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Center for Independence of the Disabled, NY

National Institute of Standards and
Technology, Department of Commerce.

Comments Submitted by:

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Community Outreach Organizer

Promoting Access to Voting in response to the RFI should be submitted according to the instructions in

The Center for Independence of the Disabled, New York (CIDNY) is a non-profit organization founded in 1978. We are part of the Independent Living Centers movement:

Voting rights and accessibility have been on CIDNY's advocacy agenda since 1999. With polling sites and ballots as they are now, voters who use wheelchairs or who have vision impairments, compromised dexterity, limited range of arm motion, or cognitive disabilities often cannot access their poll site and/or cannot vote privately and independently. To take their rightful place in the public dialogue on policy issues, people with disabilities' needs must be acknowledged and responded to by legislators and the general public. CIDNY encourages voters with disabilities to use their neighborhood polling sites and voting machines independently and privately, and where their polling sites are inaccessible for them, to vote on absentee ballots.

Re:

Describe effectively strategies, techniques, and technologies for addressing the barriers faced by voters with disabilities throughout the voting process.

The removal of barriers at polling sites is one of the main strategies to get people with disabilities to go out and vote. The Americans with Disabilities Act (1990) provides guidelines for polling sites that if implemented by election officials, voters with disabilities would be motivated to vote in person.

The introduction of Ballot Marking Devices (BMD) with the passage of the Help America Vote Act (2002) was a significant step in addressing the barrier of voting independently and privately for people with disabilities. However, there are issues with the BMD that need to be addressed, such as reliability and security. As election administrators focus on the replacement of the stock of ballot marking devices currently in use, aged over 10 years the hybrid machines being considered are seen as a security risk, and vulnerable to hacking. Computer security experts are recommending limited usage of hybrid machines based on their findings¹.

We are recommending NIST should fund the necessary research to address cybersecurity as well as developing the technology to enable people who are blind, visually impaired, or with dexterity issues to be able to vote privately and independently.

During the pandemic, accessible websites have benefited people with disabilities significantly as voters were able to apply for their Absentee Ballot online and mark their ballot online. This was made possible following a lawsuit, voters who are blind and those with dexterity disabilities among others were able to utilize this option. The accessible ballot is a fillable PDF that allowed voters with disabilities to read and mark the document with assistive technology. However, printing and signing the Oath envelope to return the ballot was an issue as some

¹<https://verifiedvoting.org/statement-on-ballot-marking-devices-and-risk-limiting-audits/>

Re:

people did not have printers nor legal size paper. So they were not able to utilize this option independently.

Online voting is a desired objective where voters who need this option would be able to mark and return their ballot online. This option is utilized by military personnel overseas and should be extended to voters with disabilities who are blind or have dexterity issues. So we are recommending NIST to look further to make it a fully viable option for voters with disabilities.

3. Describe barriers that people with disabilities encounter in getting useful information about the voting process.

People with disabilities have limited access to voter education because of inaccessible websites and the unavailability of material presented in an alternate format. In a recent voter a survey conducted by the Center for Independence of the Disabled, NY, voters did not know about the Ballot Marking Device and requested a large print ballot at their poll site and heard that this was not available.

Voter guides are not produced in an alternate format such as large print, audio, although one may be able to access this from the website. However, not all voters have access to the internet or adaptive technology to access this information. Voter guides are not usually produced with the American Sign Language option. So there is limited access to information for voters with disabilities. Public events such as town halls are not usually accessible for people with disabilities as they lack the necessary accommodations.

Materials such as flyers are not done in an alternate format such as large print, audio so this presents a barrier as well. These barriers prevent people with disabilities from being kept in the loop with all the information and materials available on voting.

4. Describe barriers that people with disabilities encounter with ballots, and in getting useful information about the items on the ballot.

