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VIA ELECTRONIC SUBMISSION

National Institute of Standards and Technology
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Gaithersburg, MD 20899-8970

Request for Information on Promoting Access to Voting

On behalf of the National Disability Rights Network (NDRN) and the nationwide network of Protection & Advocacy (P&A) agencies, we appreciate 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 fundamental right to an accessible, private, and independent vote.

NDRN is the non-profit membership organization for the federally mandated P&A systems for individuals with disabilities. The P&As were established by Congress to protect the rights of people with disabilities and their families through legal support, advocacy, referral, and education. P&As are in all 50 states, the District of Columbia, Puerto Rico, and the United States territories (American Samoa, Guam, Northern Mariana Islands, and the U.S. Virgin Islands), and there is a P&A affiliated with the American Indian Consortium which serves Native Americans with disabilities in the Four Corners region of the Southwest. Collectively, the P&A Network is the largest provider of legally based advocacy services to people with disabilities in the U.S.

Barriers to Voting Access for People with Disabilities in America

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

During the 2020 elections, one in nine voters with disabilities encountered difficulties voting, twice the rate of people without disabilities.¹ Eighteen percent of people with disabilities who voted in person had difficulty with voting compared to 10 percent of people without disabilities, while five percent of voters with disabilities had difficulties using a mail

¹https://smlr.rutgers.edu/sites/default/files/Documents/Centers/Program_Disability_Research/Disability_and_voting_accessibility_2020_election_Final_Report_survey_results.pdf

ballot, compared to two percent of voters without disabilities.²

People with disabilities are still being denied equal access to the vote, despite existing federal laws, such as the Voting Rights Act (VRA) of 1965, the Americans with Disabilities Act (ADA) of 1990, and the Help America Vote Act (HAVA) of 2002, which are all in place to protect access to the ballot box. To be clear, a voting system is not accessible if it does not allow voters with disabilities to vote privately and independently (e.g., without assistance from another person).

Yet, state and local election officials and policy makers make routine decisions every election cycle, knowingly or unknowingly, that prevent equal access to voting for people with disabilities. These decisions often create unacceptable and illegal barriers to the voting process, ranging from obtaining information about voting, registering to vote, and marking, verifying, and casting a ballot.

Voter Information

Necessary information about the voting process, voter eligibility, and voters' rights is often 1.) not accessible and 2.) not targeted to voters with disabilities. It is rare to find any type of accurate and up-to-date information about polling location accessibility, voting accommodations, or accessible voting technology. Further, the websites that provide this information to voters are often not fully compliant with federal accessibility law. For example, in 2020, the Miami Lighthouse for the Blind and Visually Impaired surveyed several election webpages that housed voter information and found that none of the websites surveyed were accessible to voters with disabilities.³

Despite the hard work of disability advocacy organizations like the P&As to provide information and education, it remains difficult for voters with disabilities to find helpful voter information targeted to the disability community and provided accessibly. Unless people with disabilities have a pre-existing relationship with their P&A or another disability organization, it is difficult for voters to find these resources readily available as they are rarely broadly discussed on mainstream media. Further, the onus to provide accessible and inclusive resources for voters lies with elections administrators, and disability advocacy organizations should not be tasked with filling in the gaps in materials and education for voters with disabilities.

Failure to provide needed information to voters with disabilities has real consequences in terms of their ability to access a private and independent vote. For instance, local elections officials often complain that voters do not ask to use expensive accessible voting technologies. Yet, the same local elections officials are hard pressed to describe any sort of public education plan to ensure voters know these technologies are available to them. Voters with disabilities cannot be expected to find information on accessible voting and ask for what they need to vote independently, when they do not know these options even

²https://smlr.rutgers.edu/sites/default/files/Documents/Centers/Program_Disability_Research/Disability_and_voting_accessibility_2020_election_Final_Report_survey_results.pdf

³ <https://www.miamilighthouse.org/ADAComplianceMeterReport.asp>

exist. Without readily available voter information about them and public information campaigns lead by elections officials, it is almost impossible for voters to access this information. The U.S. electoral system processes untold numbers of voters every election cycle who did not have a private and independent vote and were unable to utilize accessible voting technologies, including ballot marking systems and curbside voting, because they simply do not know they exist and did not have ready access to the information and tools that they need to vote.

Voter Registration

Depending on where voters live, they can increasingly choose to register to vote in person, by mail, or online. However, these registration options are often not fully accessible or readily available to voters with disabilities. In July 2021, the Center for American Progress (CAP) released a report, *Enhancing Accessibility in U.S. Elections*, outlining the access barriers that exist for people with disabilities who want to register to vote, including reliance on inaccessible paper registration systems, inaccessibility and noncompliance at Department of Motor Vehicles (DMV) offices, and online voter registration portals out of compliance with federal accessibility laws. As a result, people with disabilities were three percent less likely than people without disabilities to report being registered to vote according to the U.S. Census Bureau. Voters with cognitive-related disabilities, as well as those with self-care and independent living-related disabilities, were more unlikely to be registered.⁴ It is important to note that a difference of only a few percentage points equals several million potential voters lost.

