



Submitted via *regulations.gov*

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National Institute of Standards and Technology
Department of Commerce
100 Bureau Drive
Gaithersburg, MD 20899

Re: NIST-2021-0005-0001

These comments are submitted on behalf of the American Association of People with Disabilities (AAPD), a national cross-disability organization advocating for the full civil rights of the over 61 million Americans with disabilities. These comments provide feedback in response to the public draft of the National Institute on Standards and Technology's (NIST) *Recommendations for Addressing Barriers to Private and Independent Voting for People with Disabilities*.

We are grateful for the opportunity to provide additional input on this draft report. Our comments only address some of the gaps in the draft report, and we support the public comments of many other disability organizations and advocates, including but not limited to, the National Disability Rights Network, the National Council on Independent Living, and Diane Golden.

The comments we provide include a list of recommendations for improving the accuracy and impact of the report. This feedback is not ordered by priority or importance, but instead by three overarching types of feedback:

1. [The report must communicate the extent of access barriers faced by people with disabilities when voting.](#)
2. [Provides specific and actionable recommendations to reduce and eliminate voting access barriers.](#)



1. The report must communicate the extent of access barriers faced by people with disabilities when voting.

A) Address the increased barriers facing disabled voters of color.

In Section 2.1.5. of this report, we urge NIST to address the importance of the compounding voting access barriers facing disabled people of color. Beginning in line 337, the report describes additional barriers facing people with disabilities, but does not address how people of color with disabilities face compounding barriers at the polls. Understanding the way that race interacts with disability when it comes to access barriers is essential to creating comprehensive solutions. For example, Rutgers University researchers found that black disabled voters waited in line to vote for twice as long as white disabled voters.¹ Access barriers are worsened by racial discrimination that can come directly from election officials or the state legislature. For example, thousands of polling sites have been closed, claiming a lack of ADA compliance, many of which were polling places in communities of color. Rather than working to resolve access barriers, ADA noncompliance was used to reduce access to people of color, people with disabilities, and disabled people of color in those communities.²

In another example, targeted polling place closures have led to longer lines and longer distances to travel to the nearest polling place for voters of color in particular who already have inequitable access to transportation.³ For disabled voters of color who often have limited access to reliable and accessible

¹ Kruse, Doug, and Schur, Lisa, "Disability and Voting Accessibility in the 2020 Elections: Final Report on Survey Results Submitted to the Election Assistance Commission," February 16, 2021, *Rutgers University*, https://www.eac.gov/sites/default/files/voters/Disability_and_voting_accessibility_in_the_2020_elections_final_report_on_survey_results.pdf

² Hudson, Erika, and Bishop, Michelle, "Blocking the Ballot Box," January 2020, *National Disability Rights Network*, https://www.ndrn.org/wp-content/uploads/2020/01/NDRN_Blocking_the_Ballot_Box_2020.pdf

"The Great Poll Closure," November, 2016, *The Leadership Conference Education Fund*, <http://civilrightsdocs.info/pdf/reports/2016/poll-closure-report-web.pdf>

³ "Democracy Diverted," *The Leadership Conference on Civil and Human Rights*, <https://civilrights.org/democracy-diverted/>

Jenkins, Wesley, "The Unequal Commute," *Urban Institute*, October 6, 2020, <https://www.urban.org/features/unequal-commute>



transportation,⁴ fewer polling sites and increased distance to the nearest polling location amplify the challenges they face in getting to the polls to vote in person. Additionally disabled voters that are able to reach their polling place may then find that their polling place is inaccessible to them or the accessible voting machine that allows them to cast an independent and private ballot is broken.

When voting remotely, disabled voters of color also face multiplying access barriers. Both people with disabilities and people of color tend to have less access to reliable broadband internet, as well as devices to connect to the internet.⁵ Lack of access to the internet creates access barriers to using online voter registration and remote voting processes. The digital divide also creates barriers for voters to learn about when, where, and how to vote in their area.

B) Hold election officials accountable for access barriers that disenfranchise disabled voters.

Similarly, this report must also hold election officials accountable for gaps in accessibility in the voting process. The report acknowledges some key reasons that election officials disregard accessibility in lines 258-281, but NIST must also acknowledge that negligence leads to discrimination in access barriers facing people with disabilities during the voting process. The report focuses on factors making it difficult for election officials to meet accessibility standards, such as low budgets and low staff. However, the report must acknowledge that voters with disabilities have a federally granted right to have equal access to voting, and failing to provide accessible voting processes disenfranchises voters with disabilities.

