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Federal Role in U.S. Campaigns and Elections: An Overview

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SUMMARY

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Federal Role in U.S. Campaigns and Elections: An Overview

Conventional wisdom holds that the federal government plays relatively little role in U.S. campaigns and elections. Although states retain authority for most aspects of election administration, a closer look reveals that the federal government also has steadily increased its presence in campaigns and elections in the past 50 years. Altogether, dozens of congressional committees and federal agencies could be involved in federal elections under current law.

Congress faces a complex mix of traditional oversight areas with developing ones throughout the elections field. Reports of foreign interference during the 2016 election cycle, and concerns about future interference, have raised the profile of campaigns and elections policy in Congress, at federal agencies, and beyond. As Congress considers these and other developing issues, this report provides the House and Senate with a resource for first understanding the current campaigns and elections regulatory structure. The report addresses those areas of law and public policy that most directly and routinely affect American campaigns and elections. This includes six broad categories of law through which Congress has assigned various agencies roles in regulating or supporting campaigns, elections, or both. These are campaign finance; election administration; election security; redistricting; qualifications and contested elections; and voting rights.

No single federal agency is in charge of the federal role in campaigns and elections, just as multiple statutes address various aspects of the field. The Election Assistance Commission and Federal Election Commission are devoted entirely to campaigns and elections. Congress has charged other departments and agencies—such as the Department of Justice, Department of Defense, and component organizations comprising the Intelligence Community—primarily with responsibilities for other areas of public policy, but also with supporting or administering campaigns and elections policy in specific cases. Other agencies or statutes may be relevant in specific cases.

This report does not track legislation that proposes changes in the policy environment discussed herein. It will be updated occasionally to reflect new information or major policy developments.

Contents

Introduction 1
A Note on *U.S. Code* Citations 2
Scope of the Report 2
Organization of the Report 3
Campaigns and Elections 3
The Federal Government and Campaigns 3
Federalism in Elections: Who Does What, In Brief 4
The Constitution and Major Federal Statutes 6
The Constitution 6
Major Federal Statutes that Regulate Campaigns and Elections 7
Campaign Finance 7
Election Administration 8
Qualifications and Contested Elections 10
Voting Rights 11
Redistricting 12
Other Areas of Law that Can Substantially Affect Campaigns and Elections 12
Federal Government Roles 14
Congress 14
Congressional Committees Primarily Responsible for Overseeing Federal Campaigns and Elections 15
Most Elements of Election Law Apply Uniformly to Both Chambers 17
Chamber Rules and Campaigns and Elections 17
Federal Agencies 17
Agencies with Primary Roles in Federal Campaigns and Elections 19
Agencies with Secondary Roles in Federal Campaigns and Elections 20
The Federal Judiciary 26
Conclusion 27

Tables

Table 1. Categories of Major Governmental Functions in U.S. Campaigns and Elections, In Brief 5
Table 2. Major Congressional Roles in U.S. Campaigns and Elections, In Brief 15
Table 3. Congressional Committees and Oversight of U.S. Campaigns and Elections, in Brief 16
Table 4. Federal Agency Roles in U.S. Campaigns and Elections, In Brief 18

Appendixes

Appendix. Overview of Major Governmental Roles in U.S. Campaigns and Elections 28

Contacts

Author Information..... 39

Introduction

Since the 2016 election cycle, the policy community has focused on what roles the federal government plays—or could play—in protecting U.S. elections from foreign interference. Recent reports suggest that attempts to interfere with the 2018 election cycle also are under way.[1] Congress is responsible for overseeing the federal presence in campaigns and elections, both with respect to traditional policy challenges and new ones.

This report is intended to help Congress understand how the statutes and agencies it has created affect U.S. campaigns and elections. Currently, no single agency or statute provides overarching coordination. As this report shows, at least 22 congressional committees; 17 federal departments or independent agencies (plus the Intelligence Community and the federal judiciary); 9 federal statutes; and several constitutional provisions can affect the federal role in campaigns and elections.

As this report discusses

- The federal role in campaigns and elections is limited, but can be extensive in those areas in which the federal government is involved. Congress has expanded the federal role in campaigns and elections in the past 50 years, particularly in campaign finance and voting rights.
- Campaigns and elections are different things and are regulated differently. The federal government plays relatively little role in regulating campaigns, except for campaign finance. The federal government primarily supports states in administering elections.
- Existing campaigns and elections policy primarily focuses on electioneering and voting. Topics such as issue advocacy or general attempts to influence public opinion are not necessarily regulated under federal law that covers campaigns and elections.
- The Election Assistance Commission and Federal Election Commission are the only two agencies devoted solely to campaigns and elections. The Justice Department administers and enforces some elections statutes. Agencies such as the Department of Homeland Security are now more involved with elections than in the past. Several other agencies also play roles in campaigns and elections.

The following pages are based on CRS research of statutory references to campaigns and elections; legislative or other congressional activity; federal agency documents and websites; and media accounts.[2] Citations appear throughout, including to other CRS products that provide additional detail. This report does not track legislation.

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[1] See, for example, Kyle Cheney and Ashley Gold, "Facebook Suspends 'Inauthentic' Accounts, Sees Russia Link," *Politico*, July 31, 2018, https://www.politico.com/story/2018/07/31/facebook-suspends-inauthentic-propaganda-accounts-752615; Ellen Nakashima, "Pence Condemns Russian Election Interference," *Washington Post*, August 1, 2018, p. A14; and Remarks by Director of National Intelligence Dan Coats, Hudson Institute, Washington, DC, July 13, 2018, https://www.hudson.org/events/1576-dialogues-on-american-foreign-policy-and-world-affairs-director-of-national-intelligence-dan-coats-and-walter-russell-mead72018.

[2] In identifying the various federal roles and actors involved in U.S. elections, the analysis draws on elements of policy subsystems research, although this point is not essential for understanding the report. That approach is one of several scholarly frameworks that have been used to identify forces shaping policy agendas and evolution. More formal subsystems analyses typically examine reasons for policy change (e.g., enactment of legislation) and include nongovernmental entities not included here (especially interest groups and the media). For additional discussion of

A Note on *U.S. Code* Citations

U.S. Code citations appear throughout this report. Title 52 citations reflect a 2014 "editorial reclassification" of federal election law. Some provisions noted in this report are now codified in Title 52 but were previously located in Titles 2 and 42 of the *Code*.[3] As the Office of Law Revision Counsel (the House office that maintains the *U.S. Code*) explains, "No statutory text is altered by such editorial reclassification projects, other than necessary updates to references to reflect the reorganization. Relevant provisions are merely transferred from one place to another in the Code."[4]

Scope of the Report

The report addresses those areas of law and public policy that most directly and routinely affect federal campaigns and elections.[5] It does not attempt to cover every instance of federal involvement in this policy area. Other agencies[6] or provisions in law or regulation that are not addressed here might be relevant in specific cases.[7] For example, a campaign finance investigation might involve banking law, but because banking law typically is not a campaign finance policy or election administration matter in the United States, the report does not address it. The report also excludes agencies that Congress generally has prohibited from elections involvement, or in which involvement has merely been proposed. The Securities and Exchange Commission (SEC), for example, meets both criteria.[8]

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subsystems literature and related concepts, see, for example, Frank R. Baumgartner and Bryan D. Jones, "Agenda Dynamics and Policy Subsystems," *The Journal of Politics*, vol. 53, no. 4 (1991), pp. 1044-1074; John W. Kingdon, *Agendas, Alternatives, and Public Policies* (Boston: Little, Brown, 1984); and James A. Thurber, "Political Power and Policy Subsystems in American Politics," in *Agenda for Excellence: Administering the State*, ed. B. Guy Peters and Bert A. Rockman (Chatham, NJ: Chatham House Publishers, 1996), pp. 76-104.

[3] On the old and new election-law citations, see U.S. House of Representatives, Office of Law Revision Counsel, "Editorial Reclassification, Title 52, U.S. Code," http://uscode.house.gov/editorialreclassification/t52/index.html.

[4] See U.S. House of Representatives, Office of Law Revision Counsel, "Editorial Reclassification," http://uscode.house.gov/editorialreclassification/reclassification.html.

[5] The report also does not address transitions from campaigning to governing. On transitions, see, for example, CRS Report RL34722, *Presidential Transitions: Issues Involving Outgoing and Incoming Administrations*, coordinated by L. Elaine Halchin; CRS Report RS22979, *Presidential Transition Act: Provisions and Funding*, by Henry B. Hogue (out of print but available to congressional clients upon request); and CRS Report RL34553, *Closing a Congressional Office: Overview of House and Senate Practices*, by R. Eric Petersen.

[6] The report also does not address temporary bodies, such as presidential or congressional commissions.

[7] Even the National Aeronautics and Space Administration (NASA) is nominally involved in election administration. Astronauts have cast Texas absentee ballots from outer space. See, for example, National Aeronautics and Space Administration, "Astronauts to Vote From Space," press release, October 27, 2008, https://www.nasa.gov/mission_pages/station/expeditions/expedition18/vote.html; Nell Greenfieldboyce, "NASA Helps Astronauts Cast Ballots from Space," National Public Radio, transcript, June 23, 2008, https://www.npr.org/templates/story/story.php?storyId=91791895; and Sarah Kaplan, "How Do Astronauts Vote from Space?" *Washington Post*, blog, November 8, 2016, https://www.washingtonpost.com/news/speaking-of-science/wp/2016/11/08/how-do-astronauts-vote-from-space/?utm_term=.4bb94cb9ef93.

[8] Several recent bills have proposed that publicly traded companies be required to disclose political spending to the SEC. Congress has prohibited the agency from spending appropriated funds on such activities. See, for example, H.R. 376 (115th Congress) and §635 of the FY2017 Consolidated Appropriations Act (P.L. 115-31), respectively. SEC "pay-to-play" rules affecting political contributions to certain local or state officials could affect federal candidates in limited circumstances. The topic is otherwise beyond the scope of this report.

As another CRS report explains, "evaluating the authority of Congress to establish standardized election procedures would appear to require a consideration of a variety of different proposals and scenarios."[9] This report does not provide such a legal or constitutional analysis. In practice, the federal and state governments share responsibility for administering, regulating, or supporting campaigns and elections in the United States.

Finally, in some cases, the federal government's activities and authorities change over time, or new information becomes available. This report will be updated in the future to reflect major developments or new information.

Organization of the Report

Two themes organize the analysis: *categories* and *roles*. *Categories* refer to six broad policy areas discussed in the following pages. These include

- campaign finance;
- election administration;
- election security;
- redistricting;
- qualifications and contested elections; and
- voting rights.

The report also briefly discusses other areas of law that can substantially affect campaigns, elections, or both. *Roles* refer to specific governmental responsibilities within the categories. These roles refer to what the federal government does to support, regulate, or fund aspects of U.S. campaigns or elections.

The **Appendix** at the end of this report lists the roles organized by category. For example, the *Election Administration* category includes the *Voters—Registration* role. Importantly, these categories and roles are not definitive, and not necessarily mutually exclusive. What one reader would characterize as *Election Administration*, another might view as more appropriately *Voting Rights*.

Campaigns and Elections

Campaigns and *elections* are distinct concepts. This distinction affects the federal government's role in both. Practically and simply, campaigns are about persuading voters in an effort to win elections. Voters express their campaign preferences by casting ballots in elections. Except for campaign finance policy, U.S. *campaigns* are subject to relatively little regulation. *Elections* in the United States are highly regulated and primarily a state-level responsibility.

