



Millions to the Polls

PRACTICAL POLICIES TO FULFILL THE FREEDOM
TO VOTE FOR ALL AMERICANS

**NON-PARTISAN
ELECTION ADMINISTRATION**

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NON-PARTISAN ELECTION ADMINISTRATION

- Election administration should not be affected by partisan goals.
- Partisan election administration increases the risk of disenfranchisement.
- Non-partisan election administration boosts faith and confidence in the electoral process and promotes fair and accurate electoral results.

If anything should be free from politics or partisan fighting, it should be our election administration. Regardless of political ideology, everyone can agree that our elections should be conducted in a non-partisan and transparent manner. Yet, in counties and states around the country, election administrators are elected or partisan appointees. This dynamic is a recipe for potential conflicts of interest. The PCEA determined that “because the selection of election officials on a partisan basis can risk public confidence in the quality and impartiality of administration, the responsible department or agency in every state should have on staff individuals chosen solely on the basis of experience and expertise.”¹ Running elections should be separated from running for office.

The role of election administrators is significant: They oversee all aspects of conducting elections and implementing election policies and procedures at the state and local level.² On the local level, election administrators determine who can vote, where they can vote, and how they can vote. Their responsibilities include maintaining voter registration lists, drawing precincts, selecting polling place sites, procuring equipment, recruiting and training poll workers, canvassing the vote, and evaluating and implementing improvements to the electoral process itself.³

At the state level, election administration covers a spectrum of election-related logistics, including the maintenance of the state-wide voter registration file and the implementation of federal and state laws and policies concerning elections.⁴ This can include ballot design, polling place hours, and provisional ballot use. The importance of keeping the process non-partisan and independent to maintain the voting public’s confidence in the voting process cannot be overstated.

The consequences of partisan politics creeping into election administration are grave. The 2004 Ohio experience shows what happens when politics enters the who, when, and where of election administration. In 2004, Ohio’s top election official, Kenneth Blackwell, was also the co-chair of President Bush’s re-election committee.⁵ As Secretary of State, Blackwell had broad powers to interpret and implement state and federal election laws covering everything from processing voter registrations to

conducting official recounts.⁶ Blackwell was vocal about his strong partisan views and publicly denounced John Kerry as “an unapologetic liberal Democrat.”⁷ An investigation by Rep. John Conyers looked into more than 50,000 complaints from voters and concluded that the voting problems that arose were “caused by intentional misconduct and illegal behavior, much of it involving Secretary of State J. Kenneth Blackwell.”⁸

A similar situation arose four years earlier in Florida in 2000. Controversy surrounded the state’s recount and the Secretary of State, Katherine Harris, was at the center of controversy due to irregularities in vote counting and election administration. In addition to overseeing the state’s election administration, Harris was also co-chair of George W. Bush’s Florida campaign.⁹ An extensive investigation by the U.S. Commission on Civil Rights into Florida’s election found that there was, in fact, widespread disenfranchisement due to restrictive statutory provisions, wide-ranging errors and inadequate and unequal resources in election administration.¹⁰

Through their investigation, the commission found that African Americans voters were nearly ten times more likely than white voters to have their ballots rejected.¹¹ African American voting districts were also disproportionately hindered by antiquated and error-prone equipment and poorer counties, especially those with higher populations of people of color, were more likely to use voting systems with higher spoilage rates than more affluent counties with higher populations of white voters.¹² African-Americans were also disproportionately purged from voter rolls.¹³ The Commission concluded by recommending non-partisan election administration for full accountability and transparency.¹⁴

Current Best Practice

The most advanced model for non-partisan election administration is Wisconsin. A recent review of Wisconsin's Government Accountability Board (GAB) found that it was a genuinely nonpartisan institution whose decisions did not favor either major party.¹⁵ Both parties were at times satisfied and dissatisfied by the GAB's action, but more importantly, the GAB fairly and evenhandedly interpreted and implemented the elections laws it is charged with implementing.¹⁶ The review concluded that the GAB's, "manner of decision making has been meticulous, careful, and judicious," and "The GAB thus serves as a worthy model for the remaining 49 states, all of which still have partisan or bipartisan chief election authorities—despite the emerging international consensus that independence from partisan politics is essential to proper election administration."¹⁷

Wisconsin's GAB is made up of six former judges that are nominated by a panel of four state Appeals Court judges, appointed by the Governor, and confirmed by the Senate.¹⁸ Each Board member serves staggered six year terms with one member's term expiring each year.

