



DISABILITY
LAW CENTER

Your rights matter.

Public Comment / NIST RFI: Promoting Access to Voting

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VIA ELECTRONIC SUBMISSION

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The Disability Law Center (DLC) 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 DLC is Utah's Protection and Advocacy agency. In accordance with our 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" under the Help America Vote Act, we are the leading expert on access to the vote for Utahns with disabilities.

Voting Access for People with Disabilities in America

Voting systems are nationally known for being riddled with accessibility issues which means inequitable access to the ballot. In Utah, there has been a commitment to vote at home ballots but the current by mail system has left some disabled voters without equivalent access.

The DLC is currently working with State and County election administrators to adopt systems that enable every voter to mark, verify and cast their vote privately and independently at home. It is fundamentally discriminatory to require disabled individuals to vote in person when that is not required of all voters, especially in light of how COVID impacted elections. Because of Utah's inaccessible at mail in ballot system, people with disabilities had to determine if exercising their constitutional right to vote was worth the explicit risk to their health.

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 officials' expertise in administering elections with disability advocates' expertise in providing access. To this end, the DLC successfully advocated for the ability to ask for a reasonable accommodation to voting by mail during early voting and on election day during COVID-19. We also

The Disability Law Center (DLC) is a private, non-profit organization. The DLC's mission is to enforce and strengthen laws that protect the opportunities, choices, and legal rights of Utahns with disabilities. Our services are available statewide and free of charge, regardless of income, legal status, language, or place of residence. Because our time and money are limited, the DLC focuses on cases that can help as many Utahns with disabilities as possible now and in the future. While we cannot assist everyone, we will at least offer all those who contact us information and/or referral options.

regularly train poll workers on issues such as signage, layout, accommodations for voters with disabilities, and assisting voters with ballot-marking devices. Additionally, we have helped local governments provide the election information in Braille and other alternative formats.

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.

The DLC worked with a hospital to overcome coronavirus-related health and safety concerns, allowing an elderly patient to cast their ballot in the 2020 election. We also filed a complaint against a county whose only voting center was closed. The alternative ballot-drop was almost completely inaccessible to voters with mobility or visual impairments. Additionally, we asserted the position of the ballot-marking device did not offer sufficient privacy. In response, the county agreed to staff the office, offer curbside voting, and purchase a privacy screen for the ballot-marking device.

Our 2020 Voter Communication Report found that while some county election websites offer information on registration, early voting, or polling locations, almost none provide information on reasonable accommodations or how to request one. At the national level there is a need for federal standards requiring that election administrations post information on how to access voting accommodations in public notices, on government websites, with the ballot and anywhere else election information is included.

Recommendations

- 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 and standardize 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 training for election officials and poll workers to create truly accessible voting systems.

Conclusion

The Disability Law Center 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 and voters with disabilities.

Thank you for the opportunity to comment on promoting access to voting. If you have any questions, please contact Sheri Newton.