The Federal Government and Campaigns

There is no uniform standard for campaign conduct in the United States. Primarily, federal policy regulates how campaigns and related entities raise and spend money. Most regulation of campaign conduct rests in campaign finance law.[10] This includes topics such as

[9] CRS Report RL30747, *Congressional Authority to Direct How States Administer Elections*, by Kenneth R. Thomas.

[10] Principally, this includes the Federal Election Campaign Act (FECA). See 52 U.S.C. §§30101-30146. For additional

- permissible and prohibited sources of contributions and expenditures (including a broad prohibition on fundraising, spending, and certain campaign involvement by foreign nationals);
- contribution limits;
- permissible and prohibited uses of campaign funds;
- public disclosure of contributions and expenditures; and
- disclaimers required for political advertising.

Most of these provisions apply to a limited set of actors known as "political committees." These are candidate campaign committees, party committees, and political action committees (PACs).[11] In addition, campaign finance policy primarily affects activities that explicitly advocate for election or defeat of political candidates, or, in some cases, certain preelection advertising[12] that mentions candidates but does not explicitly call for election or defeat.

Other areas of law and regulation sometimes affect campaigns, but do not specifically address campaign conduct. For example, state or local property law might govern disputes over campaign assets. In general, however, barring some other provision of federal, state, or local law (such as corporate law, or law prohibiting race-based discrimination), federal campaign finance policy is silent on topics such as

- campaign management, including strategy, theme, and message;
- field activities (e.g., get-out-the-vote [GOTV] efforts);
- voter targeting;
- strategic relationships among political committees and other organizations, provided that they do not violate prohibitions on coordination or result in prohibited in-kind contributions;
- use of political consultants and vendors; and
- commercial transactions, provided that they are at fair-market value.

Consequently, the federal government plays relatively little role in campaign conduct. As discussed below, the federal role in elections also is limited but far greater.

Federalism in Elections: Who Does What, In Brief

The federal role in elections is limited yet complicated. The Constitution and federalism limit the federal government's roles to specific tasks, many of which support states, territories, and localities. Within its purview, however, the federal government's duties can involve multiple statutes, agencies, and areas of public policy. **Table 1** below provides a brief overview of the major functions performed by the federal government and by the states.[13] The **Appendix** at the end of this report provides additional detail and cites relevant federal statutes.

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discussion, see CRS In Focus IF10277, *Candidates, Groups, and the Campaign Finance Environment: A Brief Overview*, by R. Sam Garrett.

[11] See 52 U.S.C. §30101(4).

[12] These are "electioneering communications." See 52 U.S.C. §30104(f)(3).

[13] The general discussion contained in this report applies to states and territories. Specific statutes vary in their applicability to territories.

Table 1. Categories of Major Governmental Functions in U.S. Campaigns and Elections, In Brief

(Refers to federal elections only)

Major Governmental Function	*Government Primarily Responsible*	*Federal Agencies Primarily Involved*
Campaign Finance	Federal	• Federal Election Commission • Department of Justice
Election Administration	States	• Election Assistance Commission • Department of Justice
Election Security	States	• Department of Homeland Security • Department of Justice
Qualifications and Contested Elections	Federal	• House and Senate
Redistricting	States	• Department of Commerce • Department of Justice
Voting Rights	Federal	• Department of Justice

Source: CRS.

Note: See additional discussion in the text of this report.

Federal roles in elections include activities such as

- providing Census Bureau data to the states to facilitate redistricting;
- since 2002, providing some funding to states to upgrade election equipment;
- facilitating voluntary information-sharing and "best practices" among states;
- regulating campaign finance in federal elections;
- prohibiting voter discrimination based on color, race, or language in U.S. elections;
- facilitating access to absentee voting by members of the uniformed services[14] and overseas civilians, and their families; and
- assisting states with election security to respond to threats that are beyond normal state or local capabilities.

Most aspects of voting and administering elections are notably absent from this list because they fall to the states. In general, state and local government roles in elections include activities such as

- managing and implementing all aspects of election administration and voting;
- choosing voting methods and purchasing equipment;
- determining voter eligibility and identification requirements,[15] provided that they are consistent with federal law (e.g., do not discriminate based on race); and

[14] The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) covers members of the U.S. Air Force, Army, Coast Guard, Marine Corps, Navy, and Merchant Marine; and the commissioned corps of the U.S. Public Health Service and of the National Oceanographic and Atmospheric Administration. See 52 U.S.C. §§20310(1); 20310(7).

[15] For additional discussion of voter identification, see CRS Report R42806, *State Voter Identification Requirements:*

- securing election systems and polling places.

To summarize, states, territories, and local election jurisdictions (often counties) do most of the work of administering federal elections. They also retain most authority over how those elections are conducted. The federal government primarily supports state, territorial, and local election jurisdictions. The federal government also is responsible for ensuring that state, territorial, and local jurisdictions administer their elections consistent with federal law.

The Constitution and Major Federal Statutes

The Constitution and federal statutes establish the federal role in U.S. campaigns and elections. The following discussion addresses constitutional provisions; statutes that primarily regulate campaigns and elections; and, finally, statutes that can affect campaigns and elections but primarily address other policy issues. The **Appendix** at the end of this report provides citations to other areas of law that may be relevant in specific cases but are not otherwise addressed in the report.

The Constitution

The U.S. Constitution recognizes states' primary roles in election administration but also provides specific powers and responsibilities for the federal government.[16]

- Article I sets criteria for House and Senate elections. In addition, the Elections Clause assigns states with setting the "Times, Places and Manner" for House and Senate elections, but also permits Congress to "make or alter such Regulations," except for the "Places of chusing Senators."[17] Article I requires a decennial census, the basis of congressional apportionment. Subsequent amendments (discussed below) affect some of these provisions. Article I also grants the House and Senate authority over "Judg[ing] the Elections" for each chamber.[18]
- Article II sets criteria for presidential elections. This includes allocating presidential electors among the states, permitting Congress to "determine the Time of chusing" presidential electors, and specifying that Congress may determine a nationwide date for presidential electors to cast ballots.[19]
- The Twelfth Amendment altered the original presidential and vice-presidential election process.[20]

Analysis, Legal Issues, and Policy Considerations, by Eric A. Fischer, R. Sam Garrett, and L. Paige Whitaker. Now-retired CRS analyst Kevin J. Coleman originally coauthored the report.

[16] For additional discussion of constitutional provisions, see CRS Report RL30747, *Congressional Authority to Direct How States Administer Elections*, by Kenneth R. Thomas.

[17] U.S. Constitution, Art. 1, §4. State legislatures chose Senators until 1913. The Seventeenth Amendment, ratified that year, established popular elections for Senators. Popular voting for Senators began in 1914. For historical discussion, see CRS Report R44781, *U.S. Senate Vacancies: Contemporary Developments and Perspectives*, by Thomas H. Neale.

[18] U.S. Const., Art. I, §5.

[19] U.S. Const., Art. II, §1.

[20] In a preparty era, the first- and second-place finishers were elected as President and Vice President, respectively. Party tickets made this arrangement unworkable, as evident in the 1800 presidential election. The states ratified the amendment in 1804. For additional discussion, see, for example, CRS Report RL32611, *The Electoral College: How It Works in Contemporary Presidential Elections*, by Thomas H. Neale; and CRS Report R43824, *Electoral College Reform: Contemporary Issues for Congress*, by Thomas H. Neale.

- The Fourteenth Amendment contains the Equal Protection Clause (Section 1), the basis for some voting rights claims; and specifies the method for House apportionment (Section 2).
- The Fifteenth Amendment prohibits race-based disenfranchisement.
- The Nineteenth Amendment prohibits sex-based disenfranchisement.
- The Twenty-third Amendment provides electoral college votes to the District of Columbia.
- The Twenty-fourth Amendment prohibits poll taxes in federal elections.
- The Twenty-sixth Amendment, ratified in 1971 amid controversy over the Vietnam War draft, grants 18-year-olds voting rights.

Major Federal Statutes that Regulate Campaigns and Elections

At least nine major statutes substantially affect the federal role in U.S. campaigns and elections. This section provides brief highlights of each, and cites other CRS products that contain additional detail.

Campaign Finance

Federal Election Campaign Act

Modern campaign finance law dates to the 1970s, with the 1971 enactment of the Federal Election Campaign Act (FECA)[21] and major amendments in 1974, 1976, and 1979.[22] Collectively, these provisions

- established limits on sources and amounts of campaign contributions;
- mandated public reporting ("disclosure") requirements to document financial transactions; and
- created the Federal Election Commission as the nation's civil campaign finance enforcement agency.

Congress enacted the most significant amendment to FECA to date in 2002, via the Bipartisan Campaign Reform Act (BCRA).[23] Among other provisions, the act

- banned national parties, federal candidates, and officeholders from raising "soft money"[24] in federal elections;
- increased most contribution limits; and

[21] 52 U.S.C. §§30101-30146.

[22] For additional historical discussion, see CRS Report R41542, *The State of Campaign Finance Policy: Recent Developments and Issues for Congress*, by R. Sam Garrett. As originally enacted, FECA subsumed previous campaign finance statutes, such as the 1925 Corrupt Practices Act, which, by the 1970s, were largely regarded as ineffective, antiquated, or both. The Corrupt Practices Act, which FECA generally supersedes, is 43 Stat. 1070.

[23] BCRA is P.L. 107-155; 116 Stat. 81. BCRA amended FECA, which appears at 52 U.S.C. §30101 et seq. (previously codified at 2 U.S.C. §431 et seq.). BCRA is also known as "McCain-Feingold."

[24] "Soft money" in this context refers to unlimited contributions, especially to political parties, to support the party generally but not specifically to affect elections.

- placed additional restrictions on preelection issue advocacy known as "electioneering communications."[25]

Major litigation affected interpretation of these statutes and of some others discussed in this report. Other CRS products contain additional information.[26]

Election Administration

Help America Vote Act

Congress enacted the Help America Vote Act (HAVA)[27] in 2002, after the disputed 2000 presidential election raised concerns about election administration, ballot design, and voting equipment around the country. HAVA remains the nation's primary federal statute devoted to election administration.[28] Among other provisions, HAVA

- authorized payments to help states improve election administration, and to replace punchcard and lever voting machines;
- required states to establish statewide voter registration databases, provide polling-place access to disabled voters, and provide provisional ballots to voters whose eligibility is unclear, among other requirements;
- transferred the Federal Election Commission's previous election administration functions to a new independent agency, the Election Assistance Commission (EAC);
- required the EAC[29] to disburse the federal payments to states;
- charged the EAC with conducting research on election administration and developing voluntary voting system guidelines (VVSG) for election equipment, and with accrediting testing laboratories and certifying election equipment;
- generally prohibited the EAC from engaging in rulemaking;[30]
- established working relationships between the EAC and several other governmental and nongovernmental entities, including through a Standards Board[31] and Board of Advisors (which includes representatives from various

[25] See 52 U.S.C. §30104(f)(3).

[26] On selected campaign finance litigation, see CRS Report R43719, *Campaign Finance: Constitutionality of Limits on Contributions and Expenditures*, by L. Paige Whitaker.

[27] As enacted, HAVA is P.L. 107-252. Currently, the law is codified at 52 U.S.C. §§20901-21145.

[28] For additional discussion, see CRS Report RS20898, *The Help America Vote Act and Election Administration: Overview and Selected Issues for the 2016 Election*, by Arthur L. Burris and Eric A. Fischer. Now-retired CRS analyst Kevin J. Coleman originally coauthored the report.

[29] §101 of the act assigned the General Services Administration (GSA) with disbursing payments to states until the EAC was operational. See 52 U.S.C. §20901(a).

