issued a tweet linking to a statement advising that it would no longer be accepting comments via the email address. As of Wednesday May 29<sup>th</sup>, the notice in the Federal Register has not been amended to reflect this change. It is our opinion that the EAC did not give the

public **adequate** and **concurrent** notice of the new process and as a result many citizens comments will be lost due to the last minute change in email address.

We respectfully request that the EAC extend the deadline for comments by two weeks so that we can adequately alert our members of the new process and recover the comments that were sent to the defunct email address after the change. We ask for the following reasons:

- 1) The email address [votingsystemguidelines@eac.gov](mailto:votingsystemguidelines@eac.gov) was turned off, and the public was not given adequate and concurrent notice. No auto-reply indicated that comments weren't being received. An auto-reply indicating the new way to submit comments only was instituted on May 28<sup>th</sup>, 6 days after the change.
- 2) Although the general counsel has maintained by private correspondence that the public was notified on Thursday the 22<sup>nd</sup>, we can find no notice to the public other than an announcement put out by twitter on Friday the 24<sup>th</sup>.
- 3) There remains no notification in the federal register that the new procedure is in place.

Effectively we believe that the Elections Assistance Commission has not complied with the spirit and letter of the Administrative Procedures Act because the process for receiving comments, a vital part of the guidelines making, was changed and the public was not notified in timely manner and the new process was not put in the federal register.

Sincerely,



Susannah Goodman  
Director of Election Security  
Common Cause

