



## NATIONAL ASSOCIATION of STATE ELECTION DIRECTORS

August 24, 2022

Senator Charles Grassley  
Ranking Member  
United States Senate Committee on the Judiciary  
224 Dirksen Senate Office Building  
Washington, DC  
20510

Dear Ranking Member Grassley:

Thank you for the opportunity to appear before members of the Committee on August 3 to discuss the experiences of the National Association of State Election Directors (NASED) and our members with threats and harassment, as well as our experiences with the Department of Justice (DOJ) and Federal Bureau of Investigation (FBI) Task Force on Threats to Election Officials.

It is clear from the hearing that several members of the Committee have questions about why the DOJ and FBI created a Task Force on this issue. NASED wants to clarify and confirm for the record that we had no role in or position on the formation of the Task Force. Regardless of whether the federal response to threats to election officials continues in the form of a task force or not, the efforts are not meeting our needs as explained in my testimony. Presumably, eliminating the Task Force would provide election officials with even less support and weaken our community's ability to respond to physical security issues that arise.

Threatening and harassing communication is happening to Republican, Democratic, and Unaffiliated election officials and staff at the state, territorial, and local level across the country. This should be unacceptable to all of us, regardless of party or belief. NASED looks forward to working with the DOJ, the FBI, this Committee, and others to improve the federal response to this alarming situation impacting our community.

The following document addresses your questions on behalf of both myself and NASED as an organization, although we do not believe they are germane to my testimony or the hearing itself.

Best,

Amy Cohen  
Executive Director  
National Association of State Election Directors

**Questions for the Record from Senator Charles E. Grassley for Amy Cohen,  
Executive Director of the National Association of State Election Directors  
“Protecting Our Democracy’s Frontline Workers”  
August 3, 2022**

**The National Association of State Election Directors (“NASED”), of which you are the Executive Director, has been reported as having a connection with Twitter for recognizing and combatting mis -, dis -, or mal-information on the platform. If this is true now or was true at any point within the past five years, please provide responses to the following:**

**A. What is the specific relationship between Twitter and NASED?**

NASED is a nonpartisan, nonprofit membership association that facilitates information sharing about election administration across the states and territories. Our members are in all 50 states, the District of Columbia, and the five US territories.

NASED does not have any specific relationship with Twitter<sup>1</sup>. NASED maintains and operates a Twitter account in accordance with Twitter’s standard user agreement and subject to Twitter’s rules and policies.

In addition, Twitter has granted NASED access to its Partner Support Portal<sup>2</sup>, along with other groups like the Republican National Committee, the Democratic National Committee, and others. To the best of NASED’s knowledge, Twitter’s Portal is a mechanism through which civic partners, nonprofit organizations, government officials, researchers, and other stakeholders can report issues with their account functionality or suspected violations by other accountholders of Twitter’s rules or policies. NASED has limited information about Twitter’s Portal derived from public sources and refers the Committee to Twitter for further information.

From time to time, NASED also works with Twitter government affairs staff to coordinate trainings for our members on Twitter features and briefings on Twitter’s civic engagement or election product plans, such as the platform’s plans around National Voter Registration Day. NASED may also express its views to Twitter on the substance of Twitter’s civic integrity policies and other policies that may affect NASED members (i.e., harassment policies, etc.), but Twitter alone determines the substance of its policies and the means by which it chooses to enforce them.

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<sup>1</sup> In or around November 2020, NASED and I were named as Defendants in a *pro se* lawsuit brought by Shiva Ayyadurai, an internet personality, conspiracy theorist, and unsuccessful candidate for US Senate in Massachusetts. Ayyadurai’s lawsuit included unfounded, inaccurate, and uniformed claims accusing various state election officials, NASED, myself, and others of engaging in a racketeering “conspiracy” in order to destroy ballots, steal elections, and censor Ayyadurai’s speech on Twitter. On August 10, 2021, Ayyadurai voluntarily dismissed his lawsuit with prejudice, before the Court ruled on defendants’ motions to dismiss. The claims in Ayyadurai’s lawsuit are a matter of public record. (See generally *Ayyadurai v. Galvin*, Case No. 1:20-cv-11889-MLW (D. Mass.); see also ECF No. 96 (Decl. of Stacia Cardille, Director and Associate General Counsel, Twitter).)

<sup>2</sup> Twitter, Inc, “[Retrospective Review: Twitter, Inc. and the 2018 Midterm Elections in the United States](#).” Published January 31, 2019, updated February 4, 2019. See pages 19-20.

**B. Have you, either in your individual capacity or through your role with NASED, ever initiated or requested the initiation of a recommendation, determination, or provision of counsel to Twitter to ban or restrict any users?**

No.