Although federal law requires government entities to provide in person registration materials, many do not offer registration services, and some are even unaware of their duty to offer these registration services. The U.S. Commission on Civil Rights has found that voter registrations resulting from the National Voter Registration Act (NVRA) have fallen since 1996 and that it can be tied to failure of states to implement the requirements of NVRA Section 7, which requires voter registration services at public assistance and disability agencies.⁵ Furthermore, as many Americans rely on the DMVs to register to vote, it must be understood that some voters with disabilities, such as those with low vision or mobility-related disabilities, may not utilize DMV services if they do not need a driver's license. In other words, the DMV cannot be the only government entity that registers voters in person, as it is simply not an appropriate option for all voters.

As registering in person can pose barriers to some, it is vital to have additional options for potential voters, such as registering by mail. Yet, registering by mail presents its own barriers to many voters if not implemented properly. For example, as registering by mail often requires filling out and handling paper forms, it can be nearly impossible for people with print disabilities⁶ to register by mail independently. Furthermore, registering by mail

4 <https://www.americanprogress.org/issues/democracy/reports/2021/07/08/501364/enhancing-accessibility-u-s-elections/>

5 <https://www.usccr.gov/pubs/docs/NVRA-09-07-16.pdf>

6 Print Disabled means any condition that prevents a person from effectively utilizing print material including blindness, visual impairments, cognitive, learning, and reading disabilities, and physical/motor disabilities.

can also be a challenge for those who have difficulty traveling to a mailbox or post office to mail their registration.⁷

Additionally, although registering online has become increasingly popular, very few states have fully accessible voter registration websites. Most states fail to meet minimum accessibility standards, which pose difficulties to voters with disabilities attempting to register to vote online.⁸

Polling Places

The U.S. Government Accountability Office (GAO) surveys of polling place accessibility span 20 years and provide a baseline understanding of in person voting accessibility in the U.S. GAO's most recent survey in 2016 found that 40 percent of polling places in the U.S. had an accessible path of travel from parking to the voting booth. This represented an all-time high in architectural access, meaning that less than half of polling places were compliant with federal law during the 2016 presidential election.⁹ State and local surveys of polling places over the years have also showcased the dismal state of polling places in America.

In October 2018, Disability Rights South Carolina, South Carolina's P&A, issued a report on polling place accessibility. They surveyed a total of 32 polling places and found that all of the polling places violated the ADA and/or HAVA. Volunteers discovered inaccessible parking, walkways, and entrances, as well as inaccessible voting machines and a lack of ramps.¹⁰

During the June 2018 primary election, Disability Rights DC (DRDC), the District of Columbia's P&A, surveyed 121 polling places in the district. DRDC reported that 14 percent of the polling places were structurally inaccessible while 34 percent of the polling places were operationally inaccessible. In the report, structurally inaccessible refers to obstructed paths to voting areas, lack of accessible entrances, and inaccessible ramps and elevators. Operationally inaccessible meant lack of signage, closed doors, malfunctioning doorbells, and lack of available poll workers.¹¹

From October 2017 to July 2018, Disability Rights Arkansas (DRA), Arkansas's P&A, surveyed polling places in each of the state's counties. DRA was able to survey 90 percent of the state's polling places and found that 49 percent of them were inaccessible to people with disabilities. Their survey findings noted that parking was the most common violation, with 866 out of the total 1,110 polling places having accessibility violations in parking. DRA also noted in their report that 490 of the state's polling places at the time were owned by

7 <https://www.americanprogress.org/issues/democracy/reports/2021/07/08/501364/enhancing-accessibility-u-s-elections/>

8 <https://www.americanprogress.org/issues/democracy/reports/2021/07/08/501364/enhancing-accessibility-u-s-elections/>

9 <https://www.gao.gov/assets/690/687556.pdf>

10 <https://www.pandasc.org/wp-content/uploads/2019/10/The-Continued-Suppression-of-Voters-with-Disabilities.pdf>

11 <http://www.uls-dc.org/media/1165/drdc-dc-voting-access-report-june-19-primary.pdf>

churches or religious organizations. Churches and religious institutions are one of the few places where people gather that are not covered by the ADA. However, all polling places are subject to ADA regulations, whether they are housed at a facility with a religious affiliation. Thus, the onus is placed on the jurisdiction's election officials to ensure that the polling place is at least temporarily accessible under the ADA when the facility is being used as a polling site.¹²

The Native American Disability Law Center, the American Indian Consortium's P&A, is in the Four Corners region of the U.S. — covering parts of Colorado, Utah, Arizona, and New Mexico. In 2013, the Law Center issued a report entitled *The Fundamental Principle of a Participatory Democracy: Equal Access for Navajos with Disabilities*. The Law Center staff and volunteers surveyed 25 polling sites in five major communities across the Navajo Nation that host tribal, state, county, and federal elections and found that every single polling place they surveyed had barriers to people with disabilities. These barriers included unpaved parking lots, inaccessible door handles, and limited accessible signage.¹³

Disability Rights Texas (DRTx), the Texas P&A, conducts regular polling place accessibility checks and offers their services free of charge to county election officials to ensure that their polling places are ADA-compliant before Election Day. On June 25, 2019, DRTx surveyed four polling sites in Callahan County, Texas. The P&A found that all four of Callahan County's polling places had problems with parking, including a lack of accessible parking spaces for lift or ramp equipped vans, inaccessible door handles, and steep slopes. One of the polling places DRTx examined had a ramp that measured a slope of around 10 percent. The maximum running slope allowed for ramps is no steeper than 8.33 percent (1:12 ratio).¹⁴

In July 2018, Disability Rights Vermont (DRVT), Vermont's P&A, issued their polling place accessibility report outlining the challenges voters with disabilities experience on Election Day in their state. DRVT found that every county surveyed had polling places that were not ADA-compliant. Compliance problems included a lack of van-accessible parking, inaccessible entrances, and no accessible ramps on election days.¹⁵

Furthermore, access barriers exist beyond physical barriers at polling places as well, such as distance from a voter's home to the polling place, untrained poll workers, long lines at polling places, lack of available public transportation options, and limited resources for speakers of other languages.

