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## Guiding Principles as Correlates of the Responsibilities of Electoral Management Board (E.M.B)

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BY

Young J. LUKE, *Ph.D*  
Department of Business Management  
Faculty of Business Administration  
University of Birmingham  
United Kingdom

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### ABSTRACT

*This study assessed the guiding principles as correlates of the responsibilities of electoral management board (E.M.B). This principle is being performed by the electoral management board (E.M.B). The guiding principles include independence, impartiality, integrity, transparency, efficiency, professionalism and service-mindedness. The study concluded that EMBs have behavioural and access responsibilities to the communities they serve, which may extend beyond the minimum requirements of the electoral legal framework. These include promoting gender balance within the EMB itself and political life more broadly, dealing fairly with issues of ethnicity, promoting equality and equity in electoral contests, providing equality of access to electoral services for all and especially for marginalized members of society, and recognizing customary practices where these are in harmony with electoral management principles. Elections are complex and specialized processes that are most effectively managed by a body with specific electoral management responsibilities. One of the recommendation made was that the electoral legal framework and EMB policies can help guard against inappropriate behaviour by EMBs by requiring members and staff to avoid conflicts of interest.*

**KEYWORDS: Guiding, Principles, Responsibilities, and Electoral Management Board**

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### Introduction

An EMB is an organization or body that has the sole purpose of, and is legally responsible for, managing some or all of the elements that are essential for the conduct of elections and direct democracy instruments—such as referendums, citizens’ initiatives and recall votes—if those are part of the legal framework. For a successful election to take place there must be Some Guiding Principles to guide the management of the election, (Vonnahme, & Miller,2012).

### Some Guiding Principles for All EMBs

Regardless of which model is used, every EMB should be certain that it can ensure the legitimacy and credibility of the processes for which it is responsible. This can be done if electoral management is founded on fundamental guiding principles.

According to Vonnahme, & Miller, (2012), the guiding principles for EMBs include:

- independence
- impartiality
- integrity
- transparency
- efficiency
- professionalism and
- service-mindedness

These guiding principles form the basis of electoral administration and are essential to ensure both the actual and perceived integrity of the electoral process.

### ***Independence***

There is some confusion over the meaning of EMB independence because the term ‘independent’ embraces two different concepts: (1) structural independence from the government (the Independent Model) and (2) the ‘fearless independence’ expected of all EMBs, no matter which model is used, in that they do not bend to governmental, political or other partisan influences on their decisions. While one issue is formal and the other is normative, they are seen as linked; in many parts of the world, the Independent Model is regarded as the one most likely to ensure an EMB’s independence of decision and action.

Institutional or ‘structural’ independence can only be found in the constitution or the law. The simplest way to promote independence of decision and action in an EMB is to create a legal framework that embeds EMB independence, as provided in the constitutions and principal EMB laws of many countries, such as Mexico, South Africa, Uruguay and Zambia. While this is always feasible with the Independent Model and may be feasible when the Mixed Model is used, it may be more difficult to embed under the Governmental Model, apart from strict requirements for impartiality of action, given the integration of the EMB(s) into ministries or local governments (Voigt, Ebeling, & Blume, 2007).

For both Independent and Mixed Model electoral management, a culture of independence and the commitment of EMB members to independent decision-making are more important than formal ‘structural’ independence. Strong leadership is important for maintaining an EMB’s independence of action. For example, a senior member of the judiciary may fill the position of chair of an independent EMB within either model. Such a link to the judiciary may make undue interference by the government or opposition parties in EMB operations less likely. However, it would not be appropriate where the judiciary is not regarded as impartial or free of corruption, or does not have enough members for it to be able to avoid conflicts of interest in election-related court cases. Countries that use judges or former judges as EMB chairs include Australia, Brazil, Costa Rica and Zambia.

### ***Impartiality***

To establish the integrity and credibility of electoral processes, and promote the widespread acceptance of election results, an EMB must not only conduct electoral events in a fearlessly independent manner; it must also be impartial in its actions. Without impartial electoral management and independent action, the integrity of the election is likely to fail, making it

difficult to instill widespread belief in the credibility of electoral processes, especially among the losers.

Every EMB is expected to manage elections impartially. Irrespective of the model, its source of accountability, management control or funding, the EMB should treat all election participants equally, fairly and even-handedly, without giving advantage to any political tendency or interest group (Freedom House. 2008).

In theory, an independent EMB made up of non-aligned 'expert' appointees might be best able to achieve impartiality. Other independent EMBs, for example where nominees of the contesting political parties are appointed to the EMB, may have a more difficult time establishing their credentials with the public as completely impartial bodies. Except in countries that have a tradition of a non-aligned civil service, the decisions and activities of EMBs under the Governmental or Mixed Models may be publicly regarded as likely to favour the incumbent government.

