



March 16, 2026

Submitted Via <https://www.regulations.gov>

U.S. Election Assistance Commission
633 3rd Street NW, Suite 200
Washington, DC 20001
Attn: EAVS

Re: Comment on Proposed Revisions to the 2026 Election Administration and Voting Survey and the Election Administration Policy Survey

America First Legal Foundation (“AFL”) respectfully submits this comment pursuant to the Election Assistance Commission’s (“EAC”) notice and request for public comment on the proposed 2026 Election Administration and Voting Survey (“EAVS”) and Election Administration Policy Survey (“Policy Survey”), published at 91 Fed. Reg. 1,179 (Jan. 12, 2026) (Docket ID: EAC-2026-0001).¹ The EAC’s proposed revisions² aim to “reduce reporting burden, improve data accuracy, and ensure the survey reflects the realities of modern election administration.”³ The proposed revisions remove, consolidate, and modify dozens of questions across both instruments.

The EAVS and Policy Survey are the federal government’s principal instruments for collecting standardized, quantitative, and qualitative data on how the nation’s elections are administered—data upon which Congress, state legislators, researchers, and the public rely to assess whether elections are conducted lawfully, transparently, and securely. The EAC’s proposed revisions help implement the laudable goal of reducing respondent burden, and AFL supports several of them. However, a number of the proposed deletions and consolidations would systematically degrade the quality and granularity of election-integrity data—trading away transparency for administrative convenience in ways that cannot be justified under the Paperwork Reduction Act’s standard of “practical utility.”⁴

¹ Agency Information Collection Activities; Proposals, Submissions, and Approvals; 2026 Election Administration and Voting Survey, Docket ID: EAC-2026-0001, 91 Fed. Reg. 1179 (proposed Jan. 12, 2026).

² See U.S. ELECTION ASSISTANCE COMM’N, *Proposed 2026 Election Administration and Voting Survey (EAVS) & Election Administration Policy Survey: What Has Changed Since the 2024 EAVS & Policy Survey* (2026) <https://perma.cc/MFJ7-6RU9> [hereinafter EAC Changes Summary].

³ *Id.* at 1.

⁴ 44 U.S.C. § 3506(c)(2)(A)(i).

For example, in the EAVS, the EAC proposes to eliminate several data fields tracking election-administration metrics, such as removing “[m]ail voters who voted in person with a provisional ballot,”⁵ and it merges others into broader categories that collapse previously distinct data points into single fields, such as the merging of signatures missing and signatures not matching the voter signature as reasons for signature errors.⁶ Also, in the Policy Survey, the EAC removes questions on topics including duplicate-registration handling, drop-box security protocols, and drop-box collection frequency, while adding new questions on subjects such as permanent absentee ballot duration.⁷

Specifically, AFL urges the EAC to: (1) abandon the proposed merger of provisional-ballot signature-verification categories in Section E3, which would eliminate the ability to distinguish between potential ballot fraud and voter procedural error; (2) restore Question C1e, which tracked mail voters who cast in-person provisional ballots—a critical metric for identifying ballot-delivery failures and duplicate-voting risks; (3) add new questions tracking the duration of inactive voter status, misprinted or defective ballots, and non-citizen voter registrations—three areas of growing public concern that the current survey wholly ignores; (4) retain and strengthen, rather than eliminate, Policy Survey questions on drop-box security protocols and collection frequency; and (5) retain the Policy Survey question on how jurisdictions handle duplicate voter registration records.

The EAC serves a vital national function, but only if the data it collects remains granular enough to reveal what jurisdictions are—and are not—doing to protect the integrity of federal elections.

STATEMENT OF INTEREST

AFL is a national 501(c)(3) nonprofit organization dedicated to promoting the rule of law, preventing executive overreach, and ensuring due process and equal protection under the Constitution. Election integrity is central to AFL’s mission.⁸ The EAVS and Policy Survey are indispensable election integrity tools, and AFL has a direct interest in ensuring these tools remain objective and thorough. AFL has previously submitted a petition for rulemaking to the EAC urging the Commission to require documentary proof of citizenship in connection with the federal voter registration form,⁹ and has maintained sustained engagement with EAC data-collection practices bearing on

⁵ See EAC Changes Summary, *supra* note 2, at 3.

⁶ *Id.*

⁷ *Id.* at 6.