To prevent any potential conflicts of interest, the GAB has several restrictions. For one, no Board members may hold another office or position that is a state public office or a local public office, except the office of circuit judge or court of appeals judge.¹⁹ In addition, no member, while serving on the board, may become a candidate for state office or local office.

GAB members cannot have been a member of a political party or an officer/member of a committee in any partisan political club or organization for one year immediately prior to the date of nomination.²⁰ No member may make a contribution to a candidate, for state office or local office while serving on the board or 12 months prior to that service.²¹ Finally, GAB members cannot be a lobbyist or an employee of a principal, except for serving as a circuit judge or court of appeals judge.²²

PRINCIPLES FOR NON-PARTISAN ELECTION ADMINISTRATION

Nonpartisan election administration can be conducted through a commission or a board or a single office. Diversity should be an important consideration in the composition of any board or commission. The nonpartisan entity should adhere to the following principles:

- Non-partisan Elections Administration entity should appoint a professional nonpartisan CEO that is hired and fired by Elections Board.
- Civil service based hiring practices should be applied for administrators.
- Pre-Election Administration Plans (EAPs), or any written plan, should be adopted to institutionalize ‘best practices’ across elections.
- Strict lobbying, campaign contribution, & electioneering restrictions should be adhered to by staff and the CEO that is retroactive to at least 12 months before appointment or hire date.
- A stable & statewide uniform elections board funding formula should be implemented based on county population, past election needs, and adjusted to inflation to ensure that election commissions are continually fully funded and are not dependent on year to year funding. ■

ENDNOTES

1. Presidential Commission on Election Administration, *The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration* 17 (Jan. 2014) available at <http://www.supportthevoter.gov/>.
2. University of California at Berkeley, School of Law, *Statewide Database: Frequently Asked Questions*, (2013), available at <http://earc.berkeley.edu/faq.php>.
3. *Ibid.*
4. *Ibid.*
5. Robert F. Kennedy, Jr., *Was the 2004 Election Stolen?*, (Jun. 1, 2006), available at <http://www.commondreams.org/views/06/0601-34.htm>.
6. *Ibid.*
7. *Ibid.*
8. United States House Judiciary Committee, *Preserving Democracy: What Went Wrong in Ohio*, (Jan. 5, 2005), available at <http://www.openvotingconsortium.org/files/Conyersreport.pdf>.
9. CBS News, *Katherine Harris' 'W' Files*, (Aug. 8, 2001), available at <http://www.cbsnews.com/news/katherine-harris-w-files/>.
10. Commission on Civil Rights, *Rights Commission's Report on Florida Election*, (Jun. 5, 2001), available at <http://www.washingtonpost.com/wp-srv/onpolitics/transcripts/ccrdraft060401.htm>.
11. *Ibid.*
12. *Ibid.*
13. *Ibid.*
14. *Ibid.*
15. Daniel P. Tokaji, *America's Top Model: The Wisconsin Government Accountability Board*, (Jan. 16, 2013), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2201587.
16. *Ibid.*
17. *Ibid.*
18. Kevin J. Kennedy, *Introduction to the G.A.B., Wisconsin Government Accountability Board*, (2013), available at <http://gab.wi.gov/about/introduction>.
19. Wisconsin State Legislature, *Government Accountability Board; Creation*, (June 4, 2013), available at <http://docs.legis.wi.gov/statutes/statutes/15/III/60>.
20. *Ibid.*
21. *Ibid.*
22. *Ibid.*