### ***Integrity***

The EMB is the primary guarantor of the integrity and purity of the electoral process, and EMB members are directly responsible for ensuring this. Integrity may be easier to maintain if the EMB has both full independence of action and full control of all essential electoral processes, including full control over budgets and staffing. Where other bodies have electoral functions, EMBs need to be empowered to monitor their activities closely to ensure that they meet the highest integrity standards.

### ***Transparency***

Transparency in operational and financial management lays out for public scrutiny the decisions and reasoning of the EMB. Transparency is a basic good practice for all EMB activities. It can help an EMB combat perceptions of and identify actual financial or electoral fraud, or a lack of competence or favouritism toward particular political tendencies, which can enhance its credibility. Electoral transparency may be backed by electoral law, for example by a requirement that the EMB inform the public of its activities, as in Indonesia. Or it may be required by the EMB's code of conduct, for example the frequent media briefings and releases and stakeholder consultations undertaken by the Liberian EMB for the 2011 elections. Even without such formal backing, an EMB may adopt a transparency policy.

The absence of transparency in electoral processes invariably leads to the suspicion that fraudulent activities are taking place. For example, where observers and the public are unable to access progressive vote count and aggregation data, and where there are significant delays in announcing and validating election results (as in Belarus and Ukraine in 2004 and Ethiopia in 2005) the credibility of the election suffers.

### ***Efficiency***

Governments and the public expect that funds for elections will be used wisely and services delivered efficiently. In the face of expanding and ever more expensive technological solutions, and demands for increased effort in high-cost areas such as voter education and information,

EMBs have to be careful that their programmes sustainably serve electoral efficiency, as well as integrity and modernity.

### *Professionalism*

Professionalism in electoral managements requires accurate, service-oriented implementation of electoral procedures by suitably skilled staff. EMBs need to ensure that all election officials, whether core staff or temporary workers, are well trained and have the necessary skills to apply high professional standards in their technical work. Professional training prompts public trust that the entire process is ‘in good hands’ (Stewart, 2006). However, while a continuous training and skill development programme is an essential part of creating and maintaining a professional EMB, professionalism depends just as much on the attitude of every member and secretariat staff person. A personal commitment from each individual in an EMB to equity, accuracy, diligence and service in all they do, and to self-improvement, is necessary to maintain professionalism in electoral management.

A lack of visible professionalism in electoral management, on the other hand, will create public suspicions of inaccurate and perhaps fraudulent activity, and a lack of trust. It will make it easier for complaints from election losers to find public support, whether the complaint is valid or not.

### *Service-mindedness*

EMBs not only have a responsibility to provide a service to their stakeholders—it is the major reason for their existence. Developing and publicizing service delivery standards for all their activities provides both internal motivators for EMB members and staff to provide high-quality service, and external yardsticks with which stakeholders can assess the EMB’s performance. Some basic service standards are often included in the electoral legal framework, as in Canada: these include time-based standards such as deadlines for announcing election results, compiling the electoral registers, distributing voters’ identification (ID) cards or distributing information on voting location (Richard, Devinney, Yip, & Johnson, 2009).

### **EMB Responsibilities as a Public Organization**

As a state-funded organization, the EMB will be expected to behave with integrity and to follow the country’s public sector standards, which may include measures of transparency and accountability. Such measures often include standard public sector accountability measures, such as annual reporting on activities to an external body such as the relevant minister (as in Botswana) or directly to the legislature (e.g. in Australia, Canada, Liberia and South Africa). EMBs have overarching obligations to adopt good practices so that their levels of integrity promote free, fair and credible elections, their efficiency ensures that public funds are not wasted, and their service standards meet with public approval. If the best practice in electoral organization could be identified, it would be the goal that EMBs would strive to achieve. It is perhaps more realistic to aim to achieve targeted elements of good practice, which can be applied regardless of the differences between electoral systems, while still delivering free, fair and credible elections.

Noted in Catt, Andrew, Michael, Alan, & Peter (2014), an EMB's responsibilities may also include more normative elements of how it is expected to behave, which may be further elaborated in its code of conduct. Detailed codes of conduct for EMB members and more senior staff may also include transparent and accountable actions based on law, professional behaviour in all actions and accuracy in all work. It may be more appropriate to have a simpler code for lower-level or temporary staff with limited responsibilities. For example, for polling station officials, a simple statement committing them to obey all relevant laws, regulations and directions, and maintain impartiality and ballot secrecy, may be sufficient.

A code of conduct embodying the above principles is essential for all EMBs, regardless of their model or composition. Members and staff of all EMBs are expected to uphold the integrity of electoral processes and to refrain from acting in a manner that conflicts with their role as impartial electoral referees.