Re:

The inaccessibility of polling sites in New York City extends beyond the inaccessible machines and physical sites. Voters who are blind or visually impaired, voters who are deaf, and voters with cognitive disabilities face significant barriers to voting privately and independently, due to the lack of ballots and explanatory materials in alternative formats such as large print, Braille, or audio.

The Board of Elections does not make available any large print or Braille ballots or materials. Audio ballots are not possible due to New York's antiquated voting machines. Although explanatory materials could be made available in alternative formats, producing a large print or Braille ballot is not possible due to New York State's full-face ballot requirement.

There is no provision of American Sign Language interpreters at poll sites, when asked recently, at the last Election a poll worker told a Deaf voter that arrangements must be made ahead of time through the Board of Elections. This was particularly important especially with the introduction of Rank Choice Voting and the voter needed additional information.

Items on the ballot are usually finalized very close to the election and are not sufficiently publicized for disability advocates to share the information with their community. The information is usually placed on websites and this is not known by everyone as well as not everyone has access to the websites as well as some websites are not accessible to screen readers or assistive devices.

It is strongly recommended that NIST develop standards for software and websites used by election officials so that it is made accessible for use on various assistive devices.

6. Identify what has had the most impact enabling people with disabilities to vote privately and independently.

The introduction of BMD's has had a significant impact in enabling people to vote privately and independently. This has allowed voters to mark a ballot by using accessible features such as audio so a voter who is blind can mark a ballot privately and independently.

Re:

8. Describe barriers that people with disabilities encounter with completing online forms for the voting process.

Some websites are not accessible for screen readers so filling out online forms for voting or voter registration poses a problem for voters who are blind or visually impaired or have dexterity issues. Some forms require an electronic signature and this also poses a problem.

NIST should address these issues to remove such barriers.

Voter Registration

Describe barriers that people with disabilities encounter getting useful information about their eligibility to vote.

The Board of Elections as well several other sites such as the League of Women Voters provide information for voters. This includes a link to verify if one is registered to vote. People with disabilities often do not avail themselves of this information.

People lack information about how and where to register to vote and outreach events do not sufficiently target people with disabilities. Outreach and tabling events conducted by CIDNY include voter registration activities. The forms distributed at these events are, available in the official languages of the NYS Board of Elections however they are not available in an alternate format. People who are blind or visually impaired, have dexterity, or have learning disabilities would have difficulty completing the form without assistance.

The voter registration the form is available online on the websites of the Board of Elections and the NY Department of Motor Vehicle. This site was inaccessible for screen readers so voters who are blind or visually impaired were denied the opportunity to register to vote privately and independently or update their voter information.

This was resolved through litigation brought by CIDNY Eason, et al. v. New York

Re:

State Board of Elections (NYS BOE), et al. Although this issue has been resolved people may not have access to computers, the internet, or other technological devices to utilize this option².

Voter registration forms can be requested from the Board of Elections by phone and these are mailed to the voter, however, some people have difficulty getting to the mailbox or the post office to mail the form back.

Describe the availability of accessible voting equipment.

Accessible voting equipment is available at all polling sites as stipulated by HAVA (2002). However, voters are unable to access these machines on Election Day for various reasons. Sometimes there are unresolved technical issues such as broken BMD's, paper jams, or other issues and technicians do not show up on time to do repairs. A common problem is poll workers lack knowledge of how to operate the machine so they are unable to assist the voter.

BMD's are sometimes placed in a corner where they are not visible to voters who would use them and poll workers do not tell voters about their existence.

Describe barriers that people with disabilities encounter with voting by mail.

There are 2 types of absentee ballots, voters, in NYS: the paper ballot and the accessible online ballot.

1. Voters can apply for an absentee ballot on the NYC Board of Election or county board website and they will get a paper ballot to complete and mail to the Board of Elections.
2. Voters who need an accessible Absentee ballot can also apply online by selecting the accessibility link. The county BOE will email the accessible absentee ballot to the voter and mail a package with a postage-paid return envelope and oath envelope to the Voter.