⁴ Equity in Transportation for People with Disabilities, *American Association of People with Disabilities, The Leadership Conference on Civil and Human Rights*,

<http://www.civilrightsdocs.info/pdf/transportation/final-transportation-equity-disability.pdf>

⁵ Atske, Sarah, and Perrin, Andrew, "Home broadband adoption, computer ownership vary by race, ethnicity in the U.S." *Pew Research Center*, July 16, 2021,

<https://www.pewresearch.org/fact-tank/2021/07/16/home-broadband-adoption-computer-ownership-vary-by-race-ethnicity-in-the-u-s/>

Perrin, Andrew, and Atske, Sarah, "Americans with disabilities less likely than those without to own some digital devices," *Pew Research Center*, September 10, 2021,

<https://www.pewresearch.org/fact-tank/2021/09/10/americans-with-disabilities-less-likely-than-those-without-to-own-some-digital-devices/>



C) Acknowledge the extent of access barriers facing voters with print disabilities.

Remote Ballots - Throughout the report, paper ballots are described as “difficult” or “challenging” for people with print disabilities. However, these terms imply that it is possible for people with print disabilities to use paper ballots independently, just hard. The reality is that paper ballots are impossible to use independently and anonymously for many people with many print disabilities. In order to communicate the extent of inaccessibility of paper ballots for voters with print disabilities, these phrases must be changed to definitively state that paper ballots are inaccessible to people with print disabilities.⁶ Instances in which this phrase must be edited include lines 317, 318, 323, 859, 1038, 1058, 1203, and 1580.

Similar acknowledgement of the impossibility and inaccessibility of certain tasks to people with disabilities is also needed in lines 841-842 and lines 747-749 regarding complicated language, signature matching, and a lack of color contrast in materials.

In lines 331-335, the report briefly discusses the inaccessibility of “security solutions” in remote voting systems. This paragraph states that these security solutions “often creates new barriers” but fails to specifically say that remote voting systems that require paper ballots to be signed in order to be submitted are ultimately inaccessible to people with print disabilities.

The report must acknowledge that remote systems requiring a paper ballot are inaccessible to people with print disabilities and violate federal law requiring equal access to voting and securing the right to a private and independent ballot.⁷ In order to work towards both secure and accessible remote voting solutions, we must acknowledge that “current security solutions require a paper ballot to be

⁶ “Making Voting Accessible to Voter with Print Disabilities,” July 24, 2021, *American Association of People with Disabilities and the National Disability Rights Network*, <https://www.aapd.com/wp-content/uploads/2021/08/Making-Voting-Accessible-to-Voters-with-Print-Disabilities-1.pdf>

⁷ “Comments on Voting Access, Submitted to the National Institute on Standards and Technology,” July 16, 2021, *American Association of People with Disabilities*, <https://www.aapd.com/wp-content/uploads/2021/07/AAPD-Public-Comments-on-Voting-Access-Submitted-to-NIST.pdf>



signed and/or returned and are inaccessible to people with print disabilities, denying them a private and independent ballot.”

Signature Requirements - While the report mentions various access barriers that signature requirements present to voters with disabilities, recommendations in the report fail to fully address those barriers. For example, one recommendation included indicating where someone needs to sign on a printed absentee or vote by mail ballot. This solution may benefit individuals with visual disabilities but will not increase access for people with other print disabilities, including reading and learning disabilities, as well as dexterity and motor disabilities.

Requiring a physically written signature on paper ballots and then using that signature to verify an individual’s identity is inherently inaccessible to people with print disabilities. Solutions recommended must include a range of options, such as allowing an electronic signature or mark and allowing another person to sign the exterior of the ballot as an assistor. In our initial comments, we included testimonies from several people with disabilities describing accessibility barriers with signature requirements. These testimonies can be found on pages 14, 16, and 23, of our [Public Comments](#).

D) Address the lack of information and clarity surrounding voting for individuals under guardianship and formerly incarcerated people.

As mentioned in our initial comments responding to the request for information:

“In some states, any person placed under guardianship loses their right to vote, while in other states judges determine whether or not the individual is allowed to continue to vote.⁸ In many states, retaining the right to vote depends on a judge deciding that a person communicates the desire to vote, an arbitrary guideline not placed on any other voters. We recommend additional research into guardianship and its impacts on the voting rights of people with

⁸ “State Laws Affecting the Voting Rights of People with Mental Disabilities,” 2016, *Bazelon Center for Mental Health Law*, <http://www.bazelon.org/wp-content/uploads/2020/10/Survey-of-State-Laws-Affecting-Voting-Rights-of-People-with-Disabilities-2020-Update-FINAL.pdf>



disabilities, and ultimately the presence of guardianship or disability should never be reasons for disenfranchisement.”⁹

While guardianship laws vary from state to state, the federal government has the key position of being able to research and better understand data around guardianship nationwide and its impact on both the eligibility and the turnout of voters under guardianship. Additionally, we urge NIST to recommend that state election officials research and clearly communicate how guardianship may or may not impact voting eligibility in their state.

