



February 25, 2021

Chair Zoe Lofgren
Committee on House Administration
United States House of Representatives
Washington, DC 20515

Ranking Member Rodney Davis
Committee on House Administration
United States House of Representatives
Washington, DC 20515

Re: Committee on House Administration Hearing: “Strengthening American Democracy”

Dear Chair Lofgren and Ranking Member Davis:

On behalf of the National Disability Rights Network (NDRN) and the nationwide network of Protection & Advocacy (P&A) systems, we commend the Committee for examining the state of voting rights in America and unwaveringly exploring ways to strengthen our democracy. We wish to submit this letter for the record in connection with the Committee on House Administration’s hearing, “Strengthening American Democracy,” scheduled to take place on February 25, 2021.

NDRN is the non-profit membership organization for the federally mandated P&A systems for individuals with disabilities. The P&As were established by the United States 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 US territories (American Samoa, Guam, Northern Mariana Islands, and the US 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 United States.

Through the Protection and Advocacy for Voter Access (PAVA) program, created by the Help America Vote Act (HAVA), the P&As have a federal mandate to ensure the full participation of individuals with disabilities in the entire electoral process, including registering to vote, casting a ballot, and accessing polling places. PAVA advocates are on the ground in communities and states, providing advice, technical assistance, and training to election officials about voting accessibility for a wide array of disabilities. They also provide outreach, training, and direct representation to individuals with disabilities, and the agencies and organizations that serve them.

Voters with disabilities remain a large voting bloc in America’s elections. The United States Census Bureau has reported up to 56.7 million people with disabilities live in the community, totaling approximately 19 percent of the non-institutionalized US population.¹ The Centers for Disease Control and Prevention (CDC)² and Pew Research Center believe that number is closer to 25 percent, or one in four Americans.³ Further, the School of Management and Labor Relations at Rutgers University

¹<https://www2.census.gov/library/publications/2012/demo/p70-131.pdf>

²<https://www.cdc.gov/media/releases/2018/p0816-disability.html>

³<https://www.pewresearch.org/fact-tank/2016/09/22/a-political-profile-of-disabled-americans/>

projected that there were 38.3 million people with disabilities eligible to vote in the US, one-sixth of the total American electorate, during the 2020 elections.⁴

The disability community is diverse and people with disabilities are a part of every community. People who identify as LGBTQIA+ are more likely to have a disability.⁵ A quarter or more of American Indians/Alaska Natives and Black adults have a disability.⁶ People with disabilities are disproportionately low-income, and are unemployed, underemployed, or not participating in the workforce at a rate of approximately three-fourths of adults with disabilities, under the age of 65 living in the community.⁷

Despite the size and diversity of the disability community, America’s electoral system remains largely inaccessible and has a long history of excluding people with disabilities. Inaccessible polling places, voting stations and vote by mail systems are only some of the barriers voters with disabilities face while trying to exercise their right to vote in America every election cycle. In February 2021, the Election Assistance Commission (EAC) and Rutgers University released their report, “Disability and Voting Accessibility in the 2020 Elections”, which summarized their survey results from last year’s election cycle.⁸ The results found that “one in nine voters with disabilities encountered difficulties voting in 2020,” twice the rate of people without disabilities.⁹ The report also found that 18 percent of people with disabilities who voted in person last year had difficulty with voting compared to 10 percent of people without disabilities, while five percent of voters with disabilities had difficulties using a mail ballot, compared to two percent of voters without disabilities.¹⁰

Despite the fact that the Americans with Disabilities Act (ADA) was signed into law now almost 31 years ago, requiring America’s polling places be accessible to voters with disabilities, the majority of polling places remain inaccessible. The US Government Accountability Office (GAO) surveys of polling place accessibility span 20 years. In 2000, GAO data indicated that only 16 percent of polling places had an accessible path of travel from the parking area to the voting booth.¹¹ This percentage has slowly but steadily increased to 27 percent in 2008¹² and to 40 percent in 2016¹³. To be clear, 40 percent is 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.

Worse, GAO began to investigate the accessibility of voting stations within polling places starting with the 2008 study, during which only 54 percent of voting booths were determined to be accessible.¹⁴ In 2016, the prevalence of accessible voting stations actually fell to a dismal 35 percent – a drop of 19

⁴https://smlr.rutgers.edu/sites/default/files/schur_kruse_disability_electorate_projections.pdf

⁵<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3490559/>

⁶<https://www.cdc.gov/ncbddd/disabilityandhealth/materials/infographic-disabilities-ethnicity-race.html>

⁷<https://disabilitycompendium.org/annualreport>

⁸https://www.eac.gov/sites/default/files/voters/Disability_and_voting_accessibility_in_the_2020_elections_final_report_on_survey_results.pdf

⁹https://www.eac.gov/sites/default/files/voters/Disability_and_voting_accessibility_in_the_2020_elections_final_report_on_survey_results.pdf

