



RECOMMENDATIONS
FOR REFORM

GUARDRAILS FOR THE GUARDIANS

Reducing Secretary of State
Conflict of Interest and Building
More Impartial U.S. Election
Administration

A REPORT BY THE ELECTION REFORMERS NETWORK

RECOMMENDATIONS

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FOR THE 2020 ELECTION

1. SECRETARIES OF STATE SHOULD STRICTLY OBSERVE NEUTRALITY.

- » To bolster public confidence that these imperiled elections will be conducted impartially: Secretaries of state should not attend campaign events or political party functions.
- » The Democratic Association of Secretaries of State should remove from circulation the “Defeating White Supremacy” video ad released in June, and it and the Republican Association of Secretaries of State should refrain from involvement in any campaign.
- » More generally, secretaries of state should resolve to be umpires, not players in the electoral process.

2. SECRETARIES SHOULD GO THE EXTRA MILE TO PUT VOTERS FIRST THIS ELECTION.

In anticipation of problems during the election, such as delays in receiving and processing mailed ballots, or spikes in COVID-19 cases affecting election personnel, secretaries of state should prepare to take advantage of all remedies available in state law, including relevant state emergency provisions, and should publicize in advance of the election the steps they intend to take in such circumstances to ensure all eligible citizens can vote and all valid votes are counted.

3. THE FIVE SECRETARIES OF STATE WHO ARE RUNNING FOR OFFICE IN 2020 SHOULD RECUSE THEMSELVES FROM INVOLVEMENT IN DECISION-MAKING THAT COULD APPEAR TO INFLUENCE THEIR ELECTION.

FOR THE NEAR TERM

1. NEW LAWS AND GUIDELINES SHOULD INCREASE IMPARTIALITY FROM STATE ELECTION LEADERS.

Several steps should be taken, including:

States should pass legislation broadly prohibiting secretaries of state and election board members from:

- » public endorsements of candidates running for office;
- » public endorsements of positions on ballot questions;
- » taking positions with campaigns for candidates or ballot questions; and
- » fundraising and electioneering for or against any candidate or ballot question.

States that do not have oaths of office that explicitly commit senior election officials such as secretaries of state to impartiality, should establish such oaths.

States should pass legislation requiring a secretary of state who becomes a candidate for election to recuse him or herself from any involvement in any decision that a prudent person would consider as potentially conveying benefit to the secretaries' candidacy. States could also extend this recusal requirement to specific election phases such as recounts.

The National Association of Secretaries of State should develop a model code of conduct for use by election officials at all levels, outlining best practices for practicing impartiality, for avoiding conflicts of interest and for recusal in cases of unavoidable conflict of interest.

The Republican Association of Secretaries of State and the Democratic Association of Secretaries of State should be disbanded or reconstituted as organizations that do not become involved in electioneering or candidate fundraising.

2. REFORMS SHOULD ENSURE ELECTIONS ARE RUN BY DEDICATED PROFESSIONALS.

States should pass legislation to prohibit secretaries of state and election board members from becoming candidates for any elected office (other than, if applicable, re-election as secretary of state) during their term in office and any federal or statewide office for a period after their term in office.

States could also consider establishing criteria for individuals to run for or be appointed to the position of secretary of state, such as a minimum of one year of election administration experience or completion of an accredited certificate program in election administration.

3. JOURNALISTS, REFORM ORGANIZATIONS AND CITIZENS GROUPS SHOULD HELP BUILD A CULTURAL EXPECTATION OF IMPARTIAL ELECTION ADMINISTRATION.

FOR THE LONG TERM

1. STATE LEVEL ELECTION ADMINISTRATION SHOULD BE RECONSTITUTED TO REMOVE STRUCTURAL SOURCES OF CONFLICT OF INTEREST AND PARTISANSHIP.

States where the secretary of state serves as chief election official should separate those functions and move election responsibilities to a new office of the chief election official or to an election board.

Chief election officials should not be directly elected.

States where the chief election official is not appointed by an election board should design new processes for appointment of the chief election official that prevent politicization of the office. Such a process could include a nominating committee representing both political and nonpolitical stakeholders, which could name a list of nominees, for selection by the governor and approval by the state legislature. Design of such processes should draw on best practices internationally and on new models states are establishing for nonpartisan redistricting commissions.

2. STATES ELECTION BOARDS SHOULD BE RECONSTITUTED TO BE APOLITICAL RATHER THAN BIPARTISAN.

Changes to state election board structures should:

- » provide mechanisms for at least some board seats to be filled through a nonpolitical process, such as the process proposed above for selection of state chief election officials;
- » represent stakeholders in addition to the two largest political parties; ensure the nomination and approval of such additional seats are designed for impartiality; and not allow control by one political party.

3. THE DIVISION OF AUTHORITY BETWEEN STATE AND LOCAL ELECTION OFFICIALS SHOULD BE REVISED TO INCREASE STATE-LEVEL RESPONSIBILITY AND RESOURCES.

Steps to increase the independence and impartiality of state election leadership should be combined with steps to shift the state-local balance toward the state level and to strengthen the role of the secretary of state.