[30] See 52 U.S.C. §20929. The EAC does have authority to issue a federal voter registration form, in consultation with states. See 52 U.S.C. §20508.

[31] The Standards Board includes state and local election officials. See 52 U.S.C. §20943.

federal agencies),[32] and a Technical Guidelines Development Committee (TGDC)[33] to review the VVSG and provide input on election "best practices";

- provided the Justice Department with enforcement authority; and
- expanded protections for military and overseas voters' access to election information and absentee ballots.

National Voter Registration Act

Congress enacted the National Voter Registration Act (NVRA, sometimes called the "Motor-Voter" law) in 1993.[34] Some provisions in NVRA originated in other statutes enacted previously.[35] In brief, current major NVRA provisions include

- requiring states to provide voter-registration materials at certain governmental agencies, such as motor-vehicle and social service agencies;
- requiring states to accept registration applications by mail using a federal form;
- restricting removing voters from registration lists (e.g., "purging") in certain circumstances, and regulating some practices that states may use to maintain their registration lists;[36]
- permitting voters who have moved within voting jurisdictions to correct an address at the polling place or a central location (the "fail-safe" provisions); and
- requiring states to designate a chief state election official for purposes of the act (and which is sometimes cross-referenced in other law or legislation that affects states).[37]

Parts of the act also interact with provisions found in the Uniformed and Overseas Citizens Absentee Voting Act and the Voting Rights Act, both of which are discussed below. The Justice Department is responsible for civil NVRA enforcement.

Uniformed and Overseas Citizens Absentee Voting Act

Congress has enacted laws to help members of the military vote since the Civil War.[38] Current provisions, which also cover overseas civilians, appear in the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA).[39] Congress most recently substantially amended UOCAVA in

[32] The Board of Advisors includes members from various interest groups/professional associations; and those appointed by the Justice Department; Director of the Federal Voting Assistance Program (Department of Defense); U.S. Access Board; and by Members of congressional leadership and by the Committee on House Administration and the Senate Rules and Administration Committee. See 52 U.S.C. §20944.

[33] The TGDC includes members of the Standards Board; Board of Advisors; U.S. Access Board; and other interest groups/professional associations. See 52 U.S.C. §20961.

[34] As enacted, see P.L. 103-31. NVRA is currently codified at 52 U.S.C. §§20501-20511.

[35] For additional discussion of the NVRA and its development, see CRS Report R45030, *Federal Role in Voter Registration: The National Voter Registration Act of 1993 and Subsequent Developments*, by Sarah J. Eckman.

[36] Some practices have been subject to litigation, which is beyond the scope of this report. For additional discussion, see CRS Legal Sidebar LSB10175, *Supreme Court Rules Ohio Voter Roll Law Comports with National Voter Registration Act*, by L. Paige Whitaker.

[37] 52 U.S.C. §20509.

[38] For additional discussion, see CRS Report RS20764, *The Uniformed and Overseas Citizens Absentee Voting Act: Overview and Issues*, by R. Sam Garrett. Now-retired CRS analyst Kevin J. Coleman originally authored the report.

[39] 52 U.S.C. §§20301-20311.

2009, when it included provisions in stand-alone measure S. 1415, the Military and Overseas Voter Empowerment (MOVE) Act in the FY2010 National Defense Authorization Act (NDAA).[40] In brief, the current statute

- applies to eligible members[41] of the U.S. military and of some other "uniformed services," who are serving away from their residence for voting purposes, and to their spouses and dependents, and to overseas civilians;
- encourages or requires states to make registration and voting easier for military voters, overseas citizens, or both, such as through accepting single absentee-ballot requests for multiple elections, accepting a federal write-in absentee ballot (FWAB), accepting registrations and ballots without notarization, and processing UOCAVA absentee ballots expeditiously; and
- through HAVA amendments to UOCAVA, directs the Secretary of Defense to conduct outreach concerning military voting and to provide registration and voting assistance to servicemembers.

The Justice Department is responsible for civil enforcement of some UOCAVA provisions.

Qualifications and Contested Elections

Electoral Count Act

Congress enacted the Electoral Count Act in 1887.[42] This statute, as amended, and the Twelfth Amendment to the U.S. Constitution, establish a timeline and procedures for electoral college action, and for the joint session of Congress that convenes to certify the electoral college results.

Federal Contested Elections Act

U.S. constitutional provisions discussed elsewhere in this report address qualifications and vacancies among federal officeholders. State law also covers some scenarios.[43] The Federal Contested Elections Act (FCEA)[44] applies to contested U.S. House elections, as do constitutional provisions and chamber rules. FCEA, enacted in 1969,[45] primarily concerns procedural and

[40] For the enacted version, see P.L. 111-84.

[41] The act covers members of the U.S. Air Force, Army, Coast Guard, Marine Corps, Navy, and Merchant Marine; and the commissioned corps of the U.S. Public Health Service and of the National Oceanographic and Atmospheric Administration. See 52 U.S.C. §§20310(1); 20310(7).

[42] 24 Stat. 373; on a certification deadline (six days before the joint session) for "conclusive" state votes in electoral college contests, see 3 U.S.C. §5. For additional discussion, see CRS Legal Sidebar WSLG1650, *How Can the Results of a Presidential Election Be Contested?*, by L. Paige Whitaker (out of print but available to congressional clients upon request). See also CRS Report RL32717, *Counting Electoral Votes: An Overview of Procedures at the Joint Session, Including Objections by Members of Congress*, coordinated by Elizabeth Rybicki and L. Paige Whitaker; and CRS Report RL32611, *The Electoral College: How It Works in Contemporary Presidential Elections*, by Thomas H. Neale.

[43] For additional discussion, see CRS Report R44648, *Presidential Elections: Vacancies in Major-Party Candidacies and the Position of President-Elect*, by Thomas H. Neale; CRS Report RL32695, *Election of the President and Vice President by Congress: Contingent Election*, by Thomas H. Neale; CRS Report RS20260, *Presidential Disability: An Overview*, by Thomas H. Neale; and CRS Report RL33780, *Procedures for Contested Election Cases in the House of Representatives*, by L. Paige Whitaker.

[44] 2 U.S.C. §§381-396. For additional discussion, see CRS Report RL33780, *Procedures for Contested Election Cases in the House of Representatives*, by L. Paige Whitaker.

[45] As enacted, see P.L. 91-138.

judicial provisions that govern House contests. FCEA does not cover contested Member-elect qualifications or eligibility.

Voting Rights

For more than 50 years, nowhere has the federal government been more involved in election administration than with protecting voting rights. Enactment of modern federal law to protect access to registration and the ballot followed more than a century of national struggle on politics and race. More recently, Congress has enacted federal law designed to make registering to vote, and being able to cast ballots, easier for those who are blind, disabled, or elderly.

Americans with Disabilities Act

The Americans with Disabilities Act (ADA), enacted in 1990, prohibits disability-based discrimination in a variety of public and private services, most of which are beyond the scope of this report.[46] The law does not specifically address elections, but Justice Department regulations[47] implementing the statute require accessible public programs and services. The ADA and Justice Department regulations implementing Title II of the act are therefore sometimes included in discussions of federal provisions requiring accessible polling places.[48]

Voting Accessibility for the Elderly and Handicapped Act

Congress enacted the Voting Accessibility for the Elderly and Handicapped Act (VAEHA) in 1984.[49] VAEHA generally requires states to

- make polling places and registration locations accessible to disabled or elderly voters,[50] or to provide an alternate voting method; and
- provide registration and voting aids for disabled or elderly voters.

The Justice Department enforces these provisions.

Voting Rights Act

Congress originally enacted the Voting Rights Act (VRA) in 1965, at the height of the civil rights movement and amid violent voter suppression in some states.[51] Congress extended or expanded the VRA several times between 1970 and 2006. The 2013 Supreme Court decision in *Shelby County v. Holder*[52] substantially affected the two sections of the VRA, although the case

[46] As enacted, see P.L. 101-336. As currently codified, see 42 U.S.C. §§12101-12213.

[47] See 28 C.F.R. §§35.101-35.190.

[48] For additional discussion, see, for example, Table 1 in U.S. Government Accountability Office, *Voters With Disabilities*, GAO-18-4, October 2017, p. 9; and U.S. Department of Justice, Civil Rights Division, Disability Rights Section, *The Americans with Disabilities Act and Other Federal Laws Protecting the Rights of Voters with Disabilities*, Washington, DC, September 2014, https://www.ada.gov/ada_voting/ada_voting_ta.htm; and U.S. Department of Justice, Civil Rights Division, Disability Rights Section, *ADA Checklist for Polling Places*, Washington, DC, June 2016, https://www.ada.gov/votingck.htm.

[49] As enacted, see P.L. 98-435. As currently codified, see 52 U.S.C. §§20101-20107.

[50] As defined in the act, this is persons age 65 or older. See 52 U.S.C. §20107(2).

[51] As enacted, see P.L. 89-110. The VRA is currently codified at 52 U.S.C. §§10101-10702. For historical background, see, for example, archived CRS Report R43626, *The Voting Rights Act of 1965: Background and Overview*, by Kevin J. Coleman.

[52] See *Shelby County, Alabama v. Holder*, 133 S. Ct. 2612 (2013). The coverage formula appears in §4 of the VRA. For

explicitly addressed only one. Specifically, in *Shelby County*, the Court invalidated Section 4(b) of the VRA. This section of the act contained a coverage formula that identified jurisdictions within states, and some entire states, that had previously engaged in discrimination or contained minority-language populations that Congress determined warranted additional federal voting protections. Under Section 5 of the act, the U.S. Attorney General or the U.S. District Court for the District of Columbia had to approve in advance ("preclear") voting changes (e.g., changes in polling places) in those jurisdictions. Although the Court did not invalidate Section 5, it is inoperable now that Section 4(b) has been invalidated.

Currently, among other provisions, the VRA

- prohibits states and other jurisdictions ("political subdivisions") from using race- or color-based qualifications, standards, or practices in registration, voting, or redistricting;
- prohibits previous tools used to disenfranchise voters, such as poll taxes or literacy tests;
- permits voting assistance and promotes polling place access for elderly and disabled voters;
- permits the Justice Department to monitor elections to protect voting rights;[53] and
- requires the U.S. Census Bureau to conduct post-election surveys about voter registration and participation by age, race, and national origin in covered jurisdictions.

Redistricting

Constitutional provisions establish the decennial census, apportionment, and redistricting. Federal statutes codify those provisions.[54] Also, as noted previously, the Voting Rights Act prohibits using race, color, or minority language status to discriminate against voters (e.g., vote dilution), including in redistricting.[55]

Other Areas of Law that Can Substantially Affect Campaigns and Elections

At least four other areas of law also can affect campaigns, elections, or both.

- Various criminal provisions apply to prohibited election conduct. Some of these provisions are codified in laws cited elsewhere in this report; some appear in Title 18 of the *U.S. Code*.[56] The Justice Department investigates and enforces

additional discussion of the case, see, for example, CRS Report R44675, *Recent State Election Law Challenges: In Brief*, by L. Paige Whitaker; and CRS Report R43626, *The Voting Rights Act of 1965: Background and Overview*, by Kevin J. Coleman.

[53] The Justice Department has interpreted some provisions as inoperable post-*Shelby County*. See, for example, U.S. Department of Justice, "About Federal Observers and Election Monitoring," https://www.justice.gov/crt/about-federal-observers-and-election-monitoring; and Sari Horwitz, "Federal Oversight at Polls is Curtailed," *Washington Post*, October 7, 2016, p. A1.