ASL, Language Access, and Voter Assistance

Congress expanded the VRA in 1975 and established what is known as the "language minority provision." The language minority provision requires jurisdictions to provide voting materials, such as registration or voting notices, forms, instructions, and assistance or

12 <https://disabilityrightsar.org/wp-content/uploads/2018/10/DRA-Voting-Report.pdf>

13 <https://www.ndrn.org/wp-content/uploads/2019/10/Polling-Accessibility-Report-00000005.pdf>

14 https://www.ndrn.org/wp-content/uploads/2020/01/NDRN_Blocking_the_Ballot_Box_2020.pdf

15 http://www.disabilityrightsvt.org/pdfs/Press_releases/Statewide-Accessibility-Results.pdf

information relating to the electoral process and ballots, in English and the language of the applicable minority group in each area. However, when discussing minority languages, election officials and poll workers must remember that American Sign Language (ASL) is a minority language.

The Department of Justice's (DOJ) ADA guidelines state that "to ensure that voters with disabilities can fully participate in the election process, officials must provide appropriate auxiliary aids and services at each stage of the process, from registering to vote to casting a ballot" and "officials must give primary consideration to the request of the voter." This includes visual instructions at polling places or a poll worker who speaks ASL. However, people must request auxiliary aids and services in advance by contacting their state election officials. A voter who does not speak the same language as a poll worker or fully understand the written material both frustrates the voter and can prevent them from receiving legally required auxiliary aids, services, or other accommodations on Election Day.

Transit and Distance to Polling Place

The distance required for voters to get to the polls can pose additional barriers to some voters. Although voters whose polling place is nestled in their home neighborhoods may find it hard to imagine, some voters need to travel over 90 miles to get to their polling place on Election Day. The distance between polling places and the nearest public transportation stop can also pose barriers as some people rely on public transportation to get to the polls, including any voter whose disability prevents driving. While mail-in voting is rising in popularity and commonly offered as a solution to remote or inaccessible polling places, traditional mail voting is also inaccessible for many voters with disabilities, and voters have a legal right to equal access. Unless all voters are expected to mail in a ballot, election officials cannot require one subset of voters to do so. Rather, jurisdictions must strive for equal access at and to the polls.

Voting Systems

In 2008, GAO began to also investigate the accessibility of voting stations within polling places and found that only 54 percent of voting booths were determined to be accessible. In 2016, the prevalence of accessible voting stations fell to a dismal 35 percent – a drop of 19 percentage points in just 2 presidential election cycles. GAO found that voting booths were less likely to be set up to ensure voter privacy, set up for wheelchair access, have headphones readily apparent for audio balloting, or even be turned on for voters to use. In their 2016 findings, GAO combined architectural access data with voting booth data for the first time and reported an astonishing 17 percent of polling places are compliant with federal law and fully accessible for voters with disabilities – fewer than 1 in 5.¹⁶

Too often, disability advocates hear from voters that voting systems are not set up, are not available, or are broken at polling places. NDRN staff members who have served as poll workers have been told firsthand by election officials during poll worker training and at the

¹⁶ <https://www.gao.gov/assets/690/687556.pdf>

polls that hardly any voters use accessible voting machines or that “no one with a disability lives here” so there is no need to set up the machines during a hectic election day - an unconscionable violation of voters’ rights. However, even when they are set up, the majority of poll workers have not been adequately trained on and do not know how to use them. During one election, an NDRN staff member who served as a poll worker who knew how to use the accessible voting system left to support a curbside voter and was informed upon return that a blind voter was unable to use the accessible machine successfully because the other poll workers were not trained on how to set up audio balloting on the machine.

Vote by Mail

Given polling places in the U.S. remain inaccessible to many, voting by mail can be an option for voters with disabilities. It can be invaluable for some voters with print and other types of disabilities, as vote by mail and no excuse absentee ballot programs can allow voters with disabilities to take their time when completing their ballots and access any needed accommodations, as well as easing pressure on transit systems, avoiding long lines, and obviating the need to work around workplace schedules, as voters make their plans to participate in upcoming elections.

Despite the benefits of voting by mail that bypass polling place inaccessibility, vote by mail systems must be carefully designed to ensure equal access and a private and independent vote for all, which traditional mailed paper ballot systems simply cannot do. Approximately, five to 10 percent of Americans cannot read standard print materials due to physical or visual impairments.¹⁷ As a result, America’s vote by mail systems can present significant barriers to many voters, especially as vote by mail often relies on some form of paper-based ballots. Given that less than 10 percent of those who are legally blind in the U.S. read Braille, the often suggested use of Braille for paper voter registration cards and ballots is not a solution to paper’s inaccessibility.¹⁸

Paper-based Ballots

What types of ballots are cast in the U.S. varies depending on what different jurisdictions offer to their voters. Today, most voters in the U.S. cast their ballot by marking a paper ballot by hand or by Ballot Marking Device (BMD), with some use of Direct Recording Electronic (DRE) voting machines.