⁸ *Priority: Election Integrity*, AM. FIRST LEGAL FOUND. <https://perma.cc/WZ82-Q6VQ>.

⁹ See AMERICA FIRST LEGAL FOUND., *Petition for Rulemaking to the U.S. Election Assistance Commission Regarding Documentary Proof of Citizenship* (2024), <https://perma.cc/V359-EU64> [hereinafter AFL Petition for Rulemaking] (documenting the risk that non-citizen voter registrations maintained for local elections may carry over to federal elections).

election integrity—bringing to this comment an institutional familiarity with the EAVS and the policy questions its data is designed to illuminate.

BACKGROUND

Under the Help America Vote Act of 2002 (“HAVA”), the EAC serves as a national clearinghouse for information on federal election administration.¹⁰ It fulfills this mandate through the biennial EAVS and Policy Survey, distributed to all 50 states, the District of Columbia, and all U.S. territories, for completion by state and local election officials.¹¹ These surveys serve the EAC’s biennial reporting obligations under the National Voter Registration Act (“NVRA”)¹² and the Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”).¹³ The resulting publicly disseminated data is critical for policymakers, advocates, and the public to evaluate whether elections are administered lawfully and securely.¹⁴

While AFL does not dispute the EAC’s goals of reducing unnecessary burdens, we are concerned that many of the proposed revisions will degrade data quality by eliminating, combining, or rewriting survey questions that are essential for interested parties to identify vulnerabilities.¹⁵ The EAC should not sacrifice transparency for convenience.

The EAC estimates the 2026 collection will impose a burden of 83 hours per respondent, or 4,648 hours in aggregate. AFL does not dispute that estimate as applied to the existing instrument, but notes that the three new questions AFL proposes in Section II—tracking inactive-voter duration, misprinted ballots, and non-citizen voter registrations—would impose negligible marginal burden on respondents. Each proposed addition requests data that state and local election officials already compile in the ordinary course of administration. Voter registration systems inherently record the timestamp of a registrant’s transition to inactive status; election officials are already required under state law to document, remediate, and account for defective ballots; and jurisdictions that maintain non-citizen registrations for local elections do so pursuant to explicit legal authority that requires tracking those records separately. All three proposed additions can be designed as simple numerical-entry or yes/no fields

¹⁰ 52 U.S.C.A. § 20922; *see also* 91 Fed. Reg. 1,179 (describing the EAC’s obligation under HAVA to “serve as a national clearinghouse and resource for the compilation of information with respect to the administration of Federal elections.”).

¹¹ 91 Fed. Reg. 1,179.

¹² 52 U.S.C. § 20508(a)(3).

¹³ 52 U.S.C. § 20302(e); National Voter Registration Act of 1993, Pub. L. No. 103-31, 107 Stat. 77 (codified as amended at 52 U.S.C. §§ 20501–20511); Uniformed and Overseas Citizens Absentee Voting Act, Pub. L. No. 99-410, 100 Stat. 924 (codified as amended at 52 U.S.C. §§ 20301–20311); *see also* 91 Fed. Reg. 1,179.

¹⁴ *See* U.S. ELECTION ASSISTANCE COMM’N, *2026 Election Administration and Voting Survey 1* (2026) <https://perma.cc/8VHB-U8SM> [hereinafter 2026 EAVS].

¹⁵ *See generally* EAC Changes Summary, *supra* note 2, at 1–8 (cataloguing removals, consolidations, and modifications to both the EAVS and the Policy Survey).

requiring no new data-collection infrastructure. The marginal burden of each is, at most, a matter of minutes per jurisdiction—a negligible increment against an 83-hour baseline. Even if the EAC were to determine that the three additions add some marginal time, the practical utility of the resulting data—enabling Congress, state legislatures, and the public to evaluate list-maintenance compliance, ballot-printing integrity, and non-citizen registration risk—would far outweigh that increment under the PRA’s own standard.¹⁶ The far greater burden on the public interest lies in not collecting this data: once an election cycle passes without these questions, the data is unrecoverable.

AFL’s comments are organized to address the four criteria on which the EAC has invited public comment pursuant to the Paperwork Reduction Act of 1995 (“PRA”), 44 U.S.C. § 3506(c)(2)(A). Those PRA criteria are: “(a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency’s estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.”¹⁷ Where the EAC’s proposed revisions reduce the granularity or scope of data collection, AFL’s objections sound principally under criteria (a) and (c): the changes diminish the practical utility of the resulting data and degrade its quality. Where AFL recommends additions to the survey, the proposed questions are designed to enhance quality and utility under criterion (c) without materially increasing burden—the data requested is either already maintained by election jurisdictions in the ordinary course of administration or can be reported through simple numerical or yes/no fields that impose minimal incremental burden under criterion (d).

