

# Congress of the United States

## House of Representatives

### COMMITTEE ON HOUSE ADMINISTRATION

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January 4, 2019

The Honorable Marcia Fudge  
Chairwoman  
Subcommittee on Elections  
Committee on House Administration  
U.S. House of Representatives  
1309 Longworth HOB  
Washington D.C. 20515

Dear Congresswoman Fudge:

I write in regard to the Subcommittee on Elections (Subcommittee) and its work in the upcoming 116<sup>th</sup> Congress. First, let me say, I was disappointed to learn that new Majority introduced legislation without the benefit of consulting the Committee on House Administration (Committee), which has jurisdiction over federal elections and campaign finance, or utilizing the upcoming work of the Subcommittee. I trust that as you develop the Subcommittee's oversight agenda, you will focus the Subcommittee on identifying the real problems facing our election systems such as the lack of safeguards states have in place as it relates to non-traditional voting—for example, filling out and casting ballots outside of polling locations on election day and allowing same day voter registration.

Article 1, Section 4 of the Constitution delegates to states “The Time, places, and Manner of holding Elections for Senators and Representatives ... .”<sup>1</sup> To that end, we have seen states increasingly move to allow voters to cast ballots outside of election day. According to the Election Assistance Commission, “the percentage of voters who cast their ballots on a voting machine at a polling place on Election Day has declined steadily over the past decade, while the number of states offering early voting, no excuse absentee voting and vote by mail has increased.”<sup>2</sup> Moreover, the use of the provisional ballot continues to grow in many states. In 2016, California [alone] had 1.3 million provisional ballots cast ... more than any other state in the nation.”<sup>3</sup> In 2018, it was reported that one California county alone had 384,000 provisional ballots cast.

Notwithstanding states' delegated authority, Article 1, Section 5 of the Constitution ensures “Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members.”<sup>4</sup> The Committee on House Administration's (Committee) jurisdiction over congressional elections is further codified in Rule X, Clause 1 of the Rules of the House in addition to 2 U.S.C. 381 *et. seq.*, the

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<sup>1</sup> U.S. Con., Article 1, Section 4.

<sup>2</sup> United States Election Assistance Commission, Election Administration Voting Survey, June 2017, Early, Absentee, and Mail Voting, p. 5.

<sup>3</sup> *Id.* at 3.

<sup>4</sup> U.S. Con., Article I, Section 5.

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Federal Contested Elections Act. As you are probably aware, to execute its responsibilities under the Constitution, the Federal Contested Elections Act, and over federal elections generally, the Committee coordinates efforts on a bipartisan basis to ensure that all ballots in close congressional races are counted fairly and accurately. And when requested by a Member or candidate, the Committee deploys two observers, one from the Majority and one from the Minority, to the congressional district to monitor and report on election activities within that district.

Through these observers, the Committee has been made aware of examples of irregularities in the processes and procedures followed by local county election officials within a number of states. Observers reported problems primarily in three categories: vote by mail ballots, provisional ballots, and the signature verification process and procedures associated with the two previous categories. In addition, in some precincts same day registration irregularities occurred.

These reported irregularities raise questions about the appropriate safeguards states have in place with respect to these non-traditional voting methods. The Committee's oversight responsibilities over federal elections dictate that we pursue these irregularities, potentially fraudulent activities, reported by House-sanctioned observers. To that end, I respectfully request that the Subcommittee examine these issues, including in local counties. I would suggest the following states as potential field hearing opportunities: California, Georgia, Illinois, and Utah.

I anticipate using these field hearings to focus on the policies and procedures in place at the county level to process and count ballots, including vote by mail and provisional ballots. Relatedly, it would be important to review the processes for verifying signatures to ensure voters who are casting ballots are who they say they are - not another individual - including in same day registration. To summarize, it is critical that the same safeguards in place to protect voters in their precincts and polling locations on election day are in place to protect voters who fill out and cast ballots outside of these locations.

I know you share my desire to prevent fraud and ensure fair elections for all Americans. While I recognize there are many issues you would like to address, many of which are contained in H.R. 1, I would suggest moving cautiously. The Subcommittee should conduct its oversight methodically and thoroughly to identify and recommend solutions to the election issues that are impacting all Americans - those who cast ballots on election day as well as those who cast ballots in non-traditional ways. All Americans deserve the right to have their vote counted and protected.

I look forward to working with you in the 116<sup>th</sup> Congress.

Sincerely,



Rodney Davis  
Ranking Member

CC: The Honorable Zoe Lofgren, Chairwoman,  
Committee on House Administration