

July 16, 2021

## 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**

Disability Rights New Jersey 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.

Disability Rights NJ is the designated federally-funded protection and advocacy system for individuals with disabilities in New Jersey. Under the Protection and Advocacy for Voter Access program, Disability Rights NJ advocates for the equal rights of individuals to vote independently and privately. As part of our work, we advocate with state and local election officials to ensure that barriers preventing individuals with disabilities from equally accessing the poll or ballot are removed. We collaborate with Rev Up New Jersey to increase voter registration of individuals with disabilities. And we collaborate with other New Jersey voter rights groups to make it easier for all individuals to access the vote, including issuance of the group's report, *Election Protection Report: Issues New Jersey Voters Encountered from October 15 through November 3, 2020*.

### **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 the vote. Yet, jurisdictions, election

officials and policy makers make routine decisions every election cycle, knowingly or unknowingly, that prevent equal access to voting.

In New Jersey, individuals with disabilities continue to experience barriers while trying to vote. Some individuals experience problems accessing the polling place because proper signage to accessible entrances are not posted. In addition, although all polling locations have accessible machines, in too many cases, the accessibility components do not work or the poll worker does not know how to set up the machine.

In 2020, New Jersey offered an accessible electronic vote-by-mail option for the first time. The first time the State allowed this option, it was for a limited municipal election affecting less than 30 municipalities and permitted electronic return of the ballot. This format was successfully used by an individual with a visual impairment who was able to vote independently and privately. However, for the remainder of the 2020 elections, New Jersey offered an accessible vote-by-mail ballot, but did not allow for electronic return, which required the individual to print out and mail the ballot to the Board of Election. This required any individual with a visual impairment or dexterity impairment to have assistance to print out the ballot and mail the ballot.

Another barrier to independent and private voting is the failure to universally used ballot-marking devices for optical scan machines. In New Jersey, certain counties purchased optical scan voting machines. The machines provided for an accessible ballot marking device. The paper used by the ballot-marking device is different in size and markings than the paper used by non-disabled voters. As a result, individuals with disabilities who use the ballot marking device are more likely to have their votes identified. Ballot-marking devices can be used universally by all individuals, and will eliminate stray marks on the ballot, as well as overvoting and unintentional under-voting. This will improve the voting system as a whole.

Finally, transportation is a significant barrier for individuals with disabilities who wish to vote in person. Many polling locations are not located near public transportation. In addition, many locations in urban areas have limited or no parking. The county paratransit system that provides transportation for seniors and individuals with disabilities does not operate on Election Day as it is a state holiday, and ride-share services such as Uber and Lyft have limited options if a person uses a wheelchair. The lack of accessible public transportation to polling locations prevents individuals with disabilities from voting in person.

### **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.

Disability Rights NJ applauds New Jersey election officials who have made significant progress in increasing voting access to individuals with disabilities. Polling places in New Jersey are largely accessible. The technology for voting machines has increased usability of the accessibility features, so that newer machines are much more user friendly than the machines of twenty years ago. As stated above, technology is now available for accessible vote-by-mail, which provides greater opportunity for individuals with disabilities to vote.

### **Recommendations to Improve Voting Access for People with Disabilities in America**

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

- *Prioritize disability rights at the forefront to ensure policies and systems enable voters with disabilities to vote privately and independently and include people with disabilities in decision making processes.*
- *Promote campaigns to educate voters 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 online, automatic, and/or same day voter registration, 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

Disability Rights NJ 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 first 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 include access for 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 me at [mciccone@disabilityrightsni.org](mailto:mciccone@disabilityrightsni.org) or (609) 777-0955.

Sincerely,

Disability Rights New Jersey



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