I. PROPOSED REVISIONS TO EAVS THAT THE EAC SHOULD ABANDON

In its effort to simplify the EAVS, the EAC proposes changes to two sections of the form. Both of these proposed changes should be abandoned.

The first is Section E, which addresses provisional ballots—ballots cast by voters whose eligibility cannot be confirmed at the polls on Election Day.¹⁸ Within Section E, Question E3 asks jurisdictions to report the specific reasons provisional ballots

¹⁶ See 44 U.S.C. § 3506(c)(2)(A)(i) (requiring consideration of “practical utility” alongside burden).

¹⁷ See 91 Fed. Reg. 1,179 (Jan. 12, 2026) (soliciting comment on whether “the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility”; “the accuracy of the agency’s estimate of the burden of the proposed information collection”; “ways to enhance the quality, utility, and clarity of the information to be collected”; and “ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology”); see also 44 U.S.C. §§ 3506(c)(2)(A)(i)–(iv).

¹⁸ EAC Changes Summary, *supra* note 2, at 3.

were rejected, broken down by categories such as voter registration status, voting in the wrong jurisdiction, or failure to provide required identification.¹⁹ The EAC seeks to merge two of these rejection-reason fields—one for non-matching signatures and another for missing signatures—into a single category. Non-matching signatures may indicate that someone other than the registered voter completed or submitted the ballot, raising the possibility of fraud or forgery. Missing signatures, by contrast, typically reflect voter error or procedural failure. These are fundamentally different phenomena with different policy implications and collapsing them into one field would eliminate the ability to distinguish between the two.

The second is section C of the EAVS, which addresses mail voting, including the number of ballots transmitted, returned, rejected, and counted.²⁰ Within Section C, question C1 asks jurisdictions to report mail-in voter participation across three categories: those who returned their ballots by mail, those who returned them in person, and those who ultimately voted through other means.²¹ The EAC proposes to remove Question C1e, which tracked the number of mail voters who abandoned their mail ballots and instead cast in-person provisional ballots. This data point is essential for identifying ballot-delivery failures and duplicate-voting risks in an era of rapidly expanding mail voting. Each of these proposed changes is addressed in turn below.

A. Merger of Signature-Verification Categories in Section E3 (Provisional Ballot Rejections)

In its effort to simplify the EAVS, the EAC seeks to merge two separate data fields within Section E3 into a single combined field. The EAC proposes to merge the former “E3i” (non-matching signature) and the former “E3h” (no signature) into a single field: “E3f. Ballot envelope was missing a signature, or the signature did not match the one on file.”²² The first merged data question is the former Question E3i, which required jurisdictions to report the number of provisional ballots rejected because the signature on the ballot envelope did not match the registered voter’s on-file signature.²³ The second merged data question is the former Question E3h, which required jurisdictions to report the number of provisional ballots rejected because the ballot envelope was missing a signature entirely.²⁴

AFL opposes this consolidation. A missing signature suggests voter error or procedural failure. A mismatched signature may indicate that someone other than the reg-

¹⁹ 2026 EAVS, *supra* note 14, at 46.

²⁰ *See id.* at 30–37.

²¹ *See id.* at 32.

²² EAC Changes Summary, *supra* note 2, at 3 (“Removed ‘E3i. Ballot had a non-matching signature’ and merged with ‘E3h. Ballot did not have a signature.’”); 2026 EAVS, *supra* note 14, at 46 (Question E3f).

²³ *See id.*

²⁴ *See id.*

istered voter completed or submitted the ballot. Merging these fields, each alone being significant, into one field unnecessarily obscures trends vital to assessing the integrity of the provisional ballot process. Further, such a consolidation prevents the identification of jurisdictions with elevated rates of potential fraud versus those needing voter education on signature requirements. The EAC should retain E3h and E3i as separate data fields because, under PRA criteria (a) and (c), merging these fields reduces the practical utility of the collected data and degrades its quality by eliminating the ability to distinguish between two operationally and legally distinct phenomena.

