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

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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.
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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. 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. Citations appear throughout, including to other CRS products that provide additional detail. This report does not track legislation.

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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. 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.”

Scope of the Report

The report addresses those areas of law and public policy that most directly and routinely affect federal campaigns and elections. It does not attempt to cover every instance of federal involvement in this policy area. Other agencies or provisions in law or regulation that are not addressed here might be relevant in specific cases. 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.


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.

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


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.” 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. This includes topics such as

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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). In addition, campaign finance policy primarily affects activities that explicitly advocate for election or defeat of political candidates, or, in some cases, certain pre-election advertising 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. The Appendix at the end of this report provides additional detail and cites relevant federal statutes.

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

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)

<table>
<thead>
<tr>
<th>Major Governmental Function</th>
<th>Government Primarily Responsible</th>
<th>Federal Agencies Primarily Involved</th>
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<tbody>
<tr>
<td>Campaign Finance</td>
<td>Federal</td>
<td>• Federal Election Commission</td>
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<td>• Department of Justice</td>
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<tr>
<td>Election Administration</td>
<td>States</td>
<td>• Election Assistance Commission</td>
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<td>• Department of Justice</td>
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<td>Election Security</td>
<td>States</td>
<td>• Department of Homeland Security</td>
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<td>• Department of Justice</td>
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<td>Qualifications and Contested Elections</td>
<td>Federal</td>
<td>• House and Senate</td>
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<td>Redistricting</td>
<td>States</td>
<td>• Department of Commerce</td>
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<td></td>
<td></td>
<td>• Department of Justice</td>
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<tr>
<td>Voting Rights</td>
<td>Federal</td>
<td>• Department of Justice</td>
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</tbody>
</table>

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 Oceanic 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.” 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

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


20 In a pre-party 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) and major amendments in 1974, 1976, and 1979. 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). Among other provisions, the act

- banned national parties, federal candidates, and officeholders from raising “soft money” in federal elections;
- increased most contribution limits; and

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 pre-election issue advocacy known as “electioneering communications.”

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

Election Administration

Help America Vote Act

Congress enacted the Help America Vote Act (HAVA) 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. 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 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;
• established working relationships between the EAC and several other governmental and nongovernmental entities, including through a Standards Board and Board of Advisors (which includes representatives from various

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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.
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).
31 The Standards Board includes state and local election officials. See 52 U.S.C. §20943.
federal agencies), and a Technical Guidelines Development Committee (TGDC) 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. Some provisions in NVRA originated in other statutes enacted previously. 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;
- 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).

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. Current provisions, which also cover overseas civilians, appear in the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). Congress most recently substantially amended UOCAVA in

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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.


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.


In brief, the current statute

- applies to eligible members 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. 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. The Federal Contested Elections Act (FCEA) applies to contested U.S. House elections, as do constitutional provisions and chamber rules. FCEA, enacted in 1969, primarily concerns procedural and

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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).
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...
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 inoperative 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;
- 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. 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.

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


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.
Title 18 of the *U.S. Code*. The Justice Department investigates and enforces 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. Among other criminal provisions related to campaigns and elections, federal law prohibits

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

- 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. Second, the IRC establishes the limited circumstances under which political campaigns, parties, and political action committees are subject to taxation. Third, the IRC requires that politically active tax-exempt social welfare groups, labor unions, and trade associations not primarily be engaged in campaign intervention.
Most regulation of political advertising appears in campaign finance law. Some provisions also appear in telecommunications statutes. In particular, the “lowest unit charge” (sometimes also called the “lowest unit rate”) provision in telecommunications law permits candidates to purchase preemiptible broadcast advertising at the most favorable rates provided to commercial advertisers for the same class of time (e.g., length and time of day). Telecommunications law also requires broadcasters to maintain a “political file” (sometimes also called the “public file”) of candidate requests for advertising purchases.

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. 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.

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.

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

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


70 47 U.S.C. §315(e).