- i. Please provide a list of the specific users for whom you have initiated or requested the initiation of a recommendation, determination, or provision of counsel to Twitter to ban or restrict, as well as the reasons why.
- ii. Following which of those specific recommendations, determinations, or provisions of counsel did Twitter ban or restrict specific users?

**C. Have you, either in your individual capacity or through your role with NASED, ever initiated or requested the initiation of a recommendation, determination, or provision of counsel to Twitter to ban or restrict any specific content or hashtags?**

No.

- i. Please provide a list of the specific content or hashtags for which you have initiated or requested the initiation of a recommendation, determination, or provision of counsel to Twitter to ban or restrict, as well as the reasons why.
- ii. Following which of those specific recommendations, determinations, or provisions of counsel did Twitter ban or restrict specific content or hashtags?

**D. Please provide a list of the recommendations, determinations, or provisions of counsel made to Twitter by NASED in relation to mis -, dis -, or mal-information.**

In accordance with Twitter's policies, NASED occasionally submits reports identifying tweets that contain false information about elections to Twitter for its review under its content moderation policies. NASED has not submitted any reports of false information since approximately February 2021.<sup>3</sup>

When submitting reports of false information, NASED's general practice is to describe why the information is inaccurate based on our knowledge of the election process. To the best of my knowledge and recollection, NASED has not included in any of its reports to Twitter a recommendation that Twitter ban, restrict, label, or take any particular enforcement action in response. Twitter is solely responsible for the decisions about content on its platform

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<sup>3</sup> To the best of my knowledge and recollection, NASED has never reported a hashtag.

and the appropriate action under its policies, if any. Beyond Twitter’s public statements describing how it operates, NASED has no information as to what information or factors Twitter considers when assessing user content under its policies, how it makes those decisions, or whether it considers NASED’s reports. More often than not, Twitter appears to take no action in response to reports of false information submitted by NASED.

NASED does not maintain records of the content that it has flagged for Twitter’s review, and Twitter’s Partner Support Portal does not permit NASED to access the reports it has submitted. As such, NASED cannot provide a list of all such submissions. In accordance with Twitter’s civic integrity policies<sup>4</sup>, NASED’s submissions have generally focused on factual misrepresentations of information relating to voting or election processes that have the potential to mislead voters in violation of Twitter’s published rules. Examples of false information about elections that NASED has identified include: claims that a state subject to the National Voter Registration Act of 1993 was “purging” voters within 90 days of a federal election; claims that a state election office was destroying records required for retention under 52 USC 20701 when those records did not exist; claims that a state did not verify signatures on mail ballots when state law required them to do so; claims that postal workers destroyed ballots en masse; and, posts disseminating inaccurate election dates or deadlines. In 2020, NASED also reported unusual harassing activity from South Korean Twitter accounts (presumably bots) directed at our account following a briefing held with the National Association of Secretaries of State (NASS), the US State Department, and the National Election Commission of the Republic of Korea.

Separately, NASED has made recommendations to Twitter and provided feedback on its election-related policies and how their implementation, or lack thereof, impacts election officials. For example, in 2019, Twitter removed content based on a submission from another user but declined to act on a number of screenshots of the same post, claiming those posts with the screenshots added additional context to the discussion, even in instances without additional text accompanying the screenshot. NASED pointed out to Twitter that this was a significant loophole in its policy: anyone could create an account, tweet something demonstrably false, take a screenshot of the false tweet, and then distribute that screenshot from other accounts, even if the original post was removed. Twitter declined to clarify their policy or procedures based on NASED’s feedback.

In another instance, in early 2020, a state alerted NASED that Twitter took no action on a series of posts claiming to contain early exit poll data because Twitter policies permit “discussions of public polling”<sup>5</sup> on their platform. NASED argued, although it ultimately did not persuade Twitter, that the data displayed in the “exit poll” were mathematically impossible based on the fact that only seven mail ballots had been returned and that there was no in-person voting taking place at the time, which is a requirement for an exit poll per the American Association for Public Opinion Research definition<sup>6</sup>. In short, NASED argued that this was not an exit poll and that Twitter’s policy as written opened the door for anyone to falsify numbers and call it an exit poll with no repercussions. Twitter declined to act on NASED’s request to clarify their policy or reconsider their decision on the tweets in

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<sup>4</sup> Twitter, Inc, “[Civic Integrity Policy](#).” Published October 2021.

<sup>5</sup> Twitter, Inc, “[Election Integrity Policy](#).” Published April 2019.

<sup>6</sup> American Association for Public Opinion Research, “[Explaining Exit Polls](#).”

light of additional information provided regarding the circumstances or the definition of an exit poll.