BMDs use an electronic interface to aid voters only in marking their ballot. Once the voter has made selections with the BMD, the device directly marks on or prints the ballot. The voter then typically verifies and casts the ballot into the same optical (or digital) voting scanner that hand marked paper ballots are cast. BMDs simply increase the accessibility of paper ballots by allowing voters with disabilities to use these accessible voting machines to magnify, ‘voice,’ and mark their ballots. For example, a blind voter cannot

¹⁷[https://prattlis.libguides.com/printdisability#:~:text=At%20least%20five%20percent%2C%20and,impairment%20\(Petri%2C%202012\).](https://prattlis.libguides.com/printdisability#:~:text=At%20least%20five%20percent%2C%20and,impairment%20(Petri%2C%202012).)

¹⁸ https://nfb.org/images/nfb/documents/pdf/braille_literacy_report_web.pdf

privately and independently mark a paper ballot with a pen, however, they can privately and independently mark their ballot using a BMD. Of course, voting privately and independently also requires that voters are able to verify and cast their ballots, two areas in which BMDs struggle to provide a fully independent experience.

DRE voting systems, on the other hand, allow voters to use an electronic interface to mark, verify, and cast their votes electronically with or without a paper back up. Arguably, DREs provide the best option for voting privately and independently for all voters with all types of access needs based on age, disability, language fluency, literacy, and many other individual circumstances, as guaranteed to all voters by the ADA and HAVA. DREs eliminate the need to handle or directly verify a paper ballot, which prevents BMD voting systems from being fully accessible to all eligible voters. DREs with a paper audit trail enhance options for vote tallying, recount, and auditing while still eliminating the need for paper handling and the ability to provide some built-in accommodations in the case of voter verifiable paper audit trails.

Access for voters also relies on effective implementation of accessible voting systems. Jurisdictions that allow non-disabled voters to hand mark ballots, rather than having all voters use the accessible voting system, threaten the availability of accessible voting systems for those who need them most and segregate people with disabilities. Assuming that only a limited number of people with disabilities will use accessible voting technology, results in an insufficient number of accessible voting stations in high traffic precincts, as well as segregating voters with disabilities away from the entire pool of voters by making them the only group of people that use a particular type of voting machine. Systemic segregation is problematic alone, but in practice, it also increases the likelihood that poll workers will not be properly trained on the machine, the machines will not be properly maintained or set up for use, and if the only available machine is not functioning, there is no alternative option for voters who need it.

To be clear, no paper ballot voting system today, ready for widespread use, is fully accessible. Even BMDs require voters with disabilities to verify and cast a paper-based ballot, which does not ensure a private and independent vote. A fully accessible voting system by federal law must ensure the voter can **receive, mark, verify, and cast the ballot** without having to handle paper. Most, if not all, market-ready voting systems cannot do this.

Beyond Physical Access Barriers

Many barriers to voting can also be connected to rural living, racial injustice, and poverty and inequality. The disability community is diverse and people with disabilities are a part of every community. A quarter or more of American Indians/Alaska Natives and Black adults have a disability.¹⁹ People with disabilities are more likely than their non-disabled peers to live in rural communities.²⁰ People with disabilities are also disproportionately low-income,

19 <https://www.cdc.gov/ncbddd/disabilityandhealth/materials/infographic-disabilities-ethnicity-race.html>

20 https://data.census.gov/cedsci/table?q=disabilities&q=0100000US_0100043US&tid=ACST5Y2019.S1810&hidePreview=true

and are unemployed, underemployed, or not participating in the workforce at a rate of approximately three-fourths of the entire disability community.²¹

People with disabilities living in rural areas know the challenges of trying to vote firsthand when polling places are sparse, public transit non-existent, and state legislatures put limits on the ability of voters to assist each other in returning their ballots. Additionally, voter suppression tactics levied against voters of color often catch people with disabilities in their crosshairs. In 2020, NDRN issued a public report exposing use of the ADA as a smokescreen to close large numbers of polling places in districts with high percentages of racial minority voters.²²

For persons adversely affected by significant poverty, they may have to choose between a paycheck and their voice as citizens, in order to secure the proper type of identification, get to the polls, get time off from work to vote, or secure childcare while they are at the polls. Policies that create strict identification requirements, close polling places, limit early voting periods, and make it difficult to vote remotely likely hit voters affected by poverty the hardest.

Voter Identification (ID) Requirements

According to the National Conference of State Legislatures, 35 states currently require individuals to show some form of ID at their polling places.²³ The Brennan Center for Justice indicates that over 22 states in 2017 saw the introduction of at least 39 pieces of legislation to impose voter ID requirements or impose even stricter requirements over existing ones.²⁴ Yet, the University of Wisconsin – Madison found that 6 percent of registrants that did not vote in 2016 were blocked by the lack of correct ID.²⁵ An additional 11.2 percent of eligible registrants were deterred from voting because of confusion surrounding the voter ID law. Strict voter ID requirements create new hurdles to voter participation with the added effect of confusion as a deterrent to voters.