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

<table>
<thead>
<tr>
<th>Role</th>
<th>Primary Committee or Entity</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appropriating funds</td>
<td>• House and Senate Appropriations Committees</td>
<td>—</td>
</tr>
<tr>
<td>Overseeing federal elections</td>
<td>• House Administration Committee</td>
<td>Other committees have jurisdiction over specific policy areas. See also Table 3; discussion of Election Assistance Commission, Federal Election Commission, and other agency oversight.</td>
</tr>
<tr>
<td></td>
<td>• Senate Rules and Administration Committee</td>
<td></td>
</tr>
<tr>
<td>Administering chamber rules</td>
<td>• House Administration Committee</td>
<td>See also table notes below.</td>
</tr>
<tr>
<td></td>
<td>• Senate Rules and Administration Committee</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• House Ethics Committee</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Senate Ethics Committee</td>
<td></td>
</tr>
<tr>
<td>Receiving campaign finance reports</td>
<td>• Secretary of the Senate</td>
<td>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.</td>
</tr>
<tr>
<td>Certifying congressional election results</td>
<td>• Clerk of the House</td>
<td>See also Resolving contested congressional elections below.</td>
</tr>
<tr>
<td></td>
<td>• Secretary of the Senate</td>
<td></td>
</tr>
<tr>
<td>Certifying electoral college results</td>
<td>• House and Senate in joint session</td>
<td>Refers to presidential elections</td>
</tr>
<tr>
<td>Resolving contested congressional elections</td>
<td>• House or Senate</td>
<td>Each chamber has authority over its own contests.</td>
</tr>
<tr>
<td>Resolving contested presidential elections</td>
<td>• House</td>
<td>Refers to “contingent” elections in which no candidate receives a majority of electoral votes</td>
</tr>
<tr>
<td>Resolving contested vice presidential elections</td>
<td>• Senate</td>
<td>Refers to “contingent” elections in which no candidate receives a majority of electoral votes</td>
</tr>
</tbody>
</table>

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.\(^\text{74}\)

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**

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

### Sample Policy and Oversight Areas

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

**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 pre-election “blackout” periods for certain franked communications. The Committee on House Administration and the Senate Rules and Administration Committee, and the House77 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.  
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. 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>
<thead>
<tr>
<th>Department or Agency</th>
<th>Role Highlights</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Commerce</td>
<td>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</td>
<td></td>
</tr>
<tr>
<td>Department of Defense</td>
<td>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</td>
<td></td>
</tr>
<tr>
<td>Department of Health and Human Services</td>
<td>Administered Help America Vote Act (HAVA) funding for disability access to polls</td>
<td></td>
</tr>
<tr>
<td>Department of Homeland Security</td>
<td>Assists states on cybersecurity and related matters; Sector-Specific Agency for 2017 Elections Infrastructure Subsector Critical Infrastructure designation; Secret Service protects major presidential candidates</td>
<td></td>
</tr>
<tr>
<td>Department of Justice</td>
<td>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</td>
<td></td>
</tr>
<tr>
<td>Department of Labor</td>
<td>Administers union disclosure requirements regarding political activity</td>
<td>See also Federal Election Commission.</td>
</tr>
<tr>
<td>Department of State</td>
<td>Supports overseas citizen UOCAVA voting</td>
<td></td>
</tr>
<tr>
<td>Department of the Treasury</td>
<td>Internal Revenue Service (IRS) administers Internal Revenue Code (IRC; tax law) regulating political activity of certain tax-exempt organizations</td>
<td></td>
</tr>
<tr>
<td>Election Assistance Commission</td>
<td>Sole federal agency devoted to election administration; distributes HAVA funds and coordinates information with states</td>
<td></td>
</tr>
<tr>
<td>Federal Communications Commission</td>
<td>Administers and enforces civil aspects of telecommunications law regarding political advertising and candidate access</td>
<td>See also Federal Election Commission.</td>
</tr>
</tbody>
</table>

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.
**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.

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\(^{80}\) §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.
Federal Role in U.S. Campaigns and Elections: An Overview

- HAVA generally prohibits the EAC from engaging in rulemaking.\(^{82}\)

**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

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\(^{83}\) 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.


\(^{87}\) On “troops at the polls” prohibitions, see, for example, 18 U.S.C. §§592, 593, 596, 608.
Federal Role in U.S. Campaigns and Elections: An Overview

Assistance Program (FVAP) administers UOCAVA. As noted previously, UOCAVA is designed to ensure that members of the uniformed services and 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

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.
vulnerability assessments; and assistance identifying or responding to threats (e.g., cyberattacks).  

- 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.

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

**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 and the VRA.

- HAVA requires that DOJ representatives be among the EAC’s Board of Advisors.

- Under an Obama Administration executive order, the department may work with the State Department and Treasury Department to administer sanctions responding to election interference.