[54] See 2 U.S.C. §2; and 13 U.S.C. §141.

[55] For discussion of legal issues, including Supreme Court litigation, see, for example CRS Report R44798, *Congressional Redistricting Law: Background and Recent Court Rulings*, by L. Paige Whitaker; and CRS Legal Sidebar LSB10164, *Partisan Gerrymandering: Supreme Court Provides Guidance on Standing and Maintains Legal Status Quo*, by L. Paige Whitaker.

[56] For additional detail, see *Federal Prosecution of Election Offenses*, 8th edition, ed. Richard C. Pilger (Washington,

these provisions, and some civil ones related to elections. Title 18 also provides the U.S. Secret Service with authority for protecting major presidential candidates.[57] Among other criminal provisions related to campaigns and elections, federal law prohibits

- intimidation, threats, and coercion in voter registration, voter assistance, or voting;[58]
- fraudulent voter registration and election tabulation;[59]
- using government authority to interfere with the nomination process or election results;[60]
- foreign nationals (except permanent resident aliens) from making campaign contributions or expenditures;[61]
- noncitizen ("alien") voting in federal elections;[62]
- coercion of political activity in federal employment;[63] and
- generally, a military role in elections.[64]

- Federal tax law, housed in the Internal Revenue Code (IRC; Title 26 of the *U.S. Code*), has three major implications for campaign finance policy. First, the IRC contains statutory provisions that authorize the presidential public financing program.[65] Second, the IRC establishes the limited circumstances under which political campaigns, parties, and political action committees are subject to taxation.[66] Third, the IRC requires that politically active tax-exempt social welfare groups, labor unions, and trade associations not primarily be engaged in campaign intervention.[67]
- Most regulation of political advertising appears in campaign finance law.[68] Some provisions also appear in telecommunications statutes. In particular, the "lowest

DC: U.S. Department of Justice, 2017), https://www.justice.gov/criminal/file/1029066/download (especially Appendix B).

[57] 18 U.S.C. §3056.

[58] 18 U.S.C. §594. See also 52 U.S.C. §20511(1).

[59] 52 U.S.C. §20511(2).

[60] See, for example, 18 U.S.C. §595.

[61] 52 U.S.C. §30121. For additional discussion, see CRS In Focus IF10697, *Foreign Money and U.S. Campaign Finance Policy*, by R. Sam Garrett; and CRS Legal Sidebar WSLG1857, *Foreign Money and U.S. Elections*, by L. Paige Whitaker.

[62] 18 U.S.C. §611. Discussion of the distinction between "citizens" and "aliens" in federal law is beyond the scope of this report.

[63] 18 U.S.C. §610.

[64] See, for example, 18 U.S.C. §§592, 593, 596, 608.

[65] See 26 U.S.C. §§9001-9042. For additional discussion, see CRS Report R41604, *Proposals to Eliminate Public Financing of Presidential Campaigns*, by R. Sam Garrett; and archived CRS Report RL34534, *Public Financing of Presidential Campaigns: Overview and Analysis*, by R. Sam Garrett.

[66] 26 U.S.C. §527. For additional discussion, see CRS Report RS21716, *Political Organizations Under Section 527 of the Internal Revenue Code*, by Erika K. Lunder.

[67] 26 U.S.C. §§501(c)4-501(c)(6). For additional discussion, see CRS Report R40183, *501(c)(4)s and Campaign Activity: Analysis Under Tax and Campaign Finance Laws*, by Erika K. Lunder and L. Paige Whitaker.

[68] This includes disclaimers, which announce purchaser (e.g., candidate) responsibility for an advertisement, and disclosures, which refer to public reporting of financial transactions to purchase advertising. Some provisions also

unit charge" (sometimes also called the "lowest unit rate") provision in telecommunications law permits candidates to purchase preemptible broadcast advertising at the most favorable rates provided to commercial advertisers for the same class of time (e.g., length and time of day).[69] Telecommunications law also requires broadcasters to maintain a "political file" (sometimes also called the "public file") of candidate requests for advertising purchases.[70]

- Homeland security and cybersecurity statutes provide authority for the Department of Homeland Security's, the Intelligence Community's, and federal law enforcement agencies' involvement in elections, but do not directly address campaigns or elections.[71] The 2017 critical infrastructure designation discussed in the "Department of Homeland Security" section of this report and in other CRS products has established new elections roles for the agency.[72]

Additional provisions appear in the **Appendix** at the end of this report.

Federal Government Roles

Congress

As discussed below, Congress affects elections—and vice versa—in several respects. In addition to Members being candidates themselves, Representatives and Senators

- legislate in and oversee policy areas ranging from those that are central to campaigns and elections, such as campaign finance or voting rights, to those that affect campaigns and elections in some cases, such as cybersecurity;
- appropriate federal funds to support election administration; and
- execute constitutional duties related to elections, including counting electoral college ballots in presidential elections, and considering contested elections.

Members of congressional leadership also influence, formally or informally, appointments to the Election Assistance Commission, Federal Election Commission, and other agencies involved in campaigns and elections. The Senate provides advice and consent as required by statute or the Constitution.[73]

Table 2 provides a brief overview of these and other duties.

appear in telecommunications law. See 47 U.S.C. §§315, 317.

[69] 47 U.S.C. §315(b).

[70] 47 U.S.C. §315(e).

[71] See, for example, CRS Report R44847, *Selected Homeland Security Issues in the 115th Congress*, by William L. Painter; CRS Report R42114, *Federal Laws Relating to Cybersecurity: Overview of Major Issues, Current Laws, and Proposed Legislation*, by Eric A. Fischer; and CRS In Focus IF10683, *DHS's Cybersecurity Mission—An Overview*, by Chris Jaikaran.

[72] See CRS In Focus IF10677, *The Designation of Election Systems as Critical Infrastructure*, by Eric A. Fischer. On critical infrastructure generally, see 42 U.S.C. §5295(c). On cybersecurity generally, see 6 U.S.C. §§1501-1533.

[73] On advice and consent positions generally, see, for example, CRS Report R44083, *Appointment and Confirmation of Executive Branch Leadership: An Overview*, by Henry B. Hogue and Maeve P. Carey.

Table 2. Major Congressional Roles in U.S. Campaigns and Elections, In Brief

Role	*Primary Committee or Entity*	*Notes*
Appropriating funds	• House and Senate Appropriations Committees	—
Overseeing federal elections	• House Administration Committee • Senate Rules and Administration Committee	Other committees have jurisdiction over specific policy areas. See also **Table 3**; discussion of Election Assistance Commission, Federal Election Commission, and other agency oversight.
Administering chamber rules regarding campaigns and elections	• House Administration Committee • Senate Rules and Administration Committee • House Ethics Committee • Senate Ethics Committee	See also table notes below.
Receiving campaign finance reports	• Secretary of the Senate	Refers to Senate political committee reports; others file directly with Federal Election Commission. House Clerk and Senate Secretary also receive bundling reports from registered lobbyists.
Certifying congressional election results	• Clerk of the House • Secretary of the Senate	See also *Resolving contested congressional elections* below.
Certifying electoral college results	• House and Senate in joint session	Refers to presidential elections
Resolving contested congressional elections	• House or Senate	Each chamber has authority over its own contests.
Resolving contested presidential elections	• House	Refers to "contingent" elections in which no candidate receives a majority of electoral votes
Resolving contested vice presidential elections	• Senate	Refers to "contingent" elections in which no candidate receives a majority of electoral votes

Source: CRS.

Notes: The table excludes legislative branch support agencies, such as CRS and the Government Accountability Office, which may support congressional consideration of campaigns and elections policy. The text of this report discusses authorities (e.g., chamber rules or laws) for these roles. In the House, the Office of Congressional Ethics may make referrals to the Ethics Committee. Also in the House, the Franking Commission administers some communications rules.

Congressional Committees Primarily Responsible for Overseeing Federal Campaigns and Elections

At least 22 congressional committees potentially have roles in overseeing or appropriating funds for the federal role in U.S. campaigns and elections, as shown in **Table 3**.

- The Committee on House Administration and Senate Committee on Rules and Administration exercise primary jurisdiction over federal elections. They also are the primary oversight committees for the Election Assistance Commission (EAC) and the Federal Election Commission (FEC). Both committees also have

jurisdiction over election contests within their respective chambers. They also provide guidance, along with the House and Senate Ethics Committees, on how chamber rules might affect Member and staff actions (e.g., franking) regarding campaigns and elections.

- In recent years, Congress has appropriated funds for the EAC and FEC through the Financial Services and General Government (FSGG) portions of omnibus appropriations laws.[74]

Other policy matters related to campaigns, elections, or both sometimes arise in other committees' legislative, oversight, or appropriations work. **Table 3** contains a brief sample.

Table 3. Congressional Committees and Oversight of U.S. Campaigns and Elections, in Brief

Chamber	*Committee*	*Sample Policy and Oversight Areas*
House	**Appropriations**	Appropriating federal funds
House	**Armed Services**	Military absentee voting; cybersecurity
House	**Energy and Commerce**	Telecommunications related to political advertising
House	**Ethics**	Campaigns, elections, and certain chamber rules
House	**Foreign Affairs**	Foreign interference in U.S. elections
House	**Homeland Security**	Election security (including cybersecurity); governmental coordination
House	**House Administration**	Primary oversight of campaign finance and federal elections
House	**Intelligence**	Foreign interference in U.S. elections
House	**Judiciary**	Constitutional issues; voting rights; enforcement; presidential succession
House	**Oversight and Government Reform**	Governmental coordination (including cybersecurity); Census Bureau oversight
House	**Science, Space, and Technology**	Cybersecurity
House	**Ways and Means**	Taxation, financial disclosure for politically active organizations; presidential public financing
Senate	**Appropriations**	Appropriating federal funds
Senate	**Armed Services**	Military absentee voting; cybersecurity
Senate	**Commerce, Science, and Transportation**	Telecommunications related to political advertising
Senate	**Ethics**	Campaigns, elections, and certain chamber rules
Senate	**Finance**	Taxation, financial disclosure for politically active organizations; presidential public financing
Senate	**Foreign Relations**	Foreign interference in U.S. elections

[74] See, for example, Division E of the FY2018 Consolidated Appropriations Act (P.L. 115-141). See also, for example, CRS Report R44701, *Financial Services and General Government (FSGG) FY2017 Appropriations: Independent Agencies and General Provisions*, coordinated by Baird Webel; and CRS Report RS20898, *The Help America Vote Act and Election Administration: Overview and Selected Issues for the 2016 Election*, by Arthur L. Burris and Eric A. Fischer. Now-retired CRS analyst Kevin J. Coleman originally coauthored the report.

Chamber	*Committee*	*Sample Policy and Oversight Areas*
Senate	**Homeland Security and Governmental Affairs**	Election security (including cybersecurity); governmental coordination; Census Bureau oversight
Senate	**Intelligence**	Foreign interference in U.S. elections
Senate	**Judiciary**	Constitutional issues; voting rights; enforcement
Senate	**Rules and Administration**	Primary oversight of campaign finance and federal elections

Source: CRS.

Notes: The table reflects committees' policy and oversight areas based on recent hearings, bill referrals, or other research conducted for this report. The table is not intended to indicate which committees would receive referral of specific legislation. Legislative jurisdiction is determined by House and Senate rules and past referral practices, with guidance from the parliamentarians.