Rutgers has calculated that 7.5 percent of people with disabilities do not have a state-issued photo ID, compared to 4.8 percent of people without disabilities.²⁶ The difference is statistically significant. This disparity also extends to older adults – potential voters typically over-represented among people with disabilities. A report by the U.S. Senate Special Committee on Aging and US Senate Committee on Rules and Administration found that older Americans are a sizable voting bloc - 30 percent of voters in 2016 were 50-64 years old, 15 percent 65 and over.²⁷ Yet, 11 percent of adults (over 21 million citizens) do not have a valid, government-issued photo ID and nearly one in five

21 <https://disabilitycompendium.org/annualreport>

22 <https://www.ndrn.org/resource/blocking-the-ballot-box/>

23 <http://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx>

24 <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-2019>

25 <https://www.liebertpub.com/doi/10.1089/elj.2018.0536>

26 https://smlr.rutgers.edu/sites/default/files/Documents/Centers/Program_Disability_Research/Disability%20and%20voting%20survey%20report%20for%202012%20elections.pdf

27 <https://www.aging.senate.gov/imo/media/doc/Voting%20Rights%20Report.pdf>

Americans over 65 (approximately 8 million people) lacked a current, government-issued photo ID.²⁸

The Brennan Center for Justice also found that 10 million voters (who are otherwise eligible) live over 10 miles from the closest office that can issue an ID that qualifies for voting purposes and is open more than two days per week.²⁹ While this would present a burden for any voter, people with disabilities and older adults are less likely to drive or have accessible public transportation options. The argument that individuals with disabilities who are disenfranchised by voter ID laws can simply obtain an ID clearly is not based in reality.

Recommendations to Improve Voting Access for People with Disabilities in America

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 vote privately and independently. 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, election officials and policy makers must include people with disabilities in the planning process, combining elections official's expertise in administering elections with disability advocate's expertise in providing access to ensure that accessibility is "baked in" to electoral processes.

Voter Information

It is long overdue that all American voters know of their rights and are able to readily access information that facilitates their participation in the electoral process. Election administrators across the country must broadly advertise their current level of compliance with the ADA for in person and remote voting, availability and use of accessible voting systems for in person and remote voting, and other rights of and accommodations available to all voters. Every voter has a unique set of access needs and benefits differently from accessible processes, and voters need access to this information. Elections administrators must share all of this information on their websites, print mailers and emails, text and phone contacts, use of local print, television, radio, and digital media outlets, and any other available channels of communication. Outreach to voters by elections administrators must be proactive, rather than assuming individual voters will know their rights and how to discover and access the options available to them. At a minimum, every electoral jurisdiction should also maintain a public facing website conveying all relevant and up to date information to voters, including whom to contact for more information. Elections officials must also allow voters to practice using the accessible voting system prior to Election Day and early voting periods, advertise the opportunities widely, and collaborate with organizations that serve the community to coordinate demonstrations of voting equipment.

²⁸ <https://www.aging.senate.gov/imo/media/doc/Voting%20Rights%20Report.pdf>

²⁹ <https://www.brennancenter.org/our-work/research-reports/challenge-obtaining-voter-identification>

When voters know their rights and have access to information, it is the first step to empowering them to vote privately and independently. An NDRN staff member recalls her first voting experience as a voter with low vision, before she worked in disability rights and learned of her right to request technologies that would give her a private and independent vote. She did not know to ask for use of the accessible voting station, and polling place personnel did not inform her. Consequently, she had difficulty voting on a hand marked paper ballot and lost her privacy and independence when the print ballot was not accessible to her. Following this initial voting experience, she learned that all voters have the right to a private and independent vote through HAVA and now goes to the polling place familiar with and prepared to request the accessible voting station. Knowing your rights and options enables voters to advocate for a private and independent vote.

Voter Registration

As the first step in the voting process, it is crucial that voter registration be made fully accessible to all voters. People with disabilities prevented from registering can never become voters and those who struggle with the process, at the very least, receive a message from their elections officials that their vote is not welcome here. The NVRA should be fully implemented and enforced in all applicable states to bolster in person and assisted voter registration. In addition to traditional in person and mailed voter registrations, every state must adopt automatic voter registration, including DMVs and other agencies that serve people with disabilities. All states must also maintain an online voter registration system to get registered, as well as check and update registrations. To aid this process, the Center for Civic Design has outlined ways to make voter registration more accessible to people with disabilities.³⁰ These recommendations include structuring the registration websites with proper HTML tags and meta-data, properly coding form fields to ensure they are accessible to screen readers, and offering plain text language resources.

Polling Places

NDRN's 2020 report *Blocking the Ballot Box: Ending Misuse of the ADA to Close Polling Places* includes recommendations on how to improve access to polling places.³¹ In practical terms, permanent remedies to polling places are more desirable because they will continue to provide access for all community members every day of the year, rather than just on Election Day, and should be stressed as a primary remedy for inaccessibility. Further, permanent remedies do not rely on poll workers with minimal training to set up them up in a timely manner, accessibly, and safely. These remedies can include installing a permanent ramp, installing power-assisted "push button" doors, installing or repairing an elevator, widening entryways, repairing broken sidewalks, adding curb cuts to sidewalks, paving or repaving parking areas, repainting parking areas to include accessible parking spaces, and/or adding permanent signage for accessible parking spaces and paths of travel. The cost of permanent remedies can be covered by the location serving as a polling place or the election authority for that jurisdiction. Funding authorized under HAVA can be

³⁰ <https://civicdesign.org/making-voter-registration-accessible-to-people-with-disabilities/>

³¹ <https://www.ndrn.org/resource/blocking-the-ballot-box/>

used to provide much needed resources to elections administrators to continue to address these barriers.