² <https://dralegal.org/case/eason-v-new-york-state-board-elections/>

Re:

Obstacles are disproportionately experienced by voters who are blind or visually impaired, have manual dexterity disabilities, or have learning disabilities. The voter has to fill in the ballot online and print the completed ballot. This poses a problem for voters who do not have access to a printer or legal-size paper. After printing the ballot, the voter inserts the ballot in the oath envelope and a return envelope. Then mail the ballot or hand-deliver it to the Board of Elections or a poll site. A voter who is blind or visually impaired or has dexterity issues is unable to complete this process without help so they are not able to vote privately and independently.

14. Describe security considerations relevant to existing and potential technologies used by people with disabilities in the voting process.

Ballot Marking Devices give voters with disabilities the opportunity to vote with the same ease as voters without disabilities. However, security experts have mounted a campaign against voting with hybrid ballot marking devices with the recommendation that usage should be limited to people with disabilities or a few people to prevent jeopardizing the elections.

Also the language proposed by S1 supporting paper ballots would also be a deterrent to the use of electronic voting. This would definitely pose a barrier for people with disabilities who would not be able to utilize this option and exclude them from the option of voting privately and independently as stipulated by HAVA.

15. Describe barriers that people with disabilities face at polling locations.

Barriers at polling sites are a deterrent to people going out to out as they see it as an inconvenience. Since 2003, CIDNY has surveyed 1,335 polling sites; with an average of 71.4% with barriers. While there have been improvements in signage, the number of ADA compliant ramps, and poll workers who are more aware of access issues, there are still barriers that discourage or block voters with disabilities from exercising their rights to vote. For example, placement of the BMD

Re:

remains a problem. Many poll site coordinators and workers still do not understand how to measure the distance around the BMD's to ensure adequate access for those using wheelchairs, walkers, or who need the space to maneuver. A common problem is chairs or wires that minimized the space or present tripping hazards or a barrier for wheelchair users. There are still problems with ramps that do not have adequate landings or lead to narrow entrances.

Since the majority of polling sites are housed in schools, many of the barriers we identified are created because the schools themselves (which are also required to be ADA accessible) have not made sufficient changes to become compliant. We often see tables, athletic equipment, or other barriers that have not been removed or have not been moved out of the way at voting sites in schools. The Department of Education, (DOE) as well as the NYC Board of Elections (NYC BOE) must work to ensure that all voters can get into their polling sites and vote privately, independently, and safely.

Poll worker training is still inadequate as they often discourage people from using the BMD because they do not know how to operate them or they think it's specific to people with disabilities. They are unable to address technical issues such as paper jams as adjusting the audio and font on the screen.

Our social media was directed to encouraging voter registration, providing resources, and CIDNY staff contact information, explaining voter options re absentee voting, early voting, and poll site voting during COVID-19. In a few cases, the BMD was segregated from the rest of the voting area, making it difficult for voters to identify and use it. This was a result, in part, of a site that was too small to accommodate all voting booths, scanners, and BMDs; however, by moving the BMD outside the voting area, voters who needed the BMD could feel that they had an unequal voting experience or that they were being treated differently because of their disability.

5. Provide recommendations for improving voter access for people with disabilities.

Re:

Poll sites should comply with ADA guidelines so that they are free from barriers that prevent access for people with disabilities.

Information on voting, voter registration, voter guides, and candidates should be available in an accessible format, for people who use assistive devices.

Websites and materials should be made accessible for screen readers and accessible devices.

Poll workers should promote the use of the BMD as an option for any voter who chooses to use it, including people who have difficulty reading small print or for those who find using the BMD easier than marking a paper the ballot, whether they have a disability or not.

An agreement was reached with the NY State Board of Elections to provide absentee ballots to qualified people with disabilities who request it in an accessible format. This option was beneficial only to the voter who has access to the internet and a printer. This should be researched further to make it a fully online option to mark and return the ballot.