Additionally, in our initial comments, we addressed how the criminal justice system disproportionately impacts Black disabled people and disabled people of color, and leads to the disenfranchisement of millions of Americans.¹⁰ In addition to clarifying rules around voting and guardianship, states must communicate clearly the rules around incarceration and voting rights. States must also proactively educate previously incarcerated individuals on their voting rights and facilitate voter registration among those who regain their voting rights.

The burden should not be on voters to find and dissect complex legal language which may be in formats completely inaccessible to them in order to understand their voting rights.

⁹ “Comments on Voting Access, Submitted to the National Institute on Standards and Technology,” July 16, 2021, *American Association of People with Disabilities*, <https://www.aapd.com/wp-content/uploads/2021/07/AAPD-Public-Comments-on-Voting-Access-Submitted-to-NIST.pdf>

¹⁰ “Comments on Voting Access, Submitted to the National Institute on Standards and Technology,” July 16, 2021, *American Association of People with Disabilities*, <https://www.aapd.com/wp-content/uploads/2021/07/AAPD-Public-Comments-on-Voting-Access-Submitted-to-NIST.pdf>



2. The report must provide specific and actionable recommendations to reduce and eliminate voting access barriers.

A) Expand on plain language description and provide disability-specific plain language resources.

While the report includes a recommendation that states provide voting materials in plain language (lines 428-429), the term “plain language” may mean different things to different people. For example, recommended plain language reading levels range from 3rd to 8th grade.¹¹ And while the federal government provides a particular standard of plain language, this standard may not make material fully accessible to individuals with disabilities. We recommend including several key resources on plain language to guide the production of materials accessible to people with a range of disabilities:

- [Plain Language Toolkit](#), Association of University Centers on Disabilities
- [ABCs of Plain Language](#), Association of University Centers on Disabilities
- [Plain Language Checklist](#), Green Mountain Self Advocates
- [One Idea Per Line: A Guide to Making Easy Read Resources](#), Autistic Self Advocacy Network

B) Any working groups and partnerships should prioritize the lived experience of the diverse community of people with disabilities.

In lines 400-404, the draft report recommends a federal working group across agencies to advance the voting process. In order for this committee to advance the voting process for everyone, it must include people with disabilities, people of color, and disabled people of color with lived experience with voting barriers. In any partnerships recommended at the state or local level, this report should also emphasize the importance of prioritizing the lived experience of people with disabilities, rather than just consulting advocates of people with disabilities. Later, in lines 620-636 the report recommends including people with disabilities in

¹¹ “Plain Language,” *ACF Digital Toolbox; An Office of the Administration for Children & Families*,

<https://www.acf.hhs.gov/digital-toolbox/content/plain-language>

“Writing in Plain Language,” *Universal Design Unit; Human Development Institute, University of Kentucky*,

<https://www.aucd.org/docs/phe/PracticalStrategiesforWritinginPlainLanguage.pdf>



working groups, which better describes the importance of making sure people with disabilities are a part of any working groups.

In addition to working to “ensure no new barriers are introduced” with solutions, the committee should “reduce barriers throughout the voting process” (line 404). At this moment, people with disabilities are twice as likely to face barriers when voting, with disabled people of color facing compounding barriers in the voting process.¹² Maintaining the status quo of voting access means perpetuating inaccessible systems, policies, and practices that contribute to a consistent and significant turnout gap between voters with and without disabilities.¹³

C) Specifically describe accessibility versus universal design which does not focus on access for people with disabilities.

In line 412, the report references “universal design,” and “usable accessibility.” We urge NIST to specifically focus on accessibility to people with disabilities. Universal design as a field of study rarely centers accessibility for people with disabilities. Making systems easy to use for able-bodied people produces very different results than designing systems to be accessible specifically to people with a range of disabilities. Many “user-friendly” features may be inaccessible to people with disabilities. For example, a menu of user-friendly icons in place of words may be inaccessible to people with disabilities, if the menu is not designed with alt text, keyboard navigation, and other accessibility factors in mind.

Additionally, universal design often focuses on one solution that works for everyone, however one of the key aspects of accessibility is that different people with even the same disabilities may have different access needs. Accessibility often requires including multiple alternatives that provide accessibility to different people. As this report referenced at the start, there is no one-solution-fits-all solution, and AAPD urges NIST to replace “universal design” language with “accessibility.”

¹² Kruse, Doug, and Schur, Lisa, “Disability and Voting Accessibility in the 2020 Elections: Final Report on Survey Results Submitted to the Election Assistance Commission,” February 16, 2021, *Rutgers University*, https://www.eac.gov/sites/default/files/voters/Disability_and_voting_accessibility_in_the_2020_elections_final_report_on_survey_results.pdf

¹³ *ibid.*



D) Any new voter hotlines must be backed up by action plans to resolve access issues.