Temporary remedies to polling places should be used if permanent fixes are not feasible. Although not designed to be permanent solutions, the following tools can be used to provide remedies on Election Day to improve accessibility. These tools can often be found in local hardware and home improvement stores or online for a reasonable cost.

If a polling place does not have any designated accessible parking, election officials, volunteers, or poll workers can either paint boundary lines, place traffic cones, or use tape to mark off boundary lines for accessible parking. If parking is available at the polling place, accessible parking must be available and can be “created” at minimum cost. To be ADA-compliant, accessible parking spaces must also have designated signage, and temporary signs can be made with little effort. Elections staff can paint a sign using poster board or cardboard with the international symbol of accessibility and tape it on a pole (if located in front of the accessible parking spot) or place the sign on a cone in front of the parking space. If the parking space is specifically for lift or ramp equipped van accessible parking, the sign must include the words “Van Accessible” somewhere as well.

If polling places have stairs with no available ramps, temporary ramps with edge protection can often make the location accessible. Ramps can provide access to sidewalks and building entrances. However, it is important to remember that portable ramps that are not permanently connected to the structure and without handrails cannot be used if the vertical rise is greater than six inches. Ramps with a vertical rise greater than six inches must have handrails.

Wedge ramps can also give access to people if thresholds are too high and if there are slight changes in surface level, such as big cracks in the sidewalks. Rubberized mats can also provide access over broken pavement that creates inaccessible surface-level changes, as well as over thresholds that exceed the one-half inch ADA standard.

Many door handles are not accessible. If doorways do not have automatic door openers, doors should be openable by using one hand and should not require tight grasping, pinching, or twisting of the wrist. If this is the case, polling places can use “retro-fitted lever knobs.” These retrofitted levers fit over existing round knobs. However, if this is not an option, polling places can prop open doors on Election Day. Standard doorstops can be used to achieve this.

Hallways at polling places might not always be fully accessible. For example, water fountains, fire extinguisher boxes, and display cases that stick out of the wall are not detectable for people who use white canes. However, election officials can place detectable objects, such as traffic cones or other skirting objects to make these protruding objects detectable for voters who are blind or low vision.

Permanent and temporary remedies should be deployed to prevent closure and relocation of polling places to the greatest extent possible. If a jurisdiction needs to relocate a polling

site, election officials should work with the community to locate the best option. Facilitating communication with the voters and working with community leaders and groups can lead to the best solution, prevent unintended hardship on voters, and reduce overall costs. Disability rights organizations and people with disabilities, especially if a polling place is being relocated because of ADA concerns, must be brought to the table. P&As can provide a wealth of knowledge and support to jurisdictions in this process.

Consolidation of polling places can be an appropriate remedy in some cases. For example, two polling places in immediate proximity, such as a community's middle school and elementary school, may make sense to combine if one location is significantly more accessible than the other. Of course, the surviving polling place must have the appropriate capacity to safely absorb the new influx of voters. Extreme consolidations, i.e., pairing 40 polling places down to two, is typically not recommended unless all 40 polling places were in very close proximity and the remaining two are being used as vote centers – an admittedly unlikely scenario.

For many people with disabilities, even the most accessible polling places may present barriers. If a voter struggles with getting in and out of a vehicle, walking any distance, or standing for any period of time, even a fully ADA compliant polling place could present challenges. While remote voting is an option for some of these voters, it also comes with a set of different barriers and deadlines to meet. To ensure access for the greatest number of voters with disabilities, curbside voting should also be required across the country as a reasonable accommodation for in person voting. The US Department of Justice should also issue guidance for effectively implementing curbside voting at all voting locations, including systems to notify poll workers that the voter has arrived that do not rely on the voter having a cell phone with service to call poll workers. Additionally, the Department of Justice should issue guidance clarifying provisions in the Voting Accessibility for the Elderly and Handicapped Act of 1984 that give voters with disabilities the right to request to be moved to the front of the line when voting in person and affirm that elections personnel are obligated to honor this request and move the voter up in line. Finally, the federal government should affirm the right of voters waiting in line to receive food and water. For voters with many types of disabilities, including people at risk of a diabetic emergency, the provision of food and water could be lifesaving.

Notably, existing federal law already guarantees equal access to people with disabilities. In addition to practical recommendations, the ADA and other laws that protect the rights of voters with disabilities must be fully enforced by the federal government, as the most effective measure to improve abysmal, unjust rates of compliance with these laws across the U.S.

ASL, Language Access, and Voter Assistance

Providing job aids to poll workers with graphics depicting a handful of basic signs cannot create effective communication. While writing notes back and forth with voters can be a quick and cost effective way to communicate, elections officials cannot rely on voters who speak ASL also having proficiency in written English. Jurisdictions must be prepared to

communicate with voters who speak ASL by providing in person or remote interpreters who are certified in ASL. Elections administrators also need to provide materials in plain language which are written clearly, in a logical order, and in an active voice. Plain language voting materials should define terms and abbreviations and be made available to all poll workers and voters, including those with disabilities.