In mid-2020, Twitter began labeling tweets<sup>7</sup>, though it did so inconsistently and occasionally inaccurately with respect to the 2020 election<sup>8</sup>. In response to inquiries about why a particular tweet from a left-leaning celebrity had been inaccurately labeled, Twitter clarified on November 2, 2020, the night before the election, that it uses something called the “propensity for harm” to determine how and when to label tweets. However, despite repeated questioning from NASED, both at the time and later, including publicly at our February 2021 conference, on how Twitter evaluates the “propensity for harm” for elections or where its criteria are published, Twitter has yet to provide a substantive answer. It remains completely unclear to NASED how Twitter measures harm as it pertains to false information about elections.

In January 2022, NASED read media reports<sup>9</sup> that Twitter stopped enforcing its civic integrity policies regarding the 2020 election in March 2021. While the candidates may have been certified and the official transition of power completed, in general, Twitter’s decision to cease enforcement of its policies does not comport with the experience of NASED members or what we have heard from our colleagues at the local level: election officials are living the 2020 election every day, even though we are nearly two years removed from November 3, 2020. The publicly available findings of the intelligence community in an unclassified March 2021 report from the Office of the Director of National Intelligence,<sup>10</sup> as well as in National Terrorism Advisory System Bulletins<sup>11</sup> dating back to January 2021, indicate that false information and conspiracy theories, including those about the 2020 election, are leading to an increase in Domestic Violent Extremist and lone wolf actor activity directed at government officials and facilities. Media reporting as recently as August 13, 2022, on a Department of Homeland Security and FBI law enforcement sensitive Joint Intelligence Bulletin emphasizes the increased risk of physical violence directed at government officials and employees<sup>12</sup>. At a meeting earlier this year with Twitter, NASED expressed dismay and disappointment that Twitter would stop enforcing its own written policies. NASED argued forcefully that this was a mistake and that Twitter’s lack of effort was contributing to the atmosphere of distrust around election administration, in addition to contributing to the potential for violence against state and local election officials. Twitter declined to reverse its decision or even provide compelling reasoning for why it made the decision in the first place. On August 11, 2022, Twitter announced that it would begin enforcing its civic integrity policies for 2022<sup>13</sup>; there have been hundreds of elections already this year, including federal and statewide primaries in

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<sup>7</sup> Twitter, Inc. “[Updating our approach to misleading information](#).” Published May 11, 2020.

<sup>8</sup> Twitter, Inc. “[Additional steps we’re taking ahead of the 2020 US Election](#).” Published October 9, 2020.

<sup>9</sup> Daniel Dale, “[Twitter says it has quit taking action against lies about the 2020 election](#).” CNN, Published January 28, 2022.

<sup>10</sup> Office of the Director of National Intelligence, “[\(U\) Domestic Violent Extremism Poses Heightened Threat in 2021](#).” Published March 1, 2021.

<sup>11</sup> Department of Homeland Security, “[National Terrorism Advisory System](#).”

<sup>12</sup> David Shepardson, “[FBI, DHS warn US law enforcement of threats after Trump search](#).” Reuters, Published August 14, 2022.

<sup>13</sup> Twitter, Inc. “[Our approach to the 2022 US midterms](#).” Published August 11, 2022.

more than 40 states and territories, so it is disappointing that Twitter is only just beginning to enforce its own written policies for this year.

The above is not a comprehensive list but reflects my best effort to identify the kinds of communications that NASED typically engages in with Twitter on behalf of our members.

**E. Please provide the criteria by which NASED makes recommendations, determinations, or provisions of counsel to Twitter in relation to mis -, dis -, or mal-information.**

Because NASED does not regularly report content to Twitter, we do not have any formal criteria for the content we report. Any content that is reported is consistent with Twitter's civic integrity policies and, as described above, merely provides information to Twitter. Twitter is the ultimate arbiter of whether content violates Twitter policies and, if necessary, any enforcement action it will take.

**F. Please provide the decision-making process used by NASED in making recommendations, determinations, or provisions of counsel to Twitter in relation to mis -, dis -, or mal-information.**

NASED evaluates content on a case-by-case basis. Any content NASED reports to Twitter is something we believe violates their civic integrity policies. Twitter is free to disregard our opinion, as they often do. NASED's focus is on false information about the election or voting process, not on political discourse or any other subject.

**G. Did NASED make any determinations, recommendations, or provisions of any counsel to Twitter regarding reports of the Hunter Biden laptop scandal prior to the 2020 election?**

No.

- i. If so, what was that or were those determinations, recommendations, or provisions of counsel?