

chapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 15345 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

**§ 20946. Status of Boards and members for purposes of claims against Board**

**(a) In general**

The provisions of chapters 161 and 171 of title 28 shall apply with respect to the liability of the Standards Board, the Board of Advisors, and their members for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the Board.

**(b) Exception for criminal acts and other willful conduct**

Subsection (a) may not be construed to limit personal liability for criminal acts or omissions, willful or malicious misconduct, acts or omissions for private gain, or any other act or omission outside the scope of the service of a member of the Standards Board or the Board of Advisors.

(Pub. L. 107-252, title II, §216, Oct. 29, 2002, 116 Stat. 1681.)

**Editorial Notes**

CODIFICATION

Section was formerly classified to section 15346 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

SUBPART 3—TECHNICAL GUIDELINES DEVELOPMENT COMMITTEE

**§ 20961. Technical Guidelines Development Committee**

**(a) Establishment**

There is hereby established the Technical Guidelines Development Committee (hereafter in this subpart referred to as the “Development Committee”).

**(b) Duties**

**(1) In general**

The Development Committee shall assist the Executive Director of the Commission in the development of the voluntary voting system guidelines.

**(2) Deadline for initial set of recommendations**

The Development Committee shall provide its first set of recommendations under this section to the Executive Director of the Commission not later than 9 months after all of its members have been appointed.

**(c) Membership**

**(1) In general**

The Development Committee shall be composed of the Director of the National Institute of Standards and Technology (who shall serve as its chair), together with a group of 14 other individuals appointed jointly by the Commission and the Director of the National Institute of Standards and Technology, consisting of the following:

(A) An equal number of each of the following:

- (i) Members of the Standards Board.
- (ii) Members of the Board of Advisors.
- (iii) Members of the Architectural and Transportation Barrier Compliance Board under section 792 of title 29.

(B) A representative of the American National Standards Institute.

(C) A representative of the Institute of Electrical and Electronics Engineers.

(D) Two representatives of the National Association of State Election Directors selected by such Association who are not members of the Standards Board or Board of Advisors, and who are not of the same political party.

(E) Other individuals with technical and scientific expertise relating to voting systems and voting equipment.

**(2) Quorum**

A majority of the members of the Development Committee shall constitute a quorum, except that the Development Committee may not conduct any business prior to the appointment of all of its members.

**(d) No compensation for service**

Members of the Development Committee shall not receive any compensation for their service, but shall be paid travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of services for the Development Committee.

**(e) Technical support from National Institute of Standards and Technology**

**(1) In general**

At the request of the Development Committee, the Director of the National Institute of Standards and Technology shall provide the Development Committee with technical support necessary for the Development Committee to carry out its duties under this part.

**(2) Technical support**

The technical support provided under paragraph (1) shall include intramural research and development in areas to support the development of the voluntary voting system guidelines under this subpart, including—

(A) the security of computers, computer networks, and computer data storage used in voting systems, including the computerized list required under section 21083(a) of this title;

(B) methods to detect and prevent fraud;

(C) the protection of voter privacy;

(D) the role of human factors in the design and application of voting systems, including assistive technologies for individuals with disabilities (including blindness) and varying levels of literacy; and

(E) remote access voting, including voting through the Internet.

**(3) No private sector intellectual property rights in guidelines**

No private sector individual or entity shall obtain any intellectual property rights to any

guideline or the contents of any guideline (or any modification to any guideline) adopted by the Commission under this chapter.

**(f) Publication of recommendations in Federal Register**

At the time the Commission adopts any voluntary voting system guideline pursuant to section 20962 of this title, the Development Committee shall cause to have published in the Federal Register the recommendations it provided under this section to the Executive Director of the Commission concerning the guideline adopted.

(Pub. L. 107-252, title II, §221, Oct. 29, 2002, 116 Stat. 1682.)

**Editorial Notes**

REFERENCES IN TEXT

This chapter, referred to in subsec. (e)(3), was in the original “this Act”, meaning Pub. L. 107-252, Oct. 29, 2002, 116 Stat. 1666, known as the Help America Vote Act of 2002, which is classified principally to this chapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 15361 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

**§ 20962. Process for adoption**

**(a) General requirement for notice and comment**

Consistent with the requirements of this section, the final adoption of the voluntary voting system guidelines (or modification of such a guideline) shall be carried out by the Commission in a manner that provides for each of the following:

- (1) Publication of notice of the proposed guidelines in the Federal Register.
- (2) An opportunity for public comment on the proposed guidelines.
- (3) An opportunity for a public hearing on the record.
- (4) Publication of the final guidelines in the Federal Register.

**(b) Consideration of recommendations of Development Committee; submission of proposed guidelines to Board of Advisors and Standards Board**

**(1) Consideration of recommendations of Development Committee**

In developing the voluntary voting system guidelines and modifications of such guidelines under this section, the Executive Director of the Commission shall take into consideration the recommendations provided by the Technical Guidelines Development Committee under section 20961 of this title.

**(2) Board of Advisors**

The Executive Director of the Commission shall submit the guidelines proposed to be adopted under this subpart (or any modifications to such guidelines) to the Board of Advisors.

**(3) Standards Board**

The Executive Director of the Commission shall submit the guidelines proposed to be

adopted under this subpart (or any modifications to such guidelines) to the Executive Board of the Standards Board, which shall review the guidelines (or modifications) and forward its recommendations to the Standards Board.

**(c) Review**

Upon receipt of voluntary voting system guidelines described in subsection (b) (or a modification of such guidelines) from the Executive Director of the Commission, the Board of Advisors and the Standards Board shall each review and submit comments and recommendations regarding the guideline (or modification) to the Commission.

**(d) Final adoption**

**(1) In general**

A voluntary voting system guideline described in subsection (b) (or modification of such a guideline) shall not be considered to be finally adopted by the Commission unless the Commission votes to approve the final adoption of the guideline (or modification), taking into consideration the comments and recommendations submitted by the Board of Advisors and the Standards Board under subsection (c).

**(2) Minimum period for consideration of comments and recommendations**

The Commission may not vote on the final adoption of a guideline described in subsection (b) (or modification of such a guideline) until the expiration of the 90-day period which begins on the date the Executive Director of the Commission submits the proposed guideline (or modification) to the Board of Advisors and the Standards Board under subsection (b).

**(e) Special rule for initial set of guidelines**

Notwithstanding any other provision of this subpart, the most recent set of voting system standards adopted by the Federal Election Commission prior to October 29, 2002, shall be deemed to have been adopted by the Commission as of October 29, 2002, as the first set of voluntary voting system guidelines adopted under this subpart.

(Pub. L. 107-252, title II, §222, Oct. 29, 2002, 116 Stat. 1683.)

**Editorial Notes**

CODIFICATION

Section was formerly classified to section 15362 of Title 42, The Public Health and Welfare, prior to editorial reclassification and renumbering as this section.

PART B—TESTING, CERTIFICATION, DECERTIFICATION, AND RECERTIFICATION OF VOTING SYSTEM HARDWARE AND SOFTWARE

**§ 20971. Certification and testing of voting systems**

**(a) Certification and testing**

**(1) In general**

The Commission shall provide for the testing, certification, decertification, and recertification of voting system hardware and software by accredited laboratories.