### *Avoidance of Conflicts of Interest*

EMBs make decisions involving the fast and effective spending of large budgets. High-value individual supply agreements—for items such as ballot boxes, ballot papers and computer equipment—can be of huge benefit to the winning supplier. Connections between EMB members or staff and suppliers, other election participants or stakeholders who can benefit from EMB decisions can lead to perceived conflicts of interest which jeopardize an EMB's public credibility, or real conflicts of interest which damage its integrity. General public service legislation may cover these issues in relation to public servants serving in EMBs (Birch, 2011).

Conflict of interest provisions could be included in legislation or EMB regulations, and can be part of an enforceable code of conduct for EMB members and staff. They usually specify that EMB members and staff who have an interest or potential interest in a matter that comes before the EMB for consideration and decision should notify the EMB in a timely manner and refrain from participating in the consideration of that matter. To be effective, realistic enforceable sanctions for breaches of conflict of interest provisions are necessary, such as dismissal from the EMB or other disciplinary action. Examples of such provisions (in relation to an EMB member) are contained in the Australian electoral legal framework.

The same is true of EMB staff and members' contacts with or links to political parties and candidates. Such contacts or links should be disclosed in a timely manner, and affected EMB members and staff should refrain from participating in any decision that might benefit the relevant parties or candidates.

### **EMB Responsibilities to Promote Democracy and Equity**

According to Dundas, (2012), electoral legislation in some countries defines not only EMB powers and functions, but also their responsibilities and obligations. Other international and national laws apply to the EMB as a public body, such as human rights and laws seeking to ensure equal treatment for women, ethnic minorities, people with disabilities and internally displaced persons.

As upholders of democratic values, EMBs have behavioural and access responsibilities to the community they serve, even where these are not defined in the electoral legal framework. Some of these responsibilities relate to issues such as transparency, gender balance, sensitivity to customs and traditions, treatment of ethnicity, providing electoral access to marginalized groups and creating conditions that are conducive to fair electoral competition. The South African EMB has created a Governance and Ethics Committee that will develop a policy of social responsibility.

### ***Gender Balance***

EMBs have a responsibility to ensure that they reflect the society's gender composition in their internal and external activities. Elements of this responsibility may be defined in electoral and gender equity laws, and some may be adopted voluntarily by an EMB. In much of the world gender equity relates to women, as they generally constitute less than half of participants in elections despite making up half of the population. Across much of Asia, gender balance also considers the third gender.

### ***Ethnicity***

Ethnicity and diversity have become important factors in the organization of multiparty democratic elections, especially in many emerging democratic societies, such as Bosnia and Herzegovina (James, 2015). As with gender balance, ethnic balance relates to enforcing any candidate quotas, the composition of the EMB members and staff, as well as internal policies and the delivery of voter information and education.

### ***Broad-based Access***

Jame, (2015)<sup>a</sup> ascertained that voters' special access needs may include mobile registration and voting facilities for those in hospitals, confined to the home or in prison; external voting; the provision of voter registration and voting facilities for internally displaced persons, and in locations outside the country for significant refugee populations; providing facilities for voting by post or before election day; ensuring that registration, polling stations and equipment are accessible to voters with disabilities; providing electoral information materials suitable for those with visual or aural disabilities, and providing registration or voting assistance to them where needed; and providing voting equipment such as ballot paper templates for the visually impaired.

### **Conclusion**

EMBs have behavioural and access responsibilities to the communities they serve, which may extend beyond the minimum requirements of the electoral legal framework. These include promoting gender balance within the EMB itself and political life more broadly, dealing fairly with issues of ethnicity, promoting equality and equity in electoral contests, providing equality of access to electoral services for all and especially for marginalized members of society, and recognizing customary practices where these are in harmony with electoral management principles. Elections are complex and specialized processes that are most effectively managed by a body with specific electoral management responsibilities. An EMB is an institution or body

founded for the sole purpose of managing some or all of the essential elements of electoral management, which include: a. determining who is eligible to vote; b. receiving and validating the nominations of electoral participants (for elections, political parties and/or candidates); c. conducting polling; d. counting the votes; and e. tabulating the votes. Essential and other electoral tasks may be conducted by a single body, or be allocated to multiple bodies. There are three Models of Electoral Management each model of electoral management has some basic attributes, but also many variations. The way in which EMBs work depends not merely on the model used, but also on other electoral framework, social, cultural and political factors.

### **Recommendations**

1. The electoral legal framework and EMB policies can help guard against inappropriate behaviour by EMBs by requiring members and staff to avoid conflicts of interest.
2. An enforceable code of conduct, which all EMB members and staff are required to sign, must be diligently adhered, as it helps the EMB maintain electoral integrity, ethics, impartiality, service and professional standards.
3. EMB's should have the interest to ensure that breaches of the electoral laws, rules and codes of conduct are followed by appropriate sanctions.
4. Regular public or stakeholder surveys (for example, after elections) can provide useful information to help an EMB assess and improve its service delivery. These should be conducted as part of EMB responsibilities.

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