



July 16, 2021

Re: Promoting Access to Voting
Docket Number: NIST-2021-0003

To Whom It May Concern,

Thank you for the opportunity to comment on promoting access to voting for people with disabilities. Disability Rights DC at University Legal Services (DRDC) is the designated protection and advocacy agency for the District of Columbia. We advocate on behalf of District residents with disabilities, who are disproportionately people of color, to ensure their full participation in all aspects of the electoral process including registering to vote, accessing polling places, and casting ballots in the District of Columbia. For the last 18 years, DRDC has surveyed the accessibility of the District's polling sites, provided recommendations to the DC Board of Elections, and issued reports in an effort to ensure full compliance with the federal Help America Vote Act (HAVA) and Americans with Disabilities Act (ADA).¹ These comments highlight access issues with voter registration and voting materials, mail and electronic balloting, in-person polling places and the need for adequate poll worker training, all of which impact the ability of District voters with disabilities to vote privately and independently.

Access to Voter Registration and Voting Materials

District residents with disabilities face barriers in getting useful information about voter registration, the voting process, and voter eligibility because the DC Board of Elections' (Board) outreach and education efforts are limited to only a handful of forums held each year that are not well advertised. In DRDC's experience, few individuals attend any given forum. Compounding this issue, the Board's outreach is often conducted in inaccessible forums and formats. For example, to disseminate information the Board relies largely on its listserv, website, inaccessible paper postcards, zoom webinars, and a printed voting guide mailed to each registered voter in the District shortly before each election. This limited outreach is ineffective for many of our clients, who are District residents with disabilities that do not have ready access to the internet or mail service and have no knowledge of their voter registration status, how to file new or updated voter registration, or request an absentee ballot.² We ask that NIST lend its expertise in technological innovation to recommend guidelines or strategies to help ensure election agencies are adequately

¹ DRDC's voting access reports are available on our website at: <http://www.uls-dc.org/protection-and-advocacy-program/programs/protection-and-advocacy-for-voter-access/>

² During the 2020 general election, the Board mailed all eligible voters a mail-in (absentee) paper ballot without requiring residents to complete and submit an Absentee Ballot Request Application in advance of the November 3, 2020 General Election.

addressing these barriers, including those related to the digital divide, which have a disproportionate impact on the disability community.

Additionally, the Board's outreach and education about the availability of accessible electronic absentee balloting through the third-party vendor Democracy Live's Omniballot was inadequate.³ According to the Board in its FY 20 Performance Oversight Responses to the Council for the District of Columbia, it conducted the following outreach about Omniballot or Accessible Remote Ballot (ARB):

[The Board] posted the information about the ARB on our website, discussed it in several of our Voter Education and Outreach sessions, provided information to potential users via the American Association of Retired Persons (AARP). In addition, the Office of Disability Rights promoted ARB on its listserv, and the Washington Ear, a closed-circuit radio reading service for people who are blind or visually impaired, promoted it as well.⁴

As a result, the Board's outcomes from the 2020 general election show six individuals with disabilities requested Omniballot, and four of these voters cast them.⁵ DRDC's outreach presentations reveal that some District residents with disabilities in the community as well as in institutions like nursing facilities, community residential facilities, and prisons often are not even aware of their eligibility to vote. District residents with disabilities also face barriers with the DC Board of Election's electronic documents, which are frequently not screen-readable. This includes the voter registration form and the absentee ballot request form used to implement the District's ad-hoc vote by mail effort during the 2020 primary election. DRDC recommends that NIST and its federal partners establish federal guidelines around best practices for effective, accessible outreach and education.

The DC Board of Elections must provide more accessible outreach and education, ensuring all of its information and forms are fully accessible. Beyond issues of outreach and education, people with disabilities often face barriers to registration because they lack current documentation required to register to vote, such as a bank account statement or utility bill in their name. The DC Board of Elections should provide assistance to people with disabilities who need help filling out the form and getting the necessary documentation. Without a process in place to ensure all voting forms and materials are made accessible and assistance is provided to those who need it, these issues will persist.

³ The Board began offering Omniballot during the 2020 election cycle in response to the coronavirus pandemic.

⁴ District of Columbia Board of Elections, Performance Oversight Report Fiscal Year 2020-2021, p. 118 (March 12, 2021), <https://dccouncil.us/wp-content/uploads/2021/03/JPS-Performance-Oversight-Responses-2021-BOE.pdf>.

