



Protection & Advocacy Project

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7/15/21

VIA ELECTRONIC SUBMISSION

National Institute of Standards and Technology (NIST)
100 Bureau Drive, Mail Stop 8970
Gaithersburg, MD 20899-8970

Request for Information on Promoting Access to Voting

ND Protection & Advocacy Project appreciates the opportunity to provide comments to inform the National Institute of Standards and Technology's (NIST) development of recommendations to address the barriers preventing people with disabilities from exercising their right to an accessible, private and independent vote. Voting is a fundamental right and ensuring that the vote is accessible for all voters with disabilities through these recommendations is of critical importance.

The North Dakota Protection & Advocacy Project (ND P&A) works collaboratively with the Secretary of State's Office, the North Dakota Association of Counties, and county election officials to ensure that North Dakota's election system is accessible and that voters with disabilities are educated on the election process and their right to vote. ND P&A made a video explaining how to use the ExpressVote voting machine which is available to North Dakota voters. The ExpressVote machine is an accessible voting machine that is provided to voters across the State and assists with the marking and casting of ballots. For the 2020 election, the Secretary of State's Office loaned ND P&A with five ExpressVote machines to assist with statewide voter training provided by ND P&A Staff.

In FY20, prior to the primary election and the November general election, ND P&A staff provided trainings to groups of individuals with disabilities on the voting process, voters' rights, and use of ExpressVote. This was critical due to the impact of the pandemic on closure of polling places. ND P&A also sent mailings about the voting process, and ND P&A's availability to provide technical assistance, to thousands of individuals with disabilities across the State.

ND P&A has collaborated closely with the ND Secretary of State's Office for a number of years. Because of the impact of the pandemic for 2020 elections, ND P&A and the ND Secretary of State listened to voter's critical concerns regarding accessible voting and marking ballots. Stakeholders worked tirelessly during the 2021 Legislative Session to ensure ND House Bill 1253 was passed. This bill allows any qualified elector, living with a disability that prevents the elector from reading or marking the ballot without assistance, to vote by electronic means. This bill specifically improves access for voters with visual impairments. It

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should be noted that the State of ND does not have voter registration. As such, this is not an area that ND P&A needs to address regarding any barriers or challenges.

Barriers to Voting Access for People with Disabilities in America

America's electoral system is complex, extremely localized, and operates in an environment of high expectations. Although voting laws in the United States have changed over time and advanced access for all voters, the nation still has a long way to go in order to ensure that all Americans have equal access to the vote.

Voters across the country are still being denied equal access to the ballot box and this includes voters with disabilities. Laws, such as the Voting Accessibility for the Elderly and Handicapped Act and the Americans with Disabilities Act, are in place to protect the rights of people with disabilities and their access to vote. Yet jurisdictions, election officials and policy makers make routine decisions every election cycle, knowingly or unknowingly, that prevent equal access to voting.

A barrier that was experienced by ND voters in the 2020 elections was that those with visual impairments were not provided with an option to vote by electronic means. Many had to have assistance with paper (including absentee) Ballots. Many individuals did not feel comfortable going to the polling locations to cast their ballot because of the pandemic. ND overcame this barrier by passing HB 1253.

Over the years, ND P&A has worked with the County Auditors to help educate the poll workers to make sure the rooms and buildings are accessible to voters that come to the polling locations. This includes making sure the ExpressVote machines are in an appropriate place for use and not blocked for entry; doors can be easily opened; that there are no steps; that areas are marked to show what door to enter, and that accessible parking is available. The ExpressVote machine enables voters with disabilities to vote privately and independently.

As soon as a barrier is identified by ND Voters, ND P&A attempts to address the concern promptly by collaborating with County Auditors, poll workers, and the ND Secretary of State's Office.

ND P&A assists voters by providing education, training, and assistance to those who want to testify during the Legislative Session. ND P&A hosts a weekly Disability-Related Legislative Working Group when the Legislature meets every other year.

Voting Access for People with Disabilities in America

Despite the voting barriers that exist in America today, people with disabilities cannot and will not be scared off from the ballot box. As the U.S. continues to strive for full realization of equal access, disability advocates applaud the systems and practices that already exist to enable voters with disabilities to mark, verify, and cast their vote privately and independently.

Recommendations to Improve Voting Access for People with Disabilities in America

People with disabilities have overcome tremendous challenges to participate in elections, but they simply should not have to do so. Moving forward, America must better address the barriers voters with disabilities encounter. To promote access, jurisdictions, election officials and policy makers must include people with disabilities in the planning process, combining election officials' expertise in administering elections with disability advocates' expertise in providing access.

- *Prioritize disability rights to ensure policies and systems enable voters with disabilities to vote privately and independently; include people with disabilities in decision making processes.*
- *Promote voters' education; educate people with disabilities about their right to a private and independent vote and what options are available to them.*
- *Invest in training of election officials and poll workers to ensure they are advocating for and protecting the rights of voters with disabilities.*
- *Increase the number of accessible voting systems/equipment at polling places.*
- *Increase the accessibility of current vote by mail systems, including allowing all voters to vote by mail and offering electronic remote balloting.*
- *Increase options for voters, including early voting, curbside voting, and ballot drop boxes.*
- *Establish an Office of Accessibility within the Election Assistance Commission to support and oversee state efforts to expand voter accessibility and serve as a resource for advocates and voters.*
- *Create a national resource center on accessible voting to conduct cultural competency trainings for election officials and poll workers to create truly accessible voting systems.*

Conclusion

ND P&A applauds NIST for requesting information from the public on ways to promote access to voting in America for people with disabilities. The barriers voters with disabilities face every election cycle are long overdue to be addressed and any and all recommendations must actively include the voices of the disability community in order to be successful and equitable.

Practical solutions, including temporary fixes, to many of the barriers facing voters with disabilities already exist, but America must begin prioritizing voters with disabilities. NIST's recommendations have the opportunity to truly protect the rights of people with disabilities, but to be successful, the recommendations must actively address access issues and voters with disabilities.

People with disabilities will not be overlooked or forgotten and will continue to have their voices heard on Election Day. They cannot and will not be scared off from the ballot box as the U.S. strives for full realization of equal access.

Thank you for the opportunity to comment on promoting access to voting. If you have any questions, please contact **Hillary Berg** at **hillberg@nd.gov** or **701-328-2950**.

Sincerely,

A handwritten signature in cursive script that reads "Hillary Berg". The signature is written in black ink and is positioned above the typed name and address.

Hillary Berg
103 1st Avenue W., Suite 104
Dickinson, ND 58601
Disabilities Advocate