



March 24, 2021

Chairwoman Amy Klobuchar
Committee on Rules and Administration
United States Senate
Washington, DC 20510

Ranking Member Roy Blunt
Committee on Rules and Administration
United States Senate
Washington, DC 20510

Re: Committee on Rules and Administration Hearing: “S. 1, The For the People Act”

Dear Chairwoman Klobuchar and Ranking Member Blunt:

On behalf of the National Disability Rights Network (NDRN) and the nationwide network of Protection & Advocacy (P&A) systems, we commend the Committee for unwaveringly exploring ways to protect voting rights in America and prioritizing reform to ensure that every voice is heard at the ballot box. We wish to submit this letter for the record in connection with the Committee on Rules and Administration’s hearing, “S. 1, The For The People Act,” scheduled for March 24, 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 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 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

As Congress explores voting legislation to strengthen American democracy, we urge you to not overlook the rights of voters with disabilities. Legislation currently being considered in the 117th Congress, such as S. 1, The For the People Act, is sorely needed. However, before this legislation becomes law, improvements to the bill must be considered to protect the rights of voters with disabilities.

NDRN broadly supports many of the provisions included in S. 1 as the bill expands voter access by addressing the many barriers to voting in America, including onerous registration and vote by mail systems, and limited voting hours across the country. The bill prohibits deceptive practices and prevents voter intimidation, prohibits voter caging, and restores federal voting rights to disenfranchised Americans.

The bill also ensures voters with disabilities the right to use absentee voting procedures to register to vote and cast their ballots; requires states to establish processes for people with disabilities to register to vote and request an absentee ballot by mail and electronically; ensures drop boxes are fully accessible; establishes procedures to securely transmit blank absentee ballots by mail or electronically and invests in the research and development of accessible voting machines.

Almost all the provisions included in S. 1 will positively impact all voters in America, including voters with disabilities. Yet, the paper ballot mandate included in the bill is of great concern to

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/>

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>

many voters with disabilities as the ability to mark, verify, and cast a paper ballot privately and independently is currently not an option for all voters. In January 2021, 20 national disability organizations issued a [joint statement](#) expressing concerns over any paper ballot mandate.

A federal mandate for paper ballots that are already being used will not change how we currently administer elections in the U.S. 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.

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 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.

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.

NDRN wishes to make it abundantly clear that our concern around S. 1 surrounds the paper ballot mandate included in the bill, and that we support many other provisions in the bill that enhance voter access. But without addressing the unintended consequences of the paper ballot mandate, this important reform legislation could disenfranchise many voters with disabilities. Simply put, if the paper ballot mandate is included in the bill without any modifications the reality is not all voices will be heard at the ballot box. As such, before paper-based voting systems become the law of the land, the concerns of voters with disabilities must be addressed.⁸

⁸<https://www.ndrn.org/resource/disability-community-fears-paper-ballot-mandate-will-hurt-voters-with-disabilities/>

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. Additionally, examine and reauthorize any paper ballot mandate as new, more accessible, and secure technology becomes available, and permit electronic remote ballot marking for all voters in America.

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. Congress needs to focus on fostering innovative solutions that make our elections more accessible and more secure through responsible use of technology.

NDRN thanks Congress for prioritizing vital reform and we look forward to working with you to ensure every community is heard at the ballot box, including the disability community. 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,

A handwritten signature in blue ink, appearing to read "Curtis L. Decker", enclosed in a thin black rectangular border.

Curtis L. Decker
Executive Director