NATIONAL DISABILITY RIGHTS NETWORK
Protection & Advocacy for Individuals with Disabilities

Voting Machines and Individuals with Dexterity Disabilities

This memorandum is designed to clarify the National Disability Rights Network's (NDRN)[1] position with respect to dexterity accessibility and the AutoMARK voting system and other voting machines.

NDRN's Position

NDRN is committed to ensuring that elections are accessible to all voters with disabilities, including those with dexterity disabilities. NDRN does not endorse the AutoMARK or any other voting machine. NDRN supports a fair, complete, and factually-accurate dialogue in the disability community about the accessibility of voting machines so that voters with disabilities can make informed choices about voting systems for their communities.

There are a number of machines on the market, none of which fully meets the needs of all persons in the disability community. Some offer better accessibility features than others. NDRN does not disagree with all of the criticism of the AutoMARK machine, but is concerned that a campaign has been waged against the AutoMARK machine in particular, even though most of the other machines on the market are significantly less accessible to voters with dexterity disabilities. Only three voting systems on the market -- AccuPoll, AutoMARK, and eSlate machines -- have a dual switch input option. A dual switch input on a machine allows voters with dexterity disabilities who use technology, like sip and puff, to mark their choices on a ballot independently. Many machines, such as those produced by Diebold and Sequoia, do not have a dual switch input option, which means that voters with dexterity disabilities that use a sip and puff, foot petals, joy sticks or other alternative selection devices, will not have privacy or independence in any part of the voting process. Voters with dexterity disabilities who use these types of devices must have a poll worker or someone else make their selection for a candidate on most of the voting machines on the market, thereby totally denying them a private and independent vote.

It is difficult to understand why the AutoMARK machine in particular the focus of such intense criticism when other machines provide far less accessibility or no accessibility at all for individuals with dexterity impairments. In some instances, Georgia, Maryland and Washington, D.C., for example, these jurisdictions have been praised by some AutoMARK critics for the accessibility of their voting systems, even though their machines are inaccessible to voters with dexterity disabilities because they lack a dual switch input option described above that AutoMARK and some other machines provide.

1 Formerly the National Association of Protection and Advocacy Systems (NAPAS)

900 SECOND STREET NE, SUITE 211 ♦ WASHINGTON, DC 20002-3560
TEL: 202.408.9514 ♦ FAX: 202.408.9520 ♦ TTY: 202.408.9521
WEBSITE: WWW.NDRN.ORG ♦ E-MAIL: INFO@NDRN.ORG

On the other hand, jurisdictions that opt for AutoMARK, with the support of disability advocates in their states, have been threatened with suit.

AutoMARK Accessibility

There is no fully accessible voting machine at this time. Some disability advocates believe that the AutoMARK may provide the best features currently available on the market, but AutoMark has limitations as do all other machines. While the AutoMARK enables voters with manual dexterity impairments to mark the ballot privately and independently, once finished, a voter must transport the ballot from the AutoMARK terminal to the tabulation device, which many voters with dexterity disabilities are unable to do independently. AutoMARK has developed a solution that is currently available.[2] The solution involves the use of an alternative ballot form. Instead of a standard ballot – i.e., with the names of the candidates and offices -- voters that need assistance transporting their ballot to the tabulator can opt to receive a coded ballot, with bubbles, numbers, and computer bar codes, which are computer readable, but which retains the secrecy of the ballot. Voters with dexterity disabilities can view their ballot on the touch screen and make their selections using their communication device of choice. After the voter has reviewed and finalized his/her votes, the machine would fill in the bubbles on the ballot. Since the bubbles on the ballot have no corresponding text, they cannot be read by others. Once the ballot is inserted in the ballot tabulator, the vote is recorded and the ballot is stored in the tabulator machine. In the case of a manual recount, an overlay is matched up with a bar code imprinted on the ballot in order to read the voter's choices.

Because the AutoMARK requires an alternative ballot for voters with dexterity disabilities, it is imperative that effective election administration procedures be put in place to ensure that these individuals' votes are indistinguishable from other votes. Just like in jurisdictions that only meet HAVA's minimum requirement of one accessible voting machine per polling place, election officials must make certain that more than one person votes on the accessible voting machine (even if there is only one person with a disability using that polling place) in order to protect the privacy of each vote. Likewise, if an AutoMARK alternative ballot is used at a polling place, the jurisdiction must make certain that more than one person uses the alternative ballot to ensure each voter's privacy.

Where do we go from here?

In less than four and half months, the Help America Vote Act of 2002 (HAVA) requires each state to have one accessible voting machine per polling place.[3] In this short time, the disability communities in each state, including individuals with dexterity disabilities, need to be involved in the process to to select one machine in their jurisdiction that they believe will work best for all voters with disabilities. Unfortunately,

---

2 The AutoMARK manufacturers are considering instituting a privacy sleeve to further improve the accessibility of their voting system. While we welcome any improvements that might make the voting process more accessible to voters, the privacy sleeve is simply a proposal and is not available at this time. Voters with dexterity disabilities may want to consider the privacy sleeve as a potential future improvement, however, they should use caution in relying on manufacturers' promised improvements when evaluating voting machines.

3 Section 301 of HAVA requires that one voting systems that is accessible to individuals with disabilities be available at each polling place by January 1, 2006. 42 USC § 15481.

as explained above, the pool of existing machines that are accessible in any way to voters with dexterity disabilities is very small. This is due in large part to the current federal voluntary voting system standards and certification requirements developed by most states. The current guidelines developed by the Federal Elections Commission in 2002 are lacking in the area of accessibility for voters with dexterity disabilities.

At this point, the future looks no brighter. The Election Assistance Commission (EAC) is proposing new guidelines, but these proposed guidelines will not take effect by HAVA's January 1, 2006 deadline mandating that each jurisdiction provide one accessible voting machine per polling place. These proposed guidelines will, however, apply to future HAVA deadlines. For example, while HAVA only requires one accessible voting machine per polling place by January 1, 2006, it requires that all machines purchased with HAVA funds after January 1, 2007 be accessible.[4] However, the EAC's proposed Volunteer Voting System Guidelines (VVSG) that will govern future accessible machines does not adequately address the barriers existing for voters with dexterity disabilities. The EAC's VVSG are open for public comment until September 30, 2005. It is imperative that the disability community demand that the EAC modify its proposed guidelines to require features that make voting machines completely private and independent for voters with dexterity disabilities.[5]

Conclusion

Unfortunately there is currently no one true accessible voting machine, i.e., a machine that is accessible to voters with all the types of disabilities. For instance, there is no machine on the market that accommodates voters who are both deaf and blind. Still, HAVA requires that states have one "accessible" voting machine in each polling place by January 1, 2006, so the disability community must insist that states buy machines that are accessible to as many voters with different types of disabilities as possible. In order to do this, there must be dialogue among voters with various disabilities and disability advocacy organizations within each state or local jurisdiction in order to advocate that states make the best decision regarding accessible voting.

For questions about this memo, contact
Christina Galindo-Walsh, Senior Staff Attorney
at christina.galindo-walsh@ndrn.org

4 Section 301(a)(3)(C) of HAVA requires that one voting systems that is accessible to individuals with disabilities be available at each polling place by January 1, 2006. 42 USC § 15481.

5 Information on how to submit comments on the proposed Volunteer Voting System Guidelines to the EAC is available on their website www.eac.gov.