Voters with language access needs and all voters with disabilities are also guaranteed the assistant of the voter's choice, with few restrictions, under Section 208 of the Voting Rights Act. The VRA must be fully enforced to ensure that this right is not being violated by elections personnel. States must also be prohibited from passing legislation that would further restrict who can assist a voter or require the voter or the voter's assistant to meet any additional qualifications, including signed affidavits or sworn oaths. These additional barriers are unnecessary, are in violation of the VRA, and can confuse and intimidate voters and those they have chosen to assist them.

Transit and Distance to Polling Place

While election officials cannot solve the vexing issue of insufficient public transit throughout the majority of the country, they can provide a menu of options to better meet the needs of all voters. This should include traditional polling place voting, vote centers prepared to process voters from any jurisdiction in the state, a period of early voting, remote voting including electronic balloting, curbside and drive thru voting, ballot drop boxes, and allowing a person of the voter's choice to assist in returning the ballot. Congress and federal agencies should also consider possible incentives for public transit systems, cab companies, and ride share companies to offer free rides to and from polling places, vote centers, and drop boxes during voting periods.

Voting Systems

America must continually strive to develop and implement the most accessible voting systems, including investing in research and training. Investing in research and development funding to develop and test accessible voting systems that leverage advances in available technology, including optical character recognition and end-to-end verification for electronic ballot casting, will greatly improve America's chances of protecting the rights of voters with disabilities.

In addition to investing in funding it is vital that polling places increase the number of accessible voting systems and create a fully integrated voting experience in which all voters use accessible voting technology to cast their ballots. To do this successfully, poll workers must also be trained on how to properly set up and operate the accessible voting systems to minimize technical difficulties and failure to set up voting stations at the polls. Election officials must also provide technical specialists to assist in calibrating and troubleshooting voting equipment during Election Day and early voting periods.

Further, the need to eliminate the idea that one "accessible voting system" per polling place is acceptable or best practice has never been greater, as poll workers are often

untrained on these systems, if the one system breaks there is no back-up option for voters who need to use the machine, and even under the best of circumstances, it segregates voters with disabilities from other voters. Options to address the limited number of machines at polling places include amending HAVA to eliminate the language requiring at least one accessible voting system, which was always intended to be a minimum rather than a limitation. The new language in HAVA would require a sufficient number of accessible voting systems to serve all voters. The U.S. Access Board should be engaged to develop a formula for elections officials to determine the number of accessible voting stations needed per precinct, similar to formulas devised under the ADA to determine the number of accessible parking spaces needed in any given parking area.

Additionally, Congress and the federal government must elevate funding and focus on voting accessibility within federal agencies. Where there has been insufficient market demand in the private sector for for-profit vendors to deliver innovative products, it requires the federal government to dedicate funding to ensure development of fully accessible voting technologies. Unlike cybersecurity and many other elections related concerns, access for voters is actually a matter of federal law, and it must be dealt with as such. Other election related matters should not and cannot supersede federal law and our obligation to respect the rights of all voters to equal access, privacy, and independence. As such, accessibility must be treated as primary by all federal agencies, and any time there is funding or a mandate created by any branch of the federal government on elections security, an equal amount of funding and/or focus should be provided for voting accessibility.

Vote by Mail

To ensure voters with disabilities can mark, verify, and cast their ballots privately and independently, election administrators must shift their thinking from “vote by mail” to “remote voting,” and be prepared to offer a menu of options to voters. To come into compliance with existing federal law, they must increase the accessibility of current remote voting systems, acknowledge that paper-based systems cannot meet these requirements, and allow all voters to use remote voting systems, including electronic delivery and return of remote ballots.

In *Let People with Disabilities Vote: Recommendations to Improve Access to Voting by Mail*, the American Civil Liberties Union (ACLU) and NDRN outline ways states can make voting by mail and remote voting more accessible and help ensure that voters with disabilities can vote on a fair and equal basis. The recommendations include allowing all voters the option to vote by mail, absentee, or remotely, allowing ballot requests to be made online, waiving signature match requirements for voters with disabilities, eliminating witness or notarization requirements for voting remotely, providing training for election workers on how to provide accommodations, and printing all ballots in large print.³² In addition to these recommendations, all states should implement permanent absentee lists whenever an application or request process is required to vote remotely, and no state

³² <https://www.ndrn.org/resource/let-people-with-disabilities-vote-recommendations-to-improve-access-to-voting-by-mail/>

should be permitted to require a note from a doctor verifying a disability to qualify for remote voting or the permanent absentee list.

As with in person voting systems, people with disabilities have a federal right to equal access, privacy, and independence when voting remotely. Systems that rely on the ability to receive, print, and/or return a paper ballot to vote remotely are in violation of existing law and must be changed.

Beyond Physical Access Barriers and Voter Identification (ID) Requirements

For 50 years, the first line of defense in addressing barriers that people with disabilities face to voting that disproportionately impact communities of color, persons who live in rural areas, and persons otherwise adversely affected by persistent poverty or inequality has been federal preclearance under the Voting Rights Act. A fully functioning VRA prevents unnecessary polling place closures, restrictive voter ID requirements, and other voter suppression measures before they can be implemented. Relying on litigation under the VRA is too costly to be leveraged by the average voter and too time consuming to ensure that barriers impacting voters will be successfully challenged and removed before subsequent elections are held. The Voting Rights Act must be fully restored to protect all voters.

