Thank you for the chance to provide feedback on the Requirements for Version 2.0 of the Voluntary Voting System Guidelines (VVSG 2.0). The VVSG 2.0 represents an important advancement in modern voting system standards that election vendors can apply to build trustworthy, secure voting systems in which voters and election officials can have confidence.

The National Association of State Election Directors (NASED) represents all 50 states, the District of Columbia, and the five U.S. territories: American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico, and the U.S. Virgin Islands. Our members serve on the Election Assistance Commission’s (EAC) Technical Guidelines Development Committee (TGDC), the EAC Board of Advisors, and the EAC Standards Board; NASED itself had a VVSG Committee from 2012 to 2015, when there was no quorum at the EAC, to discuss solutions for moving the standards development process forward.

NASED’s role on these bodies and in the development of the VVSG makes us uniquely suited to weigh in on the process that has gotten version 2.0 to this point. Without changes, the VVSG process, which has failed election officials before, will continue to do so in the future.

The TGDC approved the Principles and Guidelines in September 2017 and the Standards Board and Board of Advisors approved them in April 2018. All three bodies approved a bifurcated structure, in which the Principles and Guidelines are subject to a vote by the commissioners and the Requirements are maintained by EAC staff in consultation with experts from the National Institute of Standards and Technology, the accessibility community, election officials, the private sector, and others. The Principles and Guidelines cannot stand on their own to build a voting system, nor were they designed to; they are principles of appropriate system characteristics and guidelines for the application of those principles. Separating the standards into two documents – a structure originally discussed by the TGDC in 2015 and ultimately approved by the TGDC in 2017 and the Standards Board and Board of Advisors in 2018 – assures that high-level Principles and Guidelines for how a voting system should operate remain static, while the Requirements for how a system can achieve those objectives remain flexible to adapt to changing technologies and security realities.

In September 2019, the EAC notified the TGDC that it received a legal opinion stating that they could not move forward with the proposed structure. The EAC stated that, while the documents could be separate, both must go through the Help America Vote Act (HAVA) process, including a 90-day public comment period, a
public hearing, and adoption by the commissioners\textsuperscript{1}. At the time of this writing, however, EAC commissioners have still not adopted a policy codifying that opinion. We are sensitive to the staffing changes at the agency but believe it is important, both for present and for future conversations, to settle this issue. We have been clear that the NASED Executive Board does not agree that both the Principles and Guidelines and the Requirements must go through the HAVA process\textsuperscript{2}, but we ask that you put an end to this part of the conversation once and for all.

The public comment period for the Principles and Guidelines was from February 28 to June 7, 2019. During that time, EAC commissioners held three public hearings in which they heard testimony from state and local election officials, voting system manufacturers and test labs, and others. At the NASED 2020 Winter Conference on February 1, 2020, then-Vice Chair Hovland committed to voting on the Principles and Guidelines “soon.” There has still been no vote.

Operating as though the Principles and Guidelines and the Requirements are both subject to the HAVA process, now-Chairman Hovland has spoken several times of his desire to have an annual clean-up process for the VVSG Requirements. Such a process would allow the TGDC and other applicable bodies to regularly review and update the Requirements as security and technology dictate. While we have made clear our preference for a process in which this is not necessary, this is an acceptable compromise and meets our only goal: up-to-date voting system standards. The commissioners, however, have not voted to adopt this as policy\textsuperscript{3}. We encourage them to do so to demonstrate their commitment to the needs of the election community.

We remain concerned that the EAC may lack a quorum again and what that could mean for the future of the VVSG if both the Principles and Guidelines and the Requirements must go through the HAVA process. We strongly encourage the EAC to adopt a policy to ensure that the VVSG does not stagnate in the event of no quorum. This is not without precedent.

\textsuperscript{1} Transcript of the 2019 TGDC meeting, September 19-20, 2019 in Silver Spring, Maryland. See page 42.
\textsuperscript{2} The NASED Executive Board public comment on the Principles and Guidelines is available on the NASED website.
\textsuperscript{3} The TGDC unanimously adopted a resolution in support of an annual expedited VVSG review process at their meeting on September 20, 2019. TGDC resolutions are non-binding on EAC policy.
In version 2.0 of the Testing and Certification Program Manual⁴, which was effective May 31, 2015 after a unanimous vote of the three commissioners at that time, EAC staff are designated the authority to:

- Issue guidance and explanation on the current voting system requirements and procedures through a Notice of Clarification;
- Interpret voting system requirements via a Request for Interpretation; and,
- Make certification decisions about voting systems.

While these authorities apply when the EAC has a quorum, each of these has been used in the past to advance the certification program in the absence of a quorum so that states were not left without untested or uncertified systems. Further, the 2019 Notice of Clarification issued by EAC staff regarding the Windows 7 sunset also gives staff the authority to determine whether a proposed change to a voting system constitutes a de minimis change and thus does not need to be recertified.

EAC staff already have the authority to offer guidance on the existing requirements, clarify requirements, determine when systems must be recertified, and certify systems both when there is and is not a quorum of commissioners. It stands to reason that they would be qualified to work with experts to make necessary changes to the Requirements in the absence of a quorum as well.

We are not suggesting that EAC staff make changes to system Requirements at their leisure. Election officials, manufacturers, and test labs need a standard they can rely on, so any Requirements update process must be methodical, transparent, and clearly defined. Developing such a procedure is achievable and, in our minds, necessary. This must be a priority for the agency.

We are a diverse Board. We are of different political parties, our states administer elections in different ways, we come from different backgrounds and experiences, and some of us work for Chief Election Officials while others are Chief Election Officials themselves. We unanimously agree: voting system standards are not political. The development of the VVSG 2.0 has been a bipartisan, collaborative process that has showcased the teamwork and partnership that the election administration community regularly brings to bear on intractable problems.

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⁴ The Testing & Certification Program Manual version 2.0 is available on the EAC website. See 1.6.2.1, chapter 9, and 1.16 “Testing and Certification Decisions Authority.”
We recognize that this focus on process over content may strike some as misplaced, but it is the process that has derailed the VVSG in the past. We cannot look to the future without reconciling the problems that have plagued our work before. Agreement on content without agreement on process asks election officials, manufacturers, and voters to place our collective faith in a system that has repeatedly denied us the modern voting system standards that we uniformly agree are desperately needed. Without policy changes to the process, federal standards will not keep up with modern technology and we will find ourselves in this same position in the future.

Lori Augino, President, NASED
Michelle Tassinari, Incoming President, NASED
Steve Trout, Vice President, NASED
Meagan Wolfe, Treasurer, NASED
Jared Dearing, Secretary, NASED
Keith Ingram, Immediate Past President, NASED
Wayne Bena, Midwest Regional Representative, NASED
Christopher Piper, Southern Regional Representative, NASED
Rob Rock, Northeast Regional Representative, NASED
Wayne Thorley, Western Regional Representative, NASED
Judd Choate, NASED President, 2017-2018
Linda Lamone, NASED President, 2004-2005