The EAC’s proposed consolidation is not only analytically unsound—it is unsupported by any data-driven justification the EAC has offered in the rulemaking record, and it breaks with how prior EAVS cycles have treated these categories. In prior cycles, the EAVS collected E3h (missing signature) and E3i (non-matching signature) as separate fields precisely because they measure distinct phenomena, and the EAC’s own published reporting has cited both signature-related rejection categories as meaningful data points. The EAC’s 2020 EAVS report, for example, found that non-matching signatures were the single most common reason mail ballots were rejected nationally—accounting for 32.8% of all mail-ballot rejections—while missing-signature rejections represented a categorically separate compliance failure of 12.1%.²⁵ These figures have appeared as distinct data points across multiple EAC biennial EAVS, confirming that the EAC itself has historically treated them as non-equivalent.²⁶

The EAC now proposes to merge them without identifying any instance in which the distinction proved meaningless, any data showing the categories track together across jurisdictions, or any other evidentiary basis for treating the two as equivalent. That silence in the rulemaking record weighs against the proposed change under basic principles of reasoned agency decision-making.²⁷ The proposed merger also places the United States out of step with the states that rely on the missing/non-

²⁵ U.S. ELECTION ASSISTANCE COMM’N, *Election Administration and Voting Survey 2020 Comprehensive Report*, 14 tbl.2 (Aug. 2021), <https://perma.cc/PY2T-TGLR> (reporting that of all mailed ballots rejected in the 2020 general election, 32.8% were rejected for a non-matching voter signature—the single most common rejection reason nationally—while 12.1% were rejected for a missing voter signature, confirming these as distinct and non-equivalent phenomena).

²⁶ See U.S. ELECTION ASSISTANCE COMM’N, *2022 Election Administration and Voting Survey* 37 (2022), <https://perma.cc/B979-YAYG>; U.S. ELECTION ASSISTANCE COMM’N, *2024 Election Administration and Voting Survey* 44 (2024), <https://perma.cc/W4YZ-NPX3> (each providing separate data fields for missing-signature and non-matching-signature rejections across prior survey cycles, confirming the EAC has historically treated these categories as distinct); see also U.S. ELECTION ASSISTANCE COMM’N, *2024 Election Administration Policy Survey* 20 (2024), <https://perma.cc/782F-3TH6> (listing Q28a categories for “Non-matching voter signature” and “Missing voter signature” as separate, independently selectable answer options in the EAC’s own 2024 Policy Survey on states’ ballot-cure programs, confirming the EAC’s history of recognizing the categories as legally and operationally distinct as recently as the prior survey cycle, directly contradicting the rationale for the proposed 2026 consolidation).

²⁷ See *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (“the agency must examine the relevant data and articulate a satisfactory explanation for its action”).

matching distinction for their own ballot-cure frameworks. The EAC’s proposal would cause federal data to obscure the very distinction that state legislatures and election administrators have recognized as legally and operationally significant, disabling future analysis of whether signature-based ballot rejections reflect fraud risks, procedural failures, or both.

B. Removal of Question C1e (Mail Voters Who Voted In Person with a Provisional Ballot)

The EAC proposes to remove the former “C1e,” which tracked the number of mail voters who cast in-person provisional ballots.²⁸

AFL opposes this removal. This data is essential for identifying ballot-delivery failures, duplicate-voting risks, and procedural weaknesses in mail-voting systems. When a mail-ballot recipient appears to vote in person, the explanation may range from non-receipt of the ballot to an attempted second vote. The reliability of mail voting and the vulnerability to duplicate voting cannot be fully evaluated without this data, especially as mail voting has expanded dramatically in recent election cycles. Without this data, neither EAC nor state policymakers can assess whether provisional-ballot cure processes for mail-ballot voters are functioning correctly. The EAC should preserve C1e because, under PRA criteria (a) and (c), Question C1e captures information directly necessary to evaluate the administration of mail-ballot and provisional-ballot programs and to detect duplicate-voting vulnerabilities—core functions of the EAVS—and its removal diminishes both the utility and the quality of the data collected.