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


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.


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
- 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 Treasury Department and Justice Department to administer sanctions responding to election interference.105

**Department of the Treasury**

- The Treasury Department 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

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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/igecl/.

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.
choose to receive funds under certain conditions.\textsuperscript{106} The FEC administers candidate participation in the program.

- Treasury Department 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.\textsuperscript{107}

\textbf{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.\textsuperscript{108}

\textbf{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.\textsuperscript{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.”\textsuperscript{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...

\textsuperscript{106} For additional discussion, see, for example, CRS Report R41604, \textit{Proposals to Eliminate Public Financing of Presidential Campaigns}, by R. Sam Garrett.

\textsuperscript{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, \textit{U.S. Sanctions on Russia: An Overview}, by Dianne E. Rennack and Cory Welt; CRS In Focus IF10694, \textit{Countering America’s Adversaries Through Sanctions Act}, by Dianne E. Rennack, Kenneth Katzman, and Cory Welt.

\textsuperscript{108} 47 U.S.C. §§315; 317.

\textsuperscript{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, \textit{The U.S. Intelligence Community (IC)}, by Anne Daugherty Miles; CRS In Focus IF10525, \textit{Defense Primer: National and Defense Intelligence}, by Michael E. DeVine and Heidi M. Peters; and CRS In Focus IF10527, \textit{U.S. Intelligence Community Elements: Establishment Provisions}, by Michael E. DeVine and Heidi M. Peters.

2016-cycle U.S. elections.\textsuperscript{111} That assessment has been the focus of much of the congressional oversight and subsequent federal activity surrounding election security.\textsuperscript{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.\textsuperscript{113} NARA transmits state election certificates to Congress for counting electoral college results during a joint session to determine the presidential election.\textsuperscript{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.\textsuperscript{115} DOJ has determined that the 2013 *Shelby County* decision limits some of these provisions.\textsuperscript{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.\textsuperscript{117} The board consists of representatives from 12 federal departments, and private individuals.\textsuperscript{118} HAVA requires that Access Board members be appointed to the EAC’s Board of Advisors and to the Technical Guidelines Development Committee.\textsuperscript{119}

\textsuperscript{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.


\textsuperscript{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.


\textsuperscript{115} 52 U.S.C. §10305.


\textsuperscript{117} The board is formally known as the Architectural and Transportation Barriers Compliance Board. See 29 U.S.C. §792.

\textsuperscript{118} The entire federal membership of the Access Board is not reflected in this report. For additional information, see United States Access Board, “Access Board Members,” https://www.access-board.gov/the-board/members.

\textsuperscript{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.” This includes conducting research on voting and political participation. The VRA authorizes the commission to designate jurisdictions subject to Census Bureau post-election surveys. HAVA requires that Civil Rights Commission members be appointed to the EAC’s Board of Advisors.

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.
- Particularly on constitutional questions, which are especially prominent in areas such as protected political speech, judicial interpretation shapes the policy options available to Congress.
- The VRA permits federal courts to order the presence of federal election monitors or observers to protect against voting rights violations.
- 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.

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121 52 U.S.C. §10507. The requirement also applies to “covered jurisdictions” established by the act and based on Census Bureau data.
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.\footnote{For additional discussion, see, for example, CRS In Focus IF10159, \textit{Cybersecurity}, by Eric A. Fischer and Catherine A. Theohary; CRS Report R45142, \textit{Information Warfare: Issues for Congress}, by Catherine A. Theohary; and CRS Report R43719, \textit{Campaign Finance: Constitutionality of Limits on Contributions and Expenditures}, by L. Paige Whitaker.} 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.
## 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.