Most Elements of Election Law Apply Uniformly to Both Chambers

Most federal election law applies to all federal elections. The same is generally true for campaign finance law regulating campaigns. There are, however, limited circumstances in which the House and Senate have established specific requirements for each chamber. For example, air-travel provisions of the Honest Leadership and Open Government Act (HLOGA, which amended FECA) apply differently to the House and Senate.[75] Similarly, FECA specifies that Senate political committees file disclosure reports on paper and with the Secretary of the Senate. Other federal political committees file electronically with the FEC.[76] The two chambers typically defer to one another on issues only affecting the House or Senate.

Chamber Rules and Campaigns and Elections

House and Senate rules govern some Member and staff conduct during federal campaigns and elections. Examples include prohibitions on campaign activity in congressional offices and preelection "blackout" periods for certain franked communications. The Committee on House Administration and the Senate Rules and Administration Committee, and the House[77] and Senate Ethics Committees, provide guidance on how chamber rules might affect Member and staff activity.[78]

Federal Agencies

This section briefly summarizes federal agencies that are substantially involved in regulating or supporting U.S. campaigns or federal elections. This report does not attempt to provide a detailed discussion of these roles, nor does it address issues beyond these agencies' elections

[75] 52 U.S.C. §30114(c). As enacted, HLOGA is P.L. 110-81.

[76] On place-of-filing requirements for Senate political committees, see 52 U.S.C. §30102(g). On electronic filing for non-Senate political committees, see 52 U.S.C. §30104(a)(11)(A)(i).

[77] In the House, the Office of Congressional Ethics (OCE) may refer matters to the Ethics Committee for additional review in some cases. There is no commensurate agency to OCE in the Senate. For additional discussion, see CRS Report R40760, *House Office of Congressional Ethics: History, Authority, and Procedures*, by Jacob R. Straus.

[78] For additional discussion, see, for example, CRS Report RL30764, *Enforcement of Congressional Rules of Conduct: A Historical Overview*, by Jacob R. Straus; and CRS Report RS22771, *Congressional Franking Privilege: Background and Recent Legislation*, by Matthew E. Glassman.

responsibilities. Other agencies not addressed here might be relevant in specific circumstances.[79] The discussion is divided into two sections: those agencies whose primary duties concern campaigns or elections; and those that primarily serve other policy areas, but that also have secondary elections duties. **Table 4** provides a brief overview; more detailed discussion follows the table.

Table 4. Federal Agency Roles in U.S. Campaigns and Elections, In Brief

Department or Agency	*Role Highlights*	*Notes*
Department of Commerce	Provides Census Bureau data supporting apportionment and redistricting; National Institutes of Standards and Technology (NIST) advises Election Assistance Commission (EAC) on technical and scientific matters	—
Department of Defense	Federal Voting Assistance Program administers Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA); cybersecurity and intelligence in some cases; FVAP director included in EAC Board of Advisors	—
Department of Health and Human Services	Administered Help America Vote Act (HAVA) funding for disability access to polls	—
Department of Homeland Security	Assists states on cybersecurity and related matters; Sector-Specific Agency for 2017 Elections Infrastructure Subsector Critical Infrastructure designation; Secret Service protects major presidential candidates	—
Department of Justice	Enforces criminal law and civil aspects of some elections statutes; DOJ included in EAC Board of Advisors; Federal Bureau of Investigation investigates election crimes and participates in Intelligence Community	—
Department of Labor	Administers union disclosure requirements regarding political activity	See also *Federal Election Commission*.
Department of State	Supports overseas citizen UOCAVA voting	—
Department of the Treasury	Internal Revenue Service (IRS) administers Internal Revenue Code (IRC; tax law) regulating political activity of certain tax-exempt organizations	—
Election Assistance Commission	Sole federal agency devoted to election administration; distributes HAVA funds and coordinates information with states	—
Federal Communications Commission	Administers and enforces civil aspects of telecommunications law regarding political advertising and candidate access	See also *Federal Election Commission*.

[79] For example, some National Science Foundation (NSF) funding supports election-related research, but the agency does not play a specific role in supporting or regulating campaigns or elections as other agencies do as described in this report.

Department or Agency	*Role Highlights*	*Notes*
Federal Election Commission	Sole federal agency devoted to campaign finance; administers and enforces civil campaign finance law	—
Intelligence Community	Assesses foreign efforts to influence U.S. campaigns and elections	Includes multiple federal agencies, some of which are not reflected in the table
National Archives and Records Administration	Administers communication with states for electoral college	—
Office of Personnel Management	VRA permits OPM to deploy federal election observers in specific cases; involves consultation with DOJ	Limited by 2013 *Shelby County* Supreme Court ruling, as determined by DOJ
U.S. Access Board	Access Board personnel included in EAC Board of Advisors and Technical Guidelines Development Committee	Access Board coordinates information regarding disability access. Board members include representatives from multiple federal departments, some of which are not reflected in the table.
U.S. Commission on Civil Rights	Conducts research on voting and political participation	—
U.S. Postal Service	Transmits election mail and political mail	—

Source: CRS analysis as discussed in the report text.

Note: The table does not address congressional or judicial roles, which are discussed in the report text.

Agencies with Primary Roles in Federal Campaigns and Elections

Election Assistance Commission

Congress established the Election Assistance Commission (EAC) in 2002, when it enacted the Help America Vote Act (HAVA). The EAC is the sole federal agency devoted to election administration. Major EAC functions include the following:

- The agency coordinates best-practice information with states and provides voluntary certification of election equipment.
- Congress tasked the EAC[80] with distributing HAVA federal funding.[81]
- EAC commissioners serve on the Election Infrastructure Subsector Government Coordinating Council (EIS GCC). The EIS GCC coordinates information-sharing with other federal agencies; with state, territorial, and local election administrators; and with other subsectors. Additional information appears in the "Department of Homeland Security" section of this report.
- HAVA generally prohibits the EAC from engaging in rulemaking.[82]

[80] §101 of the act assigned the General Services Administration (GSA) with disbursing payments to states until the EAC was operational. See 52 U.S.C. §20901(a).

[81] For a discussion of recent HAVA funding, see CRS In Focus IF10925, *State Election Reform Payments: FY2018 Appropriations*, by Karen L. Shanton.

[82] See 52 U.S.C. §20929. The EAC does have authority to issue a federal voter registration form, in consultation with

Federal Election Commission

The Federal Election Commission (FEC) is the only federal agency with a significant regulatory role affecting political campaigns.[83] Among other duties, the FEC

- enforces civil aspects of federal campaign finance law;
- administers disclosure of federal campaign finance reports;
- administers the presidential public financing program for candidates who choose to participate; and
- provides compliance guidance to regulated parties (e.g., candidates) and the public.

Agencies with Secondary Roles in Federal Campaigns and Elections

Department of Commerce

- Decennial census data produced by the Department of Commerce's (DOC's) Census Bureau are the basis for congressional apportionment and redistricting.[84]
- The Census Bureau conducts post-election surveys about voter registration and participation as required by the Voting Rights Act.[85]
- DOC's National Institutes of Standards and Technology (NIST) provides technical assistance to other agencies involved in elections. In particular, this includes advising on the EAC's Voluntary Voting System Guidelines (VVSG) and consulting with the Defense Department's Federal Voting Assistance Program regarding topics such as cybersecurity and electronic ballot transmission.
- The NIST director chairs the EAC's Technical Guidelines Development Committee (TGDC), which assists the EAC with development of the VVSG, and provides other technical guidance to the commission.[86]

Department of Defense

- Federal law and American political culture generally limits military involvement in federal elections.[87]
- The Defense Department's (DOD's) primary role in U.S. elections concerns facilitating ballot access for military servicemembers. DOD's Federal Voting Assistance Program (FVAP) administers UOCAVA. As noted previously, UOCAVA is designed to ensure that members of the uniformed services and

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states. See 52 U.S.C. §20508.

[83] For additional discussion, see, for example, CRS Report R44318, *The Federal Election Commission: Overview and Selected Issues for Congress*, by R. Sam Garrett.

[84] 13 U.S.C. §141. For additional discussion, see, for example, CRS Report R44788, *The Decennial Census: Issues for 2020*, by Jennifer D. Williams.

[85] On this provision, see 52 U.S.C. §10507.

[86] See 52 U.S.C. §20961(c)(1) on the NIST director as TGDC chair. On the TGDC and its duties, see 52 U.S.C. §20961 generally.

[87] On "troops at the polls" prohibitions, see, for example, 18 U.S.C. §§592, 593, 596, 608.

overseas civilians have timely access to federal ballots. Mail to military personnel can be handled by the U.S. Postal Service (USPS; discussed below) and by the DOD's Military Postal Service Agency (MPSA).

- The FVAP director serves on the EAC's Board of Advisors.[88]
- In some cases, DOD entities are involved in countering foreign threats to U.S. elections, such as through contributions to the Intelligence Community or other coordination with federal agencies (e.g., the State Department, as noted below).[89] Some National Guard units have assisted states with election cybersecurity. Congress has authorized DOD to include elections cybersecurity vulnerabilities in exercises, in consultation with DHS and if states agree to participate.[90]

Department of Health and Human Services

Some of the HAVA funding discussed in the "Help America Vote Act" section above was designated for improving voting access for disabled people, and for "protection and advocacy" payments to support voting among disabled Americans.[91] Congress assigned the Department of Health and Human Services (HHS) with distributing those funds.[92]

Department of Homeland Security

The Department of Homeland Security's (DHS's) role in elections has grown significantly in recent years. DHS's most substantial involvement in elections stems from Secretary Jeh Johnson's January 2017 decision to designate U.S. elections infrastructure as "critical infrastructure."[93]

- The designation applies to databases and information technology (IT) systems that support voter registration and election management, and to polling places and early voting locations. It does not directly affect political campaigns, parties, etc.[94]
- In general, the designation prioritizes DHS support for election jurisdictions. This includes information-sharing on threats; monitoring election systems; conducting vulnerability assessments; and assistance identifying or responding to threats (e.g., cyberattacks).[95]

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[88] 52 U.S.C. §20944(14).

[89] See, for example, Ellen Nakashima, "Agencies to Watch for Interference in Midterm Elections," *Washington Post*, July 18, 2018, p. A9.

[90] See §1638 in the FY2018 National Defense Authorization Act (NDAA); P.L. 115-91.

[91] See 52 U.S.C. §21021 and 52 U.S.C. §21061, respectively.

[92] Funds for this purpose were most recently appropriated in FY2010 and FY2012. For additional discussion, see Table 2 in CRS Report RS20898, *The Help America Vote Act and Election Administration: Overview and Selected Issues for the 2016 Election*, by Arthur L. Burris and Eric A. Fischer. Now-retired CRS analyst Kevin J. Coleman originally coauthored the report.

[93] For additional discussion, see CRS In Focus IF10677, *The Designation of Election Systems as Critical Infrastructure*, by Eric A. Fischer. For additional background on critical infrastructure designations generally, see CRS Report RL30153, *Critical Infrastructures: Background, Policy, and Implementation*, by John D. Moteff. Elections is a new "subsector" within the Government Facilities sector.

[94] See Department of Homeland Security, "Election Security," https://www.dhs.gov/topic/election-security.

[95] For additional information on DHS's cybersecurity role, see CRS In Focus IF10683, *DHS's Cybersecurity Mission—An Overview*, by Chris Jaikaran.