II. PROPOSED REVISIONS TO EAVS THAT THE EAC SHOULD ADOPT

Section A of the EAVS addresses voter registration and list maintenance.²⁹ It requires jurisdictions to report data on the total number of registered voters, the number of active and inactive registrants on state voter rolls, and the reasons for removals from the rolls—including felony convictions, mental incapacity, death, failure to respond to confirmation mailings, and other causes.³⁰ These data fields are the primary mechanism through which the federal government tracks whether states are fulfilling their obligations under the NVRA to maintain accurate and current voter registration

²⁸ EAC Changes Summary, *supra* note 2, at 3 (“Removed 2024 EAVS’s ‘C1e. Mail voters who voted in person with a provisional ballot.’”).

²⁹ 2026 EAVS, *supra* note 14, at 2–16.

³⁰ *See id.*

lists.³¹ Despite the breadth of Section A, several important dimensions of voter-roll integrity are not captured by the current survey instrument.

The EAVS also lacks any questions addressing misprinted or defective ballots or non-citizen voter registration, two areas of increasing public concern that implicate both election security and voter confidence. AFL urges the EAC to add new questions for each of these areas, as discussed below.

A. Tracking the Duration of Inactive Voter Status on State Voter Rolls

Under 52 U.S.C. § 20507(d)(1)(B), a state may remove a registrant who has failed to respond to a confirmation notice and has not voted in the two most recent federal general elections since that notice. The EAVS tracks the number of inactive voters (A1c) and removals under this provision (A12e),³² but does not capture how long registrants have remained “inactive” while still on the rolls.³³

AFL urges the EAC to add a data field tracking the duration of inactive status. Bloated voter rolls undermine public confidence and create opportunities for fraud. AFL suggests that the EAC use the following question to elicit this date: “For each of the following periods, report the number of voter registration records currently classified as ‘inactive’ as of the date of this survey: (a) Less than 1 year; (b) 1–2 years; (c) 2–4 years; (d) 4–6 years; (e) More than 6 years.”

Duration data would reveal how diligently states fulfill their list-maintenance obligations under the NVRA.³⁴ A jurisdiction maintaining thousands of inactive registrations for years would raise serious questions about the adequacy of its practices. This addition implicates PRA criterion (c): capturing inactive-voter duration would substantially enhance the quality and utility of the data the EAVS collects on list-maintenance compliance, at minimal additional burden to respondents, who already track this information in their voter registration databases.

B. Tracking Misprinted or Defective Ballots

AFL urges the EAC to add a question to the EAVS regarding misprinted or defective ballots. The EAC’s obligation under HAVA to serve as a national clearinghouse for information on “the administration of Federal elections” is broad enough to encompass ballot production errors.³⁵ Ballot-printing defects directly affect whether votes

³¹ See 52 U.S.C. § 20507,

³² 2026 EAVS, *supra* note 14, at 3 (Question A1c), 15 (Question A12e).

³³ See *id.* §§ A1–A12 (containing no data field tracking the duration of inactive voter status).

³⁴ See 52 U.S.C. § 20507 (imposing voter-list-maintenance obligations on states under the NVRA).

³⁵ See 52 U.S.C. § 20922.

are accurately cast and counted—the core subject of the EAVS—and the survey’s current silence on this topic leaves a significant gap in the federal election-administration record.

The national significance of this data gap is illustrated by the November 2022 general election in Maricopa County, Arizona, where ballot-printing irregularities caused widespread tabulator malfunctions at voting locations on Election Day, forcing thousands of voters to cast provisional ballots or travel to alternate sites to have their ballots counted.³⁶ The resulting confusion generated substantial litigation and eroded public confidence in the administration of that election.³⁷ Maricopa County is not an isolated case: printing errors have been documented in multiple jurisdictions across multiple election cycles, yet the EAVS currently collects no data on the frequency of such errors, the number of voters affected, the remediation procedures employed, or the chain-of-custody controls applied to defective ballots. Without this data, neither the EAC nor the public can assess how common ballot-printing defects are, whether affected jurisdictions are responding adequately, or whether defective ballots are being properly voided and secured rather than counted or misused.

AFL recommends the EAC add the following question to the EAVS: “During the covered election period, did your jurisdiction experience any misprinted, defective, or reprinted ballots? If yes: (a) total number of defective ballots identified; (b) number of affected voters notified; (c) number of defective ballots voided and replaced; (d) describe how defective ballots were secured or destroyed.”