<table>
<thead>
<tr>
<th>Category</th>
<th>Topic</th>
<th>Level of Government with Primary Responsibility</th>
<th>Federal Role in Brief</th>
<th>Primary Federal Agency or Agencies Responsible</th>
<th>Key Constitutional Provisions or Federal Statutes</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Campaign Finance</td>
<td>Criminal enforcement (^b)</td>
<td>Federal</td>
<td>Federal law governs contribution amounts and sources, and sets disclosure and disclaimer requirements, for federal campaigns.</td>
<td>Department of Justice (DO)); FEC may make referrals</td>
<td>U.S. Constitution: 1st Amdt.; Election law (FECA): 52 U.S.C. §§30101-30146; Criminal law: 18 U.S.C. §§594-607, 610</td>
<td>Other federal law/agencies relevant in some cases (e.g., tax, banking matters)</td>
</tr>
<tr>
<td>Campaign Finance</td>
<td>Disclosure of certain union financial activity</td>
<td>Federal</td>
<td>Unions report certain “political activity” to the Labor Department, in addition to campaign finance reporting requirements.</td>
<td>FEC; Department of Labor</td>
<td>Election law (FECA): 52 U.S.C. §§30101-30146; Labor law (Labor-Management Reporting and Disclosure Act, LMRDA): 29 U.S.C. §§401-531</td>
<td>Campaign finance law regulates reporting for union electioneering communications, independent expenditures, and political action committees. See also Campaign Finance—Civil regulation, disclosure, and enforcement.</td>
</tr>
</tbody>
</table>

\(^b\) Certain independent spending also may be regulated by the Internal Revenue Code (tax law).
<table>
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</thead>
<tbody>
<tr>
<td>Campaign Finance</td>
<td>Presidential inaugurations—fundraising disclosure</td>
<td>Federal</td>
<td>expenditures affecting campaigns; tax law governs certain fundraising and disclosure by politically active tax-exempt organizations.</td>
<td>(Treasury), Internal Revenue Service (IRS)</td>
<td>§§501(c)(4)-501(c)(6), 527; Election law (FECA); 52 U.S.C. §§30101-30146</td>
<td>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.</td>
</tr>
<tr>
<td>Campaign Finance</td>
<td>Presidential public financing program</td>
<td>Federal</td>
<td>Federal law establishes disclosure requirements.</td>
<td>FEC</td>
<td>36 U.S.C. §510</td>
<td></td>
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<tr>
<td>Campaign Finance</td>
<td>Prohibitions on federal personnel, on federal property, etc.</td>
<td>Federal</td>
<td>Federal law prohibits fundraising on federal property, promises of appointment, employment, threats to appointment, etc., in connection with federal elections.</td>
<td>U.S. Office of Special Counsel; DOJ</td>
<td>Civil service/ethics law (Hatch Act): 5 U.S.C. §§7321-7326; Criminal law: 18 U.S.C. §§594-607, 610</td>
<td>See also Election Administration—Voters—Prohibited influence on, coercion, etc.</td>
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<td>Telecomm.—broadcaster obligations, candidate access, and advertising rates</td>
<td>Federal</td>
<td>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.</td>
<td>FCC</td>
<td>Telecommunications law: 47 U.S.C. §§312, 315, 317</td>
<td>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.</td>
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<tr>
<td>Election Administration</td>
<td>Ballots—mail provision and regulation</td>
<td>Federal</td>
<td>Transmits absentee ballots and other election mail (i.e., election administration) materials and political mail (i.e., campaign materials)</td>
<td>U.S. Postal Service (USPS) for civilian mail; Military Postal Service Agency (MPSA, DOD) for some military mail</td>
<td>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</td>
<td>See also Election Administration—Ballots—preparing, counting, etc.</td>
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<tr>
<td>Election Administration</td>
<td>Ballots—preparing, counting, etc.</td>
<td>States</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>See also Election Administration—Ballots—mailing.</td>
</tr>
<tr>
<td>Election Administration</td>
<td>Financing election administration—purchasing voting machines, counting ballots, etc.</td>
<td>States</td>
<td>Provides grant funding for states to upgrade election equipment</td>
<td>EAC</td>
<td>Election law (HAVA): 52 U.S.C. §§20901-21145</td>
<td>—</td>
</tr>
<tr>
<td>Election Administration</td>
<td>Military—prohibitions on “troops at the polls,” use of military in voter</td>
<td>Federal</td>
<td>Federal law prohibits military presence at polling places and military interference with elections</td>
<td>DOJ</td>
<td>Election law (originally, for example, 13 Stat. 437 [1865]); now codified with VRA): 52 U.S.C. §10102</td>
<td>Some states have assigned National Guard units to duties such as cybersecurity</td>
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<tr>
<td>Election Administration</td>
<td>Setting election dates—primary</td>
<td>States/state parties</td>
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<tr>
<td>Election Administration</td>
<td>Voters—prohibited influence on, coercion, etc.</td>
<td>Federal</td>
<td>Federal law prohibits voter intimidation, coercion, and promises of (or threats to) employment, appointments, etc., in connection with federal elections.</td>
<td>U.S. Office of Special Counsel; DOJ</td>
<td>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.</td>
<td></td>
</tr>
<tr>
<td>Election Administration</td>
<td>Voters—registration</td>
<td>States</td>
<td>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).</td>
<td>DOJ for civil enforcement</td>
<td>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)</td>
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<tr>
<td>Election</td>
<td>Security</td>
<td>States</td>
<td>Federal law provides (or has provided) grants for equipment meeting certain security criteria; federal government offers voluntary testing/certification for equipment</td>
<td>EAC; DOC, NIST; DHS; ODNI; IC agencies Criminal aspects: DOJ, FBI</td>
<td>Election law (HAVA grants): 52 U.S.C. §20971</td>
<td>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.</td>
</tr>
<tr>
<td>Other</td>
<td>Campaigning for office—other than campaign finance</td>
<td>None (conducted by non-governmental entities such as candidates, parties, etc.)</td>
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<td>See also Campaign Finance entries throughout the table. Some state laws affect campaign practices, such as false statements.</td>
</tr>
<tr>
<td>Other</td>
<td>Nominating candidates</td>
<td>None (non-governmental function;)</td>
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</table>