People with disabilities are asked constantly for our stories and feedback. Establishing a national hotline for voters with disabilities to report access issues (line 477) can provide a useful avenue for gathering data on access issues. However, AAPD urges NIST to recommend ways for the hotline operation to lead to follow up from the Department of Justice, state election offices, and any other entity that may be able to address and resolve access barriers.

E) Clarify what is needed to make remote voting accessible.

Section 4.3 of the draft report addresses vote by mail, but fails to fully address accessibility barriers facing print disabled voters completing vote by mail ballots. A few key issues stand out in lines 1143-1154.

The first statement in line 1144 states “Provide fully accessible [Remote Accessible Vote by Mail].” However, later this section states “Research is needed to explore how to expand options to support electronic ballot return.” This report must acknowledge clearly and openly the fact that remote voting systems involving the use of paper as the return and verification method of ballots on the voter’s end are inaccessible to people with print disabilities and fail to provide a private and independent voting method. To recommend fully accessible Remote Accessible Vote by Mail (RAVBM) therefore requires accessible ways to mark, verify, and return a ballot. The only accessible way for voters with print disabilities to do so requires electronic ballot return, which is cautioned against in the last part of this section.

As mentioned in our initial submitted comments, many jurisdictions, including North Carolina, New York, Boston, and Florida, have discovered that not providing a fully electronic way for voters with disabilities to complete a ballot remotely violates federal law. NIST must communicate the importance, and the federal mandate, of providing equal access to the ballot for voters with disabilities in both in-person and remote voting options. States receiving mixed information from NIST about electronic ballot return may feel unsure about using electronic ballot return, only to get a lawsuit obligating them to provide a fully electronic remote voting system. NIST can facilitate the process of ensuring both secure and



accessible electronic voting systems by recommending investment in the improvement and monitoring of electronic ballot return systems that enable accessible remote voting for print disabled Americans.¹⁴

AAPD also urges NIST to clarify the research required for use of electronic ballot return. At the moment, both UOCAVA voters and people with disabilities have access to electronic ballot return options in several states. States providing electronic ballot return for voters with print disabilities include Delaware, Maine, Nevada, North Carolina, and West Virginia.¹⁵ We also noted that lines 1100-1104 contain a 2019 list of states offering electronic ballot return to voters with disabilities, however many states have [made changes](#) to remote voting options since 2019 to make remote voting more accessible during the pandemic.

Individuals in the accessibility and election security worlds have both been doing their own research and pilot projects, so NIST must clarify what specific research or findings are needed and work to execute this research agenda. We recommend that NIST call for investment in continuing to bolster the security of electronic ballot return so that voters with print disabilities in states with electronic ballot return can have confidence in the security of their vote while maintaining their right to cast a ballot privately and independently. Enhancing, standardizing, and securing electronic ballot return methods for remote voting will also encourage states to expand access by adopting the most secure electronic ballot return options.

F) Recommend that polling sites have more than 1 accessible voting machine.

When the accessible voting machine at a polling location is out of order, not set up, or otherwise malfunctioning, this leads to delays or simply a lack of an accessible voting option for disabled voters needing to use an accessible voting machine. Ensuring that polling locations have more than one accessible voting

¹⁴ “Comments on Voting Access, Submitted to the National Institute on Standards and Technology,” July 16, 2021, *American Association of People with Disabilities*, <https://www.aapd.com/wp-content/uploads/2021/07/AAPD-Public-Comments-on-Voting-Access-Submitted-to-NIST.pdf>

¹⁵ <https://www.aapd.com/wp-content/uploads/2021/08/Making-Voting-Accessible-to-Voters-with-Print-Disabilities-1.pdf>



machine can prevent many situations in which people with disabilities are denied their right to vote due to broken or unavailable accessible voting machines. This report must urge election officials to ensure polling stations have enough accessible voting machines to service their population during elections, as well as recommend federal funding to ensure states can provide and maintain a sufficient number of accessible voting machines.

G) Instruct the Election Assistance Commission to develop minimum standards for poll worker training related to voters with disabilities and accessible voting equipment.

Starting in line 1583, the report closes with important recommendations around improving poll worker training. While this section broadly covers several important topics and training tools that election officials can provide for poll workers, we urge NIST to recommend that the Election Assistance Commission develop a comprehensive template and guide to poll working training concerning voters with disabilities and accessible voting equipment. While urging states and local governments to better train poll workers is important, many of them may not have the knowledge and tools to fully prepare poll workers to engage effectively and respectfully with people with disabilities at the polls. By working with voters with disabilities and with disability advocates experienced in voting access, the Election Assistance Commission could develop a critical tool that would provide a standard level of training to ensure poll workers are prepared to provide equal access to disabled voters at polling locations. With a strong template to work with, states and local jurisdictions can then tailor this guide to their specific accessible voting machines, voting processes, and polling locations. Similar to the lack of availability of accessible