This addition addresses PRA criteria (a) and (c): data on ballot-printing defects is necessary for the EAC to fulfill its HAVA clearinghouse mandate and would materially enhance the quality and completeness of the EAVS. Because state and local election officials are already required under state law to document, remediate, and account for defective ballots, the relevant data exists in the ordinary course of election administration. Reporting it through the EAVS would impose minimal additional burden on respondents, consistent with PRA criterion (d)—the proposed question requires only that existing records be aggregated into four simple fields.

³⁶ See, e.g., MARICOPA COUNTY ELECTIONS DEP’T, *The Vote Center Model During the 2022 General Election* 4 (Nov. 27, 2022), <https://perma.cc/EUC2-YWY7> (documenting that 43 vote centers experienced intermittent printer issues, resulting in 16,724 ballots requiring central-count tabulation); see also Ruth V. McGregor, *Maricopa County 2022 General Election Ballot-on-Demand Printer Investigation Report* 10 (Apr. 10, 2023), <https://perma.cc/39PH-WCV6> (concluding that equipment failure in older printers, combined with heavier paper and longer ballots, caused widespread tabulator malfunctions at approximately 70 of 223 vote centers on Election Day); *Hamadeh v. Mayes*, No. S8015CV202201468 (Ariz. Super. Ct. 2022).

³⁷ See, e.g., *Mast v. Mayes*, No. 1 CA-CV 24-0442 A, 2024 WL 4603801 (Ariz. App. 1st Div. Oct. 29, 2024), as amended (Oct. 30, 2024).

C. Non-Citizen Voter Registration

AFL urges the EAC to add the following question: “(a) Does your jurisdiction maintain any voter registration records for persons who are not U.S. citizens? If yes: (b) Under what authority? (c) Total number of such records of aliens; (d) Total number of such records of U.S. nationals (please note that this is a separate category from that of a U.S. citizen under U.S. immigration and nationality law and mostly covers persons from American Samoa); (e) Are these registrations flagged to prevent participation in federal elections? If yes, describe the mechanism.”

It is a federal crime for aliens to vote in federal elections.³⁸ Yet certain states and localities permit alien voting in select local elections.³⁹ When aliens appear on voter rolls for any purpose, there is a well-documented risk that those registrations may carry over to federal elections through administrative error, database failures, or fraud.⁴⁰ States including Texas, Virginia, Ohio, and Alabama have identified and removed thousands of aliens from their rolls in recent years, many of whom had cast ballots.⁴¹ The EAC should collect data that enables the public and policymakers to better understand the extent of non-citizen inclusion on voter rolls. The proposed question would enhance the quality and utility of the EAVS under PRA criterion (c) and is necessary for the proper performance of the EAC’s election-integrity clearing-house function under criterion (a); election jurisdictions that maintain any voter rolls for non-citizen local elections already possess the underlying data so that the incremental reporting burden would be modest under criterion (d).

III. PROPOSED REVISIONS TO POLICY SURVEY THE EAC SHOULD SUPPORT

AFL commends the EAC for several Policy Survey revisions that improve data collection in areas of growing importance. Specifically:

- New Question Q23d (Duration of permanent mail/absentee ballot receipt).⁴² In many jurisdictions, permanent mail-ballot voters receive ballots indefinitely

³⁸ 18 U.S.C. § 611 (criminalizing voting by aliens in any election for President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives).

³⁹ *See, e.g.*, Cal. Educ. Code § 48985 (permitting non-citizen participation in certain school board elections); S.F., Cal., Charter § 13.111 (permitting non-citizen parents and guardians to vote in school board elections); Takoma Park, Md., City Charter § 601(a) (non-citizen residents permitted to vote in municipal elections).

⁴⁰ *See* AFL Petition for Rulemaking (documenting the risk that non-citizen voter registrations maintained for local elections may carry over to federal elections).

⁴¹ *See id.* at 3.

⁴² EAC Changes Summary, *supra* note 2, at 6 (“New Question Q23d on How long permanent absentee voters receive ballots.”); U.S. Election Assistance Comm’n, 2026 Election Administration Policy Survey (2026) <https://perma.cc/V9HX-H4V9> [hereinafter 2026 Policy Survey].

with no subsequent eligibility verification, creating vulnerability to ballot harvesting and other abuses. Q23d will help policymakers evaluate whether these programs include adequate safeguards and sunset provisions.