⁵ During the primary election, the Board also provided access to the ARB to voters without disabilities who did not receive the ballots they requested due to Board error, and accordingly we do not know how many of the 1,107 voters who requested this option have disabilities. Based on the outcomes from the general election, it is likely that the majority, if not all, of these ARB users do not have disabilities. District of Columbia Board of Elections, Performance Oversight Report Fiscal Year 2020-2021, p. 118-119 (March 12, 2021), <https://dccouncil.us/wp-content/uploads/2021/03/JPS-Performance-Oversight-Responses-2021-BOE.pdf>.

Balloting by Mail and Other Ballot Technology

DRDC has been outspoken about the need to ensure voting at home is also made accessible to individuals who have print-related disabilities by ensuring there is an alternative to paper ballots. Paper ballots cannot be read privately and independently by individuals who are blind or have low vision and cannot be completed by individuals with manual dexterity or other print-related disabilities. An effective technology for addressing the mail balloting barriers faced by people with disabilities is accessible electronic balloting. Unfortunately, due to inadequate outreach and education discussed above, DRDC found no District residents who knew about this option or availed themselves of this option for voting at home. Additionally, although Omniballot has electronic return capabilities, the DC Board of Elections chose to require voters to print their completed electronic ballot, manually sign, and return the paper ballot by mail or in-person. Signature requirements are inaccessible for individuals who are blind or low vision and eviscerate their right to vote privately and independently. They also disproportionately disenfranchise individuals with manual dexterity disabilities whose signatures do not match previous records. It would be helpful for NIST to recommend the establishment federal guidelines or regulations on electronic balloting procedures to help ensure voting at home is fully and equally accessible for District voters with disabilities.

In-Person Polling Place Accessibility

DC Board of Elections continues to provide in-person voting throughout the District, but more remains to be done to ensure the accessibility of polling places. During the November 2020 general election, DRDC surveyed 87% or 83 of the District's 95 open voting centers.⁶ Based on DRDC's accessibility checklist that has been used as a national model, our surveyors found 14% of the surveyed centers (12 locations) were structurally inaccessible, meaning there were structural barriers for voters with disabilities that poll workers could not resolve. These included, for example: steps that prevent voters with mobility disabilities from entering the building, lack of accessible sidewalk curb cuts to get to the voting center from the street or parking lot, and uneven, crumbling and broken pavement with abrupt rises along the pathway to the voting area.

DRDC also found 83% of the surveyed centers were operationally inaccessible, meaning poll workers could have, but failed to, take the necessary steps to ensure the center was accessible. For example, these issues include failing to: remove obstructions in the path to the accessible entrance, prop open heavy doors (which cannot be opened by people with manual dexterity or mobility limitations), or post signs directing voters to accessible entrances. Many of the voting centers surveyed lacked audio headsets that provide screen reader access, and the Board's assistant ADA coordinator acknowledged that the Board lacked a sufficient supply of headsets to meet the demand. Many voting centers also failed to designate accessible parking spaces.

DC Board of Elections' attempts during the 2020 primary election to reduce the number of polling places due to the coronavirus pandemic produced predictably longer wait times and longer distances that created additional barriers for people with mobility disabilities. DRDC continues to advocate that the DC Board of Elections provide polling places in each precinct and continue its system that allows registered voters to cast a ballot at any polling place through a District-wide, electronic voter roll system with ballot-on-demand printers that can provide the correct ballot for

⁶ The District reduced the number of voting centers from 144 to 95 due to the pandemic.

each voter at any polling place. NIST could recommend these practices, along with emphasis on following the Department of Justice's existing guidance on polling place accessibility.⁷

Poll worker Training

DRDC has long advocated for additional and meaningful training of DC Board of Elections staff and volunteer poll workers on ADA and HAVA requirements and best practices for ensuring a fully accessible election. This includes training to ensure all materials are fully accessible and available in alternate formats, providing effective assistance to people with disabilities, and accessibility requirements for compliance with the ADA and HAVA. It would be helpful for NIST to recommend the development of federal guidelines on best practices for poll worker training to assist with this effort. The operational accessibility issues detailed above could be ameliorated with poll workers and election staff proficient in accessibility requirements and best practices.

Conclusion

In sum, issues with access to voter registration and voting materials, voting by mail and electronic balloting, in-person polling place accessibility and poll worker training all impact District voters with disabilities' ability to vote privately and independently. DRDC hopes that federal guidelines on these issues will help shed light on these barriers that voters with disabilities encounter and will continue to work with the DC Board of Elections so that District voters with disabilities can exercise their right to vote privately and independently.

Sincerely,

/s/

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⁷ U.S. Department of Justice, Civil Rights Division, Disability Rights Section. *ADA Checklist for Polling Places* (June 2016), <https://www.ada.gov/votingchecklist.pdf>.