Note: All elections are also relevant.
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<tbody>
<tr>
<td>Qualifications and Contested Elections</td>
<td>House elections—certifying election results</td>
<td>States</td>
<td>House Clerk maintains roll of elected Members, as certified by states</td>
<td>Clerk of the House</td>
<td>U.S. Constitution, Art. I §5; 2 U.S.C. §26</td>
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<tr>
<td>Qualifications and Contested Elections</td>
<td>Senate elections—certifying election results</td>
<td>States</td>
<td>Senate Secretary maintains roll of elected Senators, as certified by states</td>
<td>Secretary of the Senate</td>
<td>Constitution, Art. I, §5; 2 U.S.C. §§1a-1b</td>
<td>—</td>
</tr>
<tr>
<td>Qualifications and Contested Elections</td>
<td>Senate elections—filling Senate vacancies</td>
<td>States</td>
<td>U.S. Constitution specifies that governors may fill vacancies; procedures vary by state</td>
<td>—</td>
<td>U.S. Constitution, Art. I, §3; 17th Amdt.</td>
<td>—</td>
</tr>
<tr>
<td>Voting Rights</td>
<td>Voter eligibility</td>
<td>States</td>
<td>U.S. Constitution or federal law prohibit voting restrictions based on sex,</td>
<td>Enforcement: DOJ</td>
<td>U.S. Constitution: Art. I and 14th, 15th, 19th, 24th, and 26th</td>
<td>—</td>
</tr>
<tr>
<td>Category</td>
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<td>Level of Government with Primary Responsibility</td>
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<td>Key Constitutional Provisions or Federal Statutes&lt;sup&gt;a&lt;/sup&gt;</td>
<td>Notes</td>
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<tr>
<td>Voting Rights</td>
<td>Voting—discriminatory practices</td>
<td>Federal</td>
<td>U.S. Constitution or federal law prohibit voting restrictions based on sex, race, language, or age if over 18 years</td>
<td>Enforcement: DOJ Participation research: DOC, Census Bureau</td>
<td>U.S. Constitution: Art. I and 14&lt;sup&gt;th&lt;/sup&gt;, 15&lt;sup&gt;th&lt;/sup&gt;, 19&lt;sup&gt;th&lt;/sup&gt;, 24&lt;sup&gt;th&lt;/sup&gt;, and 26&lt;sup&gt;th&lt;/sup&gt; Amdts.; VRA: 52 U.S.C. §§10101-10702</td>
<td>—</td>
</tr>
<tr>
<td>Voting Rights</td>
<td>Monitoring and observing U.S. elections</td>
<td>Federal</td>
<td>Federal law permits assignment of election monitors and observers in covered jurisdictions or as determined by the Attorney General or federal court</td>
<td>DOJ (monitors); Office of Personnel Management (OPM) (observers; trained in consultation with DOJ)</td>
<td>Election law (VRA): 52 U.S.C. §§10101-10702</td>
<td>DOJ has determined that the Supreme Court’s 2013 Shelby County v. Holder ruling limits some relevant VRA provisions.</td>
</tr>
</tbody>
</table>

**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.

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<sup>a</sup> 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.

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