- Updated Question Q26 (Postmark requirement for mail ballots).⁴³ Adding a checkbox for states to report that no postmark is required is an important improvement. Postmark requirements are directly linked to ensuring only ballots cast before Election Day are counted.
- New Questions Q38 and Q39 (UOCAVA voter eligibility).⁴⁴ These questions address a genuine ambiguity in the UOCAVA statute that current EAC guidance has left unresolved. UOCAVA extends absentee voting rights to U.S. citizens residing outside the country, but the statute does not expressly address two edge categories: citizens who have never resided in the United States—typically the U.S.-citizen children of Americans born or raised abroad—and citizens who are uncertain whether they intend to return.⁴⁵ Whether such individuals are eligible to vote in their parents’ last state of domicile, and under what conditions, has been handled inconsistently across states, and the EAC’s existing UOCAVA guidance does not resolve the question with finality. New Questions Q38 and Q39 will, for the first time, generate standardized national data on how states are resolving these eligibility determinations—data that is essential for Congress, FVAP, and the EAC itself to assess whether UOCAVA’s coverage is being applied uniformly and in a manner consistent with the statute’s purpose of ensuring that no U.S. citizen is disenfranchised solely by virtue of overseas residence.
- Updated Question Q45b (Calendar date for provisional ballot adjudication deadline).⁴⁶ Requiring a specific date rather than “X days after Election Day” promotes uniformity and timely certification.

AFL strongly supports these changes because they would enhance the quality and utility of the Policy Survey under PRA criterion (c) and are necessary for the proper performance of the EAC’s election-integrity clearinghouse function under PRA criterion (a).

⁴³ EAC Changes Summary, *supra* note 2, at 6 (“Updated Q26: Added checkbox to report that postmark is not required for these mail ballots”).

⁴⁴ *Id.* at 7 (“New question Q38: Election eligibility for UOCAVA voters who never resided in U.S.”; “New question Q39: Election eligibility for UOCAVA voters who are unsure of intent to return to U.S.”); 2026 Policy Survey, *supra* note 42 (Questions Q38–Q39).

⁴⁵ See 52 U.S.C. § 20310(5) (defining “overseas voter” by reference to residence “outside the United States” without addressing those who have never established U.S. residence).

⁴⁶ EAC Changes Summary, *supra* note 2, at 7 (“Updated Q45b: Answer options revised to have respondents report a calendar date.”).

IV. PROPOSED REVISIONS TO POLICY SURVEY THE EAC SHOULD OPPOSE

Unlike the EAVS, which collects quantitative data on election outcomes and voter registration statistics, the Policy Survey captures qualitative information about how states and jurisdictions administer elections, including their policies, procedures, and legal frameworks governing voter registration, mail voting, ballot security, and post-election processes.⁴⁷ The Policy Survey is a federal instrument that systematically documents the procedural safeguards jurisdictions employ to protect ballot integrity, making it an indispensable complement to the EAVS's numerical data. As discussed below, two of the EAC's proposed removals from the Policy Survey are particularly concerning because they would eliminate questions on how jurisdictions handle duplicate voter registrations and secure ballot drop boxes.⁴⁸

A. Removal of Question Q21 (Handling of Duplicate Registration Records)

The EAC proposes to remove Q21, which required states to explain how they handle duplicate voter registration records.⁴⁹

AFL strongly opposes this removal. Duplicate registrations are a well-known vulnerability because a voter registered in multiple jurisdictions may cast ballots in more than one place. The Pew Research Center found that approximately 24 million voter registrations nationwide were inaccurate or no longer valid in 2012, including approximately 2.75 million individuals registered in multiple states.⁵⁰ Removing this question is a significant step away from transparency. The NVRA imposes affirmative obligations on states to remove duplicate registrations,⁵¹ and without Q21, the federal government loses its primary mechanism for assessing state compliance with this mandate. Its removal implicates PRA criterion (a): a question on duplicate-registration procedures is necessary for the EAC to perform its statutory function of monitoring state NVRA compliance and has clear practical utility for policymakers and the public. It also implicates PRA criterion (c): Q21's removal degrades the Policy Survey's quality as a tool for evaluating state list-maintenance practices.

⁴⁷ See 2026 Policy Survey, *supra* note 42.

⁴⁸ See EAC Changes Summary, *supra* note 2, at 5–6.

⁴⁹ *Id.* at 5 (“Removed 2024 Policy Survey’s Q21: What happens when duplicate registration records are identified.”).