- DHS serves as the "Sector-Specific Agency" (SSA) for the Elections Infrastructure Subsector (EIS) within the Government Facilities Sector. As SSA, DHS coordinates information-sharing among various governmental and nongovernmental entities (e.g., vendors) responsible for election administration. In this role, DHS also coordinates activities for the EIS Government Coordinating Council (GCC). The EIS GCC includes representatives from DHS, EAC, and state and local governments. DHS can also assist a Sector Coordinating Council (SCC), which consists of industry representatives (e.g., voting-machine manufacturers).
- The critical infrastructure designation does not give DHS regulatory authority over federal elections.
- Through an Election Task Force, DHS coordinates information-sharing and other work across the federal government supporting elections.[96]

In addition to these elections-related duties, through the U.S. Secret Service (USSS), DHS protects major presidential candidates.[97] The Secret Service is also the lead security agency for "national special security events" (NSSEs), such as presidential inaugurations and presidential nominating conventions.[98]

Department of Justice

The Justice Department (DOJ) investigates and enforces aspects of federal law, including those concerning election crimes. Among other roles in federal elections, DOJ is responsible for the following:

- DOJ investigates and enforces various aspects of election law, such as campaign finance criminal provisions, alleged vote fraud or intimidation, and civil aspects of HAVA, UOCAVA[99] and the VRA.
- HAVA requires that DOJ representatives be among the EAC's Board of Advisors.[100]
- Under an Obama Administration executive order, the department may work with the State Department and Department of the Treasury to administer sanctions responding to election interference.[101]

[96] For additional discussion on the task force and coordination councils, see, for example, U.S. Department of Homeland Security, *Statement for the Record*, U.S. Senate Committee on Intelligence, hearing, "Election Security," March 21, 2018, https://www.intelligence.senate.gov/sites/default/files/documents/os-knielsen-032118.pdf.

[97] For additional discussion, see, for example, CRS Report RL34603, *The U.S. Secret Service: History and Missions*, by Shawn Reese; and CRS In Focus IF10130, *U.S. Secret Service Protection*, by Shawn Reese.

[98] CRS Report R43522, *National Special Security Events: Fact Sheet*, by Shawn Reese.

[99] 52 U.S.C. §20307.

[100] 52 U.S.C. §§20944(12)-20944(13).

[101] A January 2017 executive order assigns the Secretary of State, Secretary of the Treasury, and Attorney General with identifying foreign actors responsible for election interference. See Executive Order 13757, "Taking Additional Steps to Address the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities," 82 *Federal Register* 1-3, January 3, 2017. The federal role in administering sanctions, including those related to election interference, is otherwise beyond the scope of this report. Public diplomacy roles, such as providing education about U.S. elections to foreign journalists, also are beyond the scope of this report.

- The Federal Bureau of Investigation (FBI), an agency within DOJ, may investigate alleged violations of campaign finance or elections laws, and other federal statutes.
- As noted in the "Intelligence Community" section of this report, the FBI contributed to an Intelligence Community Assessment that found evidence of foreign efforts to influence the 2016 federal elections.[102]

Department of Labor

Annual financial reports filed with the Labor Department include certain union "political activities." These can include funds spent to support or oppose candidates among union members and their families.[103] Similar information must be reported separately to the FEC.

Department of State

- The State Department supports overseas civilian access to absentee ballots through UOCAVA, although FVAP (DOD) administers the program.
- The department's Global Engagement Center (GEC) is charged with coordinating government efforts to counter foreign propaganda and disinformation efforts aimed at undermining U.S. national security interests. GEC partners with other U.S. government agencies, including those within the State Department, at the Defense Department, and elsewhere.[104]
- Under an Obama Administration executive order, the department may work with the Department of the Treasury and Justice Department to administer sanctions responding to election interference.[105]

Department of the Treasury

- The Department of the Treasury houses the Internal Revenue Service (IRS), which collects taxpayer designations for the Presidential Election Campaign Fund (PECF). The PECF provides public financing for presidential candidates who choose to receive funds under certain conditions.[106] The FEC administers candidate participation in the program.

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[102] For additional discussion about recent Justice Department activities related to countering foreign-influence efforts, see, for example, U.S. Department of Justice, *Report of the Attorney General's Cyber Digital Task Force*, July 2, 2018, https://justice.gov/cyberreport.

[103] In particular, these include reports filed on Labor Department form LM-2. For additional discussion, see, for example, U.S. Department of Labor, "Labor Organization Annual Financial Reports," 68 *Federal Register* 58374, October 9, 2003, pp. 58397-58398. Political activity reporting appears to originate in statutory requirements for financial reports containing various information (which is beyond the scope of this report). See 29 U.S.C. §431.

[104] For background on the GEC, see CRS Insight IN10744, *Global Engagement Center: Background and Issues*, by Matthew C. Weed. See also U.S. Department of State, "Global Engagement Center," https://www.state.gov/r/gec/.

[105] See Executive Order 13757, "Taking Additional Steps to Address the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities," 82 *Federal Register* 1-3, January 3, 2017. The federal role in administering sanctions, including those related to election interference, is otherwise beyond the scope of this report. Public diplomacy roles, such as providing education about U.S. elections to foreign journalists, also are beyond the scope of this report. For additional discussion of sanctions, see for example, CRS In Focus IF10779, *U.S. Sanctions on Russia: An Overview*, by Dianne E. Rennack and Cory Welt; CRS In Focus IF10694, *Countering America's Adversaries Through Sanctions Act*, by Dianne E. Rennack, Kenneth Katzman, and Cory Welt.

[106] For additional discussion, see, for example, CRS Report R41604, *Proposals to Eliminate Public Financing of*

- Department of the Treasury agencies might also be involved in investigations of prohibited foreign influence in U.S. elections, such as through the Financial Crimes Reporting Network (FinCEN).
- The department may work with the Justice Department and State Department to administer sanctions responding to election interference.[107]

Federal Communications Commission

As noted elsewhere in this report, political advertising regulation rests in campaign finance law administered by the Federal Election Commission, and criminally enforced by the Justice Department. The Federal Communications Commission (FCC) administers aspects of telecommunications law that permit candidates to purchase preemptible broadcast advertising and that require broadcasters to maintain publicly available files of requests for advertising purchases.[108]

Intelligence Community

Several federal departments and agencies constitute the Intelligence Community (IC). Security issues covered by the IC may affect campaigns and elections. Detailed discussion of that activity is beyond the scope of this report.[109] As the IC has explained, these activities notwithstanding, the IC focuses on "foreign actors; it does not analyze US political processes or US public opinion."[110]

Reports of foreign interference in the 2016 election cycle increased federal attention to intelligence and security concerns that were not previously a major part of American campaigns or election administration. On January 6, 2017, the Office of the Director of National Intelligence (ODNI) released a declassified version of an Intelligence Community Assessment (ICA) containing information and analysis from the Central Intelligence Agency (CIA), FBI, and National Security Agency (NSA) regarding their assessment of Russian attempts to influence

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Presidential Campaigns, by R. Sam Garrett.

[107] A January 2017 executive order assigns the Secretary of State, Secretary of the Treasury, and Attorney General with identifying foreign actors responsible for election interference. See Executive Order 13757, "Taking Additional Steps to Address the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities," 82 *Federal Register* 1-3, January 3, 2017. The federal role in administering sanctions, including those related to election interference, is otherwise beyond the scope of this report. Public diplomacy roles, such as providing education about U.S. elections to foreign journalists, also are beyond the scope of this report. For additional discussion of sanctions, see, for example, CRS In Focus IF10779, *U.S. Sanctions on Russia: An Overview*, by Dianne E. Rennack and Cory Welt; CRS In Focus IF10694, *Countering America's Adversaries Through Sanctions Act*, by Dianne E. Rennack, Kenneth Katzman, and Cory Welt.

[108] 47 U.S.C. §§315; 317.

[109] As CRS has explained elsewhere, the Intelligence Community (IC) includes "17 component organizations" within the federal government. These include, for example, the Central Intelligence Agency, National Security Agency, and intelligence divisions within other departments and agencies. For additional detail, see CRS In Focus IF10469, *The U.S. Intelligence Community (IC)*, by Anne Daugherty Miles; CRS In Focus IF10525, *Defense Primer: National and Defense Intelligence*, by Michael E. DeVine and Heidi M. Peters; and CRS In Focus IF10527, *U.S. Intelligence Community Elements: Establishment Provisions*, by Michael E. DeVine and Heidi M. Peters.

[110] Office of the Director of National Intelligence, *Background to "Assessing Russian Activities and Intentions in Recent US Elections": The Analytic Process and Cyber Incident Attribution*, ICA 2017-01D, January 6, 2017, p. i, https://www.dni.gov/files/documents/ICA_2017_01.pdf. The quoted material omits periods in "U.S."

2016-cycle U.S. elections.[111] That assessment has been the focus of much of the congressional oversight and subsequent federal activity surrounding election security.[112]

National Archives and Records Administration

The National Archives and Records Administration (NARA), Office of the Federal Register, administers communication with the states during the electoral college process.[113] NARA transmits state election certificates to Congress for counting electoral college results during a joint session to determine the presidential election.[114]

Office of Personnel Management

The VRA authorizes the Office of Personnel Management (OPM) to deploy federal election observers where ordered by a federal court or directed by the U.S. Attorney General.[115] DOJ has determined that the 2013 *Shelby County* decision limits some of these provisions.[116]

U.S. Access Board

The U.S. Access Board coordinates information to ensure equal access for disabled people to federally funded facilities and activities.[117] The board consists of representatives from 12 federal departments, and private individuals.[118] HAVA requires that Access Board members be appointed to the EAC's Board of Advisors and to the Technical Guidelines Development Committee.[119]

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[111] Office of the Director of National Intelligence, *Background to "Assessing Russian Activities and Intentions in Recent US Elections": The Analytic Process and Cyber Incident Attribution*, ICA 2017-01D, January 6, 2017, https://www.dni.gov/files/documents/ICA_2017_01.pdf. For additional CRS discussion of these activities as a component of Russian foreign policy, a topic that is beyond the scope of this report, see, for example, CRS Report R44775, *Russia: Background and U.S. Policy*, by Cory Welt.

[112] Recent reports suggest that attempts to interfere with the 2018 election cycle also are under way. See, for example, Kyle Cheney and Ashley Gold, "Facebook Suspends 'Inauthentic' Accounts, Sees Russia Link," *Politico*, July 31, 2018, https://www.politico.com/story/2018/07/31/facebook-suspends-inauthentic-propaganda-accounts-752615; and Remarks by Director of National Intelligence Dan Coats, Hudson Institute, Washington, DC, July 13, 2018, https://www.hudson.org/events/1576-dialogues-on-american-foreign-policy-and-world-affairs-director-of-national-intelligence-dan-coats-and-walter-russell-mead72018.

[113] The Administrator of General Services and the Secretary of State previously exercised these duties. Congress transferred these duties to the Archivist (NARA) in 1984. As currently codified, see 3 U.S.C. §6. On the 1984 transfer as enacted, see P.L. 98-497.

[114] For additional discussion on electoral college procedure, see CRS Report RL32717, *Counting Electoral Votes: An Overview of Procedures at the Joint Session, Including Objections by Members of Congress*, coordinated by Elizabeth Rybicki and L. Paige Whitaker; and CRS Report RL32611, *The Electoral College: How It Works in Contemporary Presidential Elections*, by Thomas H. Neale.

[115] 52 U.S.C. §10305.

[116] See, for example, U.S. Department of Justice, "About Federal Observers and Election Monitoring," https://www.justice.gov/crt/about-federal-observers-and-election-monitoring.

[117] The board is formally known as the Architectural and Transportation Barriers Compliance Board. See 29 U.S.C. §792.

[118] The entire federal membership of the Access Board is not reflected in this report. For additional information, see U.S. Access Board, "Access Board Members," https://www.access-board.gov/the-board/members.