¹⁰https://www.eac.gov/sites/default/files/voters/Disability_and_voting_accessibility_in_the_2020_elections_final_report_on_survey_results.pdf

¹¹<https://www.gao.gov/new.items/d02107.pdf>

¹²<https://www.gao.gov/assets/300/296294.pdf>

¹³<https://www.gao.gov/assets/690/687556.pdf>

¹⁴<https://www.gao.gov/assets/300/296294.pdf>

percentage points in just 2 presidential election cycles.¹⁵ 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.¹⁶ 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 5.¹⁷

Along with inaccessible polling places and inaccessible voting stations, vote by mail systems are not, and have never been, accessible to all voters with disabilities. People who are blind or low vision, have print disabilities,¹⁸ limited literacy, limited manual dexterity, and other disabilities cannot privately and independently mark, verify, and cast a hand marked paper mail-in ballot. Federal law is clear that any option made available to voters must be accessible for people with disabilities, including vote by mail.¹⁹

As Congress continues to explore voting legislation to strengthen American democracy, we urge you to protect the rights of voters with disabilities. Legislation currently being considered in the 117th Congress, such as H.R. 1, the For the People Act, which includes several provisions that will positively impact voters with disabilities. However, it must be understood that the paper ballot mandate included in the bill is of great concern to many voters with disabilities.

Paper-based voting options have become the preferred voting system to many who believe mandating the use of paper ballots is necessary to ensure the security of our elections. However, it must be made abundantly clear, that the ability to mark, verify, and cast a paper ballot privately and independently is currently not an option for all voters.

Given that paper ballots are already the predominant method of casting a ballot in America today with extremely few exceptions, mandating paper ballots is frankly unnecessary. A federal mandate for paper ballots that are already being used will not change how we currently administer elections in the United States or make our elections any more secure. Additionally, any mandate of a paper-based voting system will inevitably create barriers for voters with disabilities. A paper ballot mandate would: 1.) end all voting system innovation and advancement to produce a fully accessible voting system that provides enhanced security without relying on archaic, inaccessible paper; 2.) limit voters with disabilities' federal right to privately and independently verify and cast their ballots, and 3.) ultimately segregate voters with disabilities.

Further, any paper ballot mandate that entitles voters to a hand marked ballot threatens the availability of Ballot-Marking Devices (BMDs) for voters who rely on them to mark their ballots by drastically limiting use of BMDs to voters with disabilities. This would result in 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. Federally mandated 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

¹⁵ <https://www.gao.gov/assets/690/687556.pdf>

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

¹⁷ <https://www.gao.gov/assets/690/687556.pdf>

¹⁸ Print disabilities is a term that encompasses disabilities that make it difficult or impossible to access standard printed text. These include blindness or visual impairments, physical disabilities that limit manual dexterity (e.g., cerebral palsy, hand tremors, quadriplegia), and certain learning disabilities.

¹⁹ https://www.ada.gov/ada_voting/ada_voting_ta.htm

not be properly maintained or set up for use, and if the only available BMD is not functioning, there is no alternative option for voters who need it. Limits on BMD use will also saddle poll workers with determining who is “disabled enough” to use the BMD, a decision for which they have no qualifications or legal right. Finally, if the ballot produced by the BMD is not identical to the hand marked ballot or the BMD ballot cannot be scanned and stored with hand marked ballots, the voter’s right to cast a private ballot is violated.

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 directly visually inspect or handle paper. Most, if not all, market-ready voting systems cannot do this. Before paper-based voting systems become the law of the land, the concerns of voters with disabilities must be addressed.²⁰

Moving forward NDRN calls on Congress to continue to examine and pass legislation that protects the rights of all voters, including voters with disabilities. This includes, but is not limited to, Congress accepting its role in providing a continual funding stream to state and local election officials for the purpose of making electoral processes fully accessible. Congress must invest in research and development and pilot projects, as well as funding to states for the purchase of new accessible voting equipment. Congress may also consider expanding the role of the U.S. Election Assistance Commission to address accessible remote voting in its creation of voting system guidelines and by adding full time staff and additional seats on its advisory boards for experts in elections accessibility with a focus on voters with disabilities. Rather than overly prescriptive, blanket mandates that create barriers for eligible voters, our focus must be on fostering innovative solutions that make our elections more accessible and more secure through responsible use of technology.

NDRN thanks Congress for prioritizing strengthening American democracy and we look forward to working with you to ensure every voice, including the voice of the disability community, is heard on Election Day. If you have any questions please contact Michelle Bishop, Voter Access & Engagement Manager, at michelle.bishop@ndrn.org or Erika Hudson, Public Policy Analyst, at Erika.hudson@ndrn.org.

Sincerely,



Curtis L. Decker
Executive Director

²⁰<https://www.ndrn.org/resource/disability-community-fears-paper-ballot-mandate-will-hurt-voters-with-disabilities/>