⁵⁰ PEW CTR. ON THE STATES, *Inaccurate, Costly, and Inefficient: Evidence That America’s Voter Registration System Needs an Upgrade* 1 (Feb. 2012) <https://perma.cc/GR3J-N3ME>.

⁵¹ 52 U.S.C. § 20507(a)(4).

B. Removal and Reduction of Drop-Box Data (Q24b, Q27b, Q27d)

The EAC proposes to reduce or eliminate several drop-box questions: removing the availability-hours portion of Q24b, removing Q27b (collection frequency), and removing Q27d (security measures).

AFL strongly opposes each change. Drop boxes have become a high-volume ballot-return channel in jurisdictions across the country, and their security is a matter of paramount public concern. Although drop boxes are not addressed by name in HAVA, the NVRA, or UOCAVA, they fall squarely within the EAC’s statutory “clearing-house” authority and responsibility to collect information on the administration of federal elections.⁵² Ballot-return security—including the physical integrity, chain of custody, and monitoring protocols for any container into which a voter deposits a completed federal ballot—is unambiguously part of “the administration of Federal elections” that falls under the remit of the EAC’s Section 20922 authority.⁵³ The EAC, therefore, has not merely the authority but the affirmative obligation under HAVA to collect data on how jurisdictions are securing drop boxes. Removing Q24b, Q27b, and Q27d is inconsistent with that mandate.

Data on hours of access, collection frequency, and physical security measures are essential for assessing whether drop boxes are adequately protected against tampering, unauthorized access, and ballot harvesting. The EAC’s characterization of these questions as “high burden and low value”⁵⁴ fundamentally understates their importance and is unsupported by any data in the rulemaking record showing that election officials found these questions unduly burdensome or that the resulting data went unused. To the contrary, drop-box security data is among the most critical information the Policy Survey collects: it is the only standardized federal mechanism for documenting whether jurisdictions are deploying basic physical safeguards for one of the primary ballot-return channels in modern election administration.

Rather than merely restoring Q27d to its prior form, AFL urges the EAC to expand it. The prior question addressed security measures only in general terms. A more granular question would generate data of significantly greater analytical and oversight value.

AFL recommends Q27d be restored and revised to ask specifically whether each jurisdiction’s drop boxes are secured by: (a) surveillance cameras monitoring the drop

⁵² 52 U.S.C. § 20922.

⁵³ *Id.*

⁵⁴ *Inaccurate, Costly, and Inefficient: Evidence That America’s Voter Registration System Needs an Upgrade*, *supra* note 54 at 1 (describing the rationale for removals as targeting “[q]uestions and answer categories identified as high burden and low value”).

box during all hours of availability; (b) tamper-evident seals on the ballot compartment; (c) law enforcement or security patrols; and (d) bipartisan chain-of-custody logs documenting each collection.

These four elements represent established best practices in drop-box administration and directly address the security concerns that have generated public controversy over drop-box use in recent election cycles. Collecting this data would allow the EAC, Congress, State legislators, and the public to assess for the first time whether jurisdictions deploying drop boxes are doing so with adequate safeguards—or whether those boxes represent an unsecured gap in ballot-return integrity. The EAC should restore Q24b and Q27b in full and adopt an expanded version of Q27d along the lines proposed above. Restoring and strengthening these drop-box questions would enhance the quality and utility of the Policy Survey under PRA criterion (c) and is necessary for the proper performance of the EAC’s election-integrity clearinghouse function under PRA criterion (a).

V. CONCLUSION

The EAVS and Policy Survey are among the federal government’s most important tools for ensuring transparency and integrity in election administration. With a federal election occurring in November 2026, the data collected through the 2026 EAVS will be among the first to reflect post-2024 administrative practices; the value of the data depends entirely on whether it captures the granular information needed to evaluate those practices.

AFL appreciates the EAC’s modernization efforts but is concerned that several proposed revisions would reduce transparency and eliminate data fields critical for identifying electoral vulnerabilities. Reducing burden cannot override the need to maintain robust, granular data collection.

AFL urges the EAC to: (1) retain separate signature-verification categories in Section E3; (2) restore question C1e on mail voters who vote in person with a provisional ballot; (3) add new questions on the duration of inactive voter status, misprinted ballots, and non-citizen voter registrations; (4) adopt the Policy Survey improvements in Part III; and (5) restore the drop-box security and duplicate-registration questions in Part IV.

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Respectfully Submitted,

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