[119] See 52 U.S.C. §20944(11) and 52 U.S.C. §20961(c)(1)(iii), respectively.

U.S. Commission on Civil Rights

The U.S. Commission on Civil Rights investigates discrimination based on "color, race, religion, sex, age, disability, or national origin."[120] This includes conducting research on voting and political participation. The VRA authorizes the commission to designate jurisdictions subject to Census Bureau post-election surveys.[121] HAVA requires that Civil Rights Commission members be appointed to the EAC's Board of Advisors.[122]

U.S. Postal Service

Election administrators and political campaigns (and parties, etc.) rely on the U.S. Postal Service (USPS) to transmit election mail and political mail. The former includes election-administration materials, such as absentee ballots, polling-place notices, etc. The latter refers to mailings advocating for political candidates, parties, etc. As noted previously, mail to military personnel can be handled by the USPS and by the MPSA (DOD).

The Federal Judiciary

Courts do not play policymaking or implementation roles in U.S. campaigns and elections. The judiciary's role is therefore largely beyond the scope of this report, as are legal issues. It is important to note, however, that courts can substantially affect interpretation of the statutes discussed above, and review agency implementation of those statutes. Federal law also assigns election-related duties to courts in specific cases, as noted briefly below.

- Federal statutes provide expedited judicial review of complaints arising from some campaign finance and elections matters.[123]
- Particularly on constitutional questions, which are especially prominent in areas such as protected political speech, judicial interpretation shapes the policy options available to Congress.[124]
- The VRA permits federal courts to order the presence of federal election monitors or observers to protect against voting rights violations.[125]
- Federal courts sometimes adjudicate elections disputes, such as contested election results or oversight of redistricting plans.

Frequent election-related litigation and the increasing frequency of legal specialties devoted to campaign finance and elections suggest that the courts will continue to play important roles in shaping federal regulation of campaigns and elections.

[120] 42 U.S.C. §1975a.

[121] 52 U.S.C. §10507. The requirement also applies to "covered jurisdictions" established by the act and based on Census Bureau data.

[122] 52 U.S.C. §20944(10).

[123] See, for example, 52 U.S.C. §30110.

[124] See, for example, CRS Report R43719, *Campaign Finance: Constitutionality of Limits on Contributions and Expenditures*, by L. Paige Whitaker.

[125] See, for example, 52 U.S.C. §10305.

Conclusion

The federal *presence* in campaigns and elections does not necessarily mean federal *power*. The preceding pages confirm that the federal government does relatively little to actually *administer* elections. Where the federal government is involved, however, its presence can be extensive. Historically, the federal government has emphasized domestic campaigns and elections concerns. These include topics such as transparent campaign financing, protecting voting rights, and providing states funding to upgrade election equipment. New challenges, such as threats from foreign actors and through cyberattacks, suggest that the federal government's role in campaigns and elections is increasingly complex and interdisciplinary.

Currently, no single agency or statute provides overarching coordination for the federal presence in campaigns and elections. Only two small independent agencies—the EAC for election administration and the FEC for campaign finance—are devoted solely to campaigns and elections policy. Agencies such as DHS can bring security expertise to elections, but are not elections specialists, as are the EAC, FEC, or parts of DOJ. For some, greater coordination across statutes and agencies might be beneficial, while others likely will respond that the existing system is based on deliberately unique statutes and agency expertise.

Currently, regulating campaigns and elections depends on a clear connection to defeating or electing candidates, or to voting for or against those candidates. This report generally does not address some topics—such as issue advocacy or foreign propaganda—not because they are unimportant, but because Congress has chosen primarily to regulate them outside of campaigns and elections statutes.[126] Congress could choose to broaden the kinds of conduct that are subject to regulation in campaign finance or election law in the future. If it does so, one or more of the statutes and agencies discussed in this report likely would be affected.

[126] For additional discussion, see, for example, CRS In Focus IF10159, *Cybersecurity*, by Eric A. Fischer and Catherine A. Theohary; CRS Report R45142, *Information Warfare: Issues for Congress*, by Catherine A. Theohary; and CRS Report R43719, *Campaign Finance: Constitutionality of Limits on Contributions and Expenditures*, by L. Paige Whitaker.

Appendix. Overview of Major Governmental Roles in U.S. Campaigns and Elections

Refers only to elections for federal offices unless otherwise noted. See also *Table Notes* below.

Category	Topic	Level of Government with Primary Responsibility	Federal Role in Brief	Primary Federal Agency or Agencies Responsible	Key Constitutional Provisions or Federal Statutes[a]	Notes
Campaign Finance	Civil regulation, disclosure, and enforcement	Federal	Federal law governs contribution amounts and sources, and sets disclosure and disclaimer requirements, for federal campaigns.	Federal Election Commission (FEC)	U.S. Constitution: 1st Amdt.; Election law (Federal Election Campaign Act, FECA): 52 U.S.C. §§30101-30146	Certain independent spending also may be regulated by the Internal Revenue Code (tax law).
Campaign Finance	Criminal enforcement[b]	Federal	Federal law governs contribution amounts and sources, and sets disclosure and disclaimer requirements, for federal campaigns.	Department of Justice (DOJ); FEC may make referrals	U.S. Constitution: 1st Amdt.; Election law (FECA): 52 U.S.C. §§30101-30146; Criminal law: 18 U.S.C. §§594-607, 610	Other federal law/agencies relevant in some cases (e.g., tax, banking matters)
Campaign Finance	Disclosure of certain union financial activity	Federal	Unions report certain "political activity" to the Labor Department, in addition to campaign finance reporting requirements.	FEC; Department of Labor	Election law (FECA): 52 U.S.C. §§30101-30146; Labor law (Labor-Management Reporting and Disclosure Act, LMRDA): 29 U.S.C. §§401-531	Campaign finance law regulates reporting for union electioneering communications, independent expenditures, and political action committees. See also *Campaign Finance—Civil regulation, disclosure, and enforcement.*
Campaign Finance	Electioneering communications or	Federal	Federal campaign finance law governs independent	FEC; Department of the Treasury	Tax law (Internal Revenue Code, IRC): 26 U.S.C.	—

Category	Topic	Level of Government with Primary Responsibility	Federal Role in Brief	Primary Federal Agency or Agencies Responsible	Key Constitutional Provisions or Federal Statutes[a]	Notes
	independent expenditures by politically active tax-exempt organizations (e.g., 501(c)(4)s)		expenditures affecting campaigns; tax law governs certain fundraising and disclosure by politically active tax-exempt organizations.	(Treasury), Internal Revenue Service (IRS)	§§501(c)4-501(c)(6), 527; Election law (FECA): 52 U.S.C. §§30101-30146	
Campaign Finance	Presidential inaugurations—fundraising disclosure	Federal	Federal law establishes disclosure requirements.	FEC	36 U.S.C. §510	This row refers only to fundraising disclosure requirements, not the federal role in inaugurations generally. The FEC discloses required fundraising reports, but elements of tax law govern fundraising.
Campaign Finance	Presidential public financing program	Federal	Federal law establishes voluntary taxpayer "checkoff" program for candidates who opt in.	FEC administers program; Treasury and IRS collect and disburse funds	Tax law (IRC): 26 U.S.C. §§9001-9042; Election law (FECA): 52 U.S.C. §§30101-30146	—
Campaign Finance	Prohibitions on federal personnel, on federal property, etc.	Federal	Federal law prohibits fundraising on federal property, promises of appointment, employment, threats to appointment, etc., in connection with federal elections.	U.S. Office of Special Counsel; DOJ	Civil service/ethics law (Hatch Act): 5 U.S.C. §§7321-7326; Criminal law: 18 U.S.C. §§594-607, 610	See also *Election Administration—Voters—Prohibited influence on, coercion, etc.*
Campaign Finance	Regulating broadcast/digital political advertising	Federal	Federal law requires disclaimers on, and disclosure of, certain political advertising	FEC; Federal Communications Commission (FCC)	Election law (FECA): 52 U.S.C. §§30101-30146; Telecommunications law	See also *Campaign Finance—Telecommunications—broadcaster*

Category	Topic	Level of Government with Primary Responsibility	Federal Role in Brief	Primary Federal Agency or Agencies Responsible	Key Constitutional Provisions or Federal Statutes[a]	Notes
			(express advocacy, independent expenditures) and fundraising solicitations.	administers broadcaster disclosure	[broadcaster disclosure]: 47 U.S.C. §315	*obligations, candidate access, and advertising rates.*
Campaign Finance	Taxation of political committees	Federal	Federal law generally exempts political committees from taxation.	Treasury, IRS	Tax law (IRC): 26 U.S.C. §527	Separate provisions apply to politically active tax-exempt organizations (e.g., 501(c)(4)s).
Campaign Finance	Telecomm.—broadcaster obligations, candidate access, and advertising rates	Federal	Federal law provides access to reduced-rate broadcast time in certain circumstances, regulates candidate access to broadcast media, and specifies broadcaster disclosure requirements for advertising purchases.	FCC	Telecommunications law: 47 U.S.C. §§312, 315, 317	Campaign finance law (FECA) regulates disclaimer and disclosure requirements for certain political advertising. Congress amended some Title 47 provisions through the Bipartisan Campaign Reform Act (BCRA, which amended FECA). BCRA otherwise primarily amended campaign finance law. See also *Campaign finance—civil regulation and enforcement.*

Category	Topic	Level of Government with Primary Responsibility	Federal Role in Brief	Primary Federal Agency or Agencies Responsible	Key Constitutional Provisions or Federal Statutes[a]	Notes
Election Administration	Ballots—mail provision and regulation	Federal	Transmits absentee ballots and other election mail (i.e., election administration) materials and political mail (i.e., campaign materials)	U.S. Postal Service (USPS) for civilian mail; Military Postal Service Agency (MPSA, DOD) for some military mail	Election law (National Voter Registration Act, NVRA: 52 U.S.C. §§20501-20511; Uniformed and Overseas Citizens Absentee Voting Act, UOCAVA): 52 U.S.C. §§20301-20311	See also *Election Administration—Ballots—preparing, counting, etc.*
Election Administration	Ballots—preparing, counting, etc.	States	—	—	—	See also *Election Administration—Ballots—mailing*.
Election Administration	Ballots—providing absentee	States	Federal law mandates availability of absentee ballots to overseas civilians and military voters in federal elections.	Federal Voting Assistance Program (FVAP, Department of Defense); enforcement: DOJ	Criminal law: 18 U.S.C. §608; Election law (UOCAVA): 52 U.S.C. §§20301-20311	—
Election Administration	Election administration—general	States	Some federal agencies provide limited coordination of "best practices"	U.S. Election Assistance Commission (EAC)	U.S. Constitution: Art. I, §4, cl. 1 (time, place, and manner) and Art. II, §4, cl. 1 (presidential electors); Election law (Help America Vote Act; HAVA): 52 U.S.C. §§20901-21145	Related topics appear throughout the table. Functional responsibility for most election administration rests with states.
Election Administration	Financing election administration—purchasing voting machines, counting ballots, etc.	States	Provides grant funding for states to upgrade election equipment	EAC	Election law (HAVA): 52 U.S.C. §§20901-21145	—
Election Administration	Military—prohibitions on "troops at the polls," use of military in voter	Federal	Federal law prohibits military presence at polling places and military interference with elections.	DOJ	Election law (originally, for example, 13 Stat. 437 [1865]); now codified with VRA): 52 U.S.C. §10102	Some states have assigned National Guard units to duties such as cybersecurity