Poll Workers

Even the most ideal polling places are only as accessible as the poll workers that run them on Election Day. With minimal training and high expectations for job performance, providing effective and timely accommodation to voters with disabilities can be daunting for polling place staff. At a minimum, there should be a federal requirement that all poll workers receive training to perform their job duties. No jurisdiction should expect polling place personnel to perform such a complicated and critical role without prior training. Training for poll workers should include interaction with experts with disabilities, a basic course on disability etiquette and respectful interaction, required accommodations for people with disabilities, and operation of all functions available to voters on accessible voting equipment.

Jurisdictions that have the capacity should consider a dedicated poll worker whose mission is to ensure equal access for all at the polls. In other words, every polling place should assign poll workers whose main Election Day duty is to support voters with disabilities who might be unaware of the accessibility features available to cast a ballot and the voter's rights for accommodation, or who otherwise need assistance. A poll worker with this specialization can also ensure that the polling place is set up to be fully compliant with the ADA and enact any necessary same-day remedies. Although poll workers are frequently in short supply, the "accessible" poll worker can perform regular job functions in addition to serving as a specialist. Elections officials should also review their programs to recruit and retain poll workers to increase the number of poll workers with disabilities in their jurisdictions, who may also be a great fit for this role.

Disability Community Engagement

To address the many voting barriers that exist in America, election officials and policy makers must collaborate frequently and consistently with disability advocacy organizations and voters with disabilities to fully integrate accessibility and reasonable accommodations into elections administration, materials for voters and elections personnel, and poll worker trainings. Prioritizing disability rights at the forefront will improve access for voters with disabilities, who can no longer be overlooked or forgotten. If jurisdictions consider access issues beforehand, many of them can be avoided, i.e. create accessible websites, locate an ADA-compliant polling place, train poll workers how to use accessible voting equipment and ask questions before problems arise. Frankly, it is most often easier and less expensive to design for accessibility from the start than to retrofit existing processes to make them accessible after the fact.

Engagement with the disability community and awareness about disability rights will increase equal access in our democracy and enable people with disabilities to vote privately and independently. Actively engaging with disability rights advocates and accessibility experts to find creative solutions to complex problems promotes access to the ballot. Training and education among election officials, poll workers, and policy makers on people with disabilities and their rights enable them to better support voters with disabilities.

Protection and Advocacy (P&A) Systems

Through the Protection and Advocacy for Voter Access (PAVA) program, created by the HAVA, the P&As have a federal mandate to “ensure the full participation in the electoral process for individuals with disabilities, including registering to vote, casting a vote and accessing polling places” and are the leading experts on access to the vote for people with disabilities in the country. As such, states and local jurisdictions should actively pursue relationships with the P&A to improve access for voters with disabilities. For example, the Board of Elections in Chicago, IL are actively collaborating with Illinois’ designated P&A, Equip for Equality, to help them improve their accessibility, satisfy the state’s attorney and Department of Justice, and meet their goal of 100 percent polling place ADA compliance.³³ The P&As were given an explicit role under HAVA with the intent that elections administrators, the U.S. Election Assistance Commission (EAC), and other entities mandated by HAVA would work collaboratively toward a fully private and independent vote for all eligible Americans. Election officials must take this expectation to cooperate with their P&As seriously, and federal agencies should issue guidance to this effect.

Office of Accessibility

To further protect disability voting rights and address the barriers facing voters with disabilities, the U.S. should establish an Office of Accessibility within the EAC in order to better support and oversee state efforts to expand voter accessibility and serve as a resource for advocates and voters. The addition of one position for an accessibility subject

³³ https://www.ndrn.org/wp-content/uploads/2020/01/NDRN_Blocking_the_Ballot_Box_2020.pdf

matter expert is not sufficient to fulfill the EAC's mandate to prioritize voter access under HAVA and continues to be overshadowed and outnumbered by the already existing staff positions at the EAC related to cybersecurity. Additionally, there exists an imbalance favoring cybersecurity within their partner organizations at NIST and the Cybersecurity and Infrastructure Security Agency (CISA), who do not employ staff with expertise in disability access. The Office of Accessibility and the Access Board Voting Access unit should also have the authority to convene advisory groups to provide technical advice and ongoing input and feedback on voting access issues. The Office of Accessibility must be allowed to implement projects that will advance voting accessibility for both in-person and remote voting.

Conclusion

NDRN applauds NIST for requesting information from the public on ways to promote access to voting in America and President Biden for including access to the vote for people with disabilities in his Executive Order. The barriers that 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 to many of the barriers facing voters with disabilities already exist, and federal laws have already been put in place to ensure access. Yet, America must first begin prioritizing voters with disabilities, including enforcement of and compliance with federal law, funding and prioritization to advance technologies for in person and remote voting, and addressing staffing at all levels of government to ensure expertise in disability access is "baked in." Additional guidance is sorely needed from federal agencies to clarify the rights of voters with disabilities and state's and localities' obligations to them. NIST's recommendations have the opportunity to truly protect the rights of people with disabilities, but to be successful, the recommendations must actively include the voices of people with disabilities and focus solely on what is needed to provide full and equal access to America's electoral systems. Any barrier to the vote is serious and impactful. In a free society, the vote must be guaranteed, and America's democracy is only as strong as its ability to hear the voices of all Americans.

Please contact Michelle Bishop, Voter Access & Engagement Manager, at michelle.bishop@ndrn.org should you have any questions or concerns with these comments.

Sincerely,



Curtis L. Decker
Executive Director