Category	Topic	Level of Government with Primary Responsibility	Federal Role in Brief	Primary Federal Agency or Agencies Responsible	Key Constitutional Provisions or Federal Statutes[a]	Notes
	coercion, or coercing participation in military voting				Criminal law: 18 U.S.C. §§592, 593, 596, 608	support for state election officials.
Election Administration	Setting election dates—general	States	Federal law establishes national election date for federal elections	—	U.S. Constitution, Art. 1, §4; 2 U.S.C. §7	—
Election Administration	Setting election dates—primary	States/state parties	—	—	—	—
Election Administration	Voters—prohibited influence on, coercion, etc.	Federal	Federal law prohibits voter intimidation, coercion, and promises of (or threats to) employment, appointments, etc., in connection with federal elections.	U.S. Office of Special Counsel; DOJ	Civil service/ethics (Hatch Act): 5 U.S.C. §§7321-7326; Criminal law: 18 U.S.C. §§594-607, 610	See also *Campaign Finance—prohibitions on federal personnel, on federal property, etc.*
Election Administration	Voters—registration	States	Federal law requires computerized statewide voter registration lists; permits provisional balloting; requires states to access federal mail-based registration application and registration opportunities at certain government offices; and requires states to accept registration applications from UOCAVA voters who otherwise do not meet some registration requirements (e.g., notarization).	DOJ for civil enforcement	Election law (HAVA: 52 U.S.C. §§20901-21145; NVRA: 52 U.S.C. §§20501-20511; UOCAVA: 52 U.S.C. §§20301-20311; VRA: 52 U.S.C. §§10101-10702)	—

Category	Topic	Level of Government with Primary Responsibility	Federal Role in Brief	Primary Federal Agency or Agencies Responsible	Key Constitutional Provisions or Federal Statutes[a]	Notes
Election Administration	Voters—uniformed (including military) and civilian overseas	States	Federal law mandates availability of absentee ballots to overseas civilians and military voters in federal elections.	Federal Voting Assistance Program (FVAP, DOD); enforcement: DOJ	Criminal law: 18 U.S.C. §608; Election law (UOCAVA): 52 U.S.C. §§20301-20311	See also *Election Administration—Ballots—providing absentee*.
Election Administration	Voting equipment—selecting	States	Federal law places certain conditions on states accepting HAVA grant funds for purchasing election equipment (e.g., required replacement of punchcard or lever machines).	EAC; Department of Commerce (DOC), National Institutes of Standards and Technology (NIST)	Election law (HAVA): 52 U.S.C. §§20901-21145	EAC and NIST share certification duties.
Election Security	Election systems and voting equipment—cybersecurity	States	Provides grant funding for states to upgrade election equipment, and provides voluntary equipment certification and testing	EAC; DOC, NIST; DHS; Office of the Director of National Intelligence (ODNI); other Intelligence Community (IC) agencies *Criminal aspects*: DOJ, FBI	Election law (HAVA): 52 U.S.C. §§20901-21145 DOD authority for including elections cyber vulnerabilities in certain exercises: 10 U.S.C. §2224 note [131 Stat. 1744]	EAC provides grants and disseminates "best practice" information; DHS provides consultations and incident-response if invited; DHS responsible for "critical infrastructure" designation; Intelligence Community (IC) agencies can provide information on foreign interference. Cybersecurity and law enforcement statutes that do not specifically address

Category	Topic	Level of Government with Primary Responsibility	Federal Role in Brief	Primary Federal Agency or Agencies Responsible	Key Constitutional Provisions or Federal Statutes[a]	Notes
						elections are also relevant.
Election Security	Voting equipment—security	States	Federal law provides (or has provided) grants for equipment meeting certain security criteria; federal government offers voluntary testing/certification for equipment	EAC; DOC, NIST; DHS; ODNI; IC agencies *Criminal aspects*: DOJ, FBI	Election law (HAVA grants): 52 U.S.C. §20971	EAC and NIST share certification duties. HAVA assigned the General Services Administration (GSA) with distributing grants under Title I of the act before the EAC was fully operational. See also *Election systems and voting equipment—cybersecurity*. Cybersecurity and law enforcement statutes that do not specifically address elections are also relevant.
Other	Campaigning for office—other than campaign finance	None (conducted by nongovernmental entities such as candidates, parties, etc.)	—	—	—	See also *Campaign Finance* entries throughout the table. Some state laws affect campaign practices, such as false statements.
Other	Nominating candidates	None (nongovernmental function;	—	—	—	—

Category	Topic	Level of Government with Primary Responsibility	Federal Role in Brief	Primary Federal Agency or Agencies Responsible	Key Constitutional Provisions or Federal Statutes[a]	Notes
		conducted by political parties)				
Other	Presidential candidates and nominating conventions—security	Federal	Federal law charges the U.S. Secret Service with protecting major presidential candidates, and with coordinating security for National Special Security Events, including presidential nominating conventions.	DHS, U.S. Secret Service	6 U.S.C. §601(9); 18 U.S.C. §§871, 3056	—
Qualifications and Contested Elections	Contested federal elections	Federal [see *Notes* to right]	The U.S. Constitution and federal law provide each chamber of Congress authority over deciding its own elections.	Congressional elections: U.S. Constitution, Art. 1, §5; Presidential elections: U.S. Constitution, Art. 11, §1; 12th Amdt.; 3 U.S.C. §5	House contests: Federal Contested Elections Act (FCEA): 2 U.S.C. §§381-396; Presidential contests: Electoral Counting Act (3 U.S.C. §§5; 15)	Primary federal responsibility at left refers to final disposition. State law also might be relevant.
Qualifications and Contested Elections	House elections—certifying election results	States	House Clerk maintains roll of elected Members, as certified by states	Clerk of the House	U.S. Constitution, Art. 1 §5; 2 U.S.C. §26	—
Qualifications and Contested Elections	House elections—filling House vacancies	States	U.S. Constitution requires popular elections to fill House vacancies	—	U.S. Constitution, Art., 1 §2	—
Qualifications and Contested Elections	House elections—popular election and qualifications	States	U.S. Constitution requires popular elections for House Members and sets Representative qualifications	—	U.S. Constitution, Art., 1 §2; 2 U.S.C. §8	—

Category	Topic	Level of Government with Primary Responsibility	Federal Role in Brief	Primary Federal Agency or Agencies Responsible	Key Constitutional Provisions or Federal Statutes[a]	Notes
Qualifications and Contested Elections	Presidential elections—popular election and qualifications	States	U.S. Constitution establishes electoral college and sets presidential and vice-presidential qualifications	National Archives and Records Administration (NARA)	U.S. Constitution, Art. II, §1; 12th Amdt.; 3 U.S.C. §§1-21.	—
Qualifications and Contested Elections	Senate elections—certifying election results	States	Senate Secretary maintains roll of elected Senators, as certified by states	Secretary of the Senate	Constitution, Art. 1, §5; 2 U.S.C. §§1a-1b	—
Qualifications and Contested Elections	Senate elections—filling Senate vacancies	States	U.S. Constitution specifies that governors may fill vacancies; procedures vary by state	—	U.S. Constitution, Art. I, §3; 17th Amdt.	—
Qualifications and Contested Elections	Senate elections—popular election and qualifications	States	U.S. Constitution requires popular elections for Senators and sets Senator qualifications	—	U.S. Constitution, Art. I, §3; 17th Amdt.	Art. 1, Sec. 3 assigns Senator appointment to State Legislatures. The 17th Amdt. (ratified 1913) requires popular election.
Redistricting	Reapportionment	Federal	U.S. Constitution and federal law specify decennial census data as basis for apportionment and redistricting	DOC, Census Bureau; Enforcement: DOJ	U.S. Constitution: Art. I; 14th Amdt.; 2 U.S.C. §2; 13 U.S.C. §141 VRA: 52 U.S.C. §§10101-10702	—
Redistricting	Redistricting	States	U.S. Constitution and federal law specify decennial census data as basis for apportionment and redistricting	DOC, Census Bureau; Enforcement: DOJ	U.S. Constitution: Art. I; 14th Amdt.; 2 U.S.C. §2; 13 U.S.C. §141; VRA: 52 U.S.C. §§10101-10702	—
Voting Rights	Voter eligibility	States	U.S. Constitution or federal law prohibit voting restrictions based on sex,	Enforcement: DOJ	U.S. Constitution: Art. I and 14th, 15th, 19th, 24th, and 26th	—

Category	Topic	Level of Government with Primary Responsibility	Federal Role in Brief	Primary Federal Agency or Agencies Responsible	Key Constitutional Provisions or Federal Statutes[a]	Notes
			race, language, or age if over 18 years	Participation research: DOC, Census Bureau	Amdts.; VRA: 52 U.S.C. §§10101-10702	
Voting Rights	Voters—disabled access to registration and the polls	States	Federal law permits voting assistance for elderly, disabled, blind, or illiterate voters; requires accessibility in certain registration and polling places; and authorizes funding for improving access to polling places and providing accessible voting machines	Research: EAC; Enforcement: DOJ; HAVA funding: Department of Health and Human Services (HHS)	Americans with Disabilities Act (ADA): 42 U.S.C. §§12101-12213; Voting Accessibility for the Elderly and Handicapped Act (VAEHA): 52 U.S.C. §§20101-20107; VRA: 52 U.S.C. §§10101-10702; HAVA: 52 U.S.C. U.S.C. §§20901-21145	The ADA does not appear to specifically address elections, but the ADA and accompanying regulations require accommodation in public services. See the "Americans with Disabilities Act" section for additional discussion.
Voting Rights	Voting—discriminatory practices	Federal	U.S. Constitution or federal law prohibit voting restrictions based on sex, race, language, or age if over 18 years	Enforcement: DOJ Participation research: DOC, Census Bureau	U.S. Constitution: Art. I and 14th, 15th, 19th, 24th, and 26th Amdts.; VRA: 52 U.S.C. §§10101-10702	—
Voting Rights	Monitoring and observing U.S. elections	Federal	Federal law permits assignment of election monitors and observers in covered jurisdictions or as determined by the Attorney General or federal court	DOJ (monitors); Office of Personnel Management (OPM) (observers; trained in consultation with DOJ)	Election law (VRA): 52 U.S.C. §§10101-10702	DOJ has determined that the Supreme Court's 2013 *Shelby County v. Holder* ruling limits some relevant VRA provisions.

Source: CRS analysis of cited statutes and as discussed in the text of this report.

Notes: The table includes functions that specifically affect campaigns or elections. Other agencies or provisions in law or regulation might be relevant in specific cases. For example, a campaign finance investigation might involve banking law, but because banking law is not central to campaign finance and election administration in the United States, it is excluded from the table. Litigation that is beyond the scope of this report affects some of the provisions listed in the table.

a. Cited constitutional and statutory provisions cover various aspects of campaigns or elections, not only those listed in the table. Title 52 citations reflect a 2014 "editorial reclassification" of federal election law, which changed previous locations in the *U.S. Code*. As the Office of Law Revision Counsel (the House office that

maintains the *U.S. Code*) explains, "No statutory text is altered by such editorial reclassification projects, other than necessary updates to references to reflect the reorganization. Relevant provisions are merely transferred from one place to another in the Code." See U.S. House of Representatives, Office of Law Revision Counsel, "Editorial Reclassification," http://uscode.house.gov/editorialreclassification/reclassification.html.

b. For additional discussion of criminal law concerning campaign finance and elections generally, see *Federal Prosecution of Election Offenses*, 8th edition, ed. Richard C. Pilger (Washington, DC: U.S. Department of Justice, 2017), https://www.justice.gov/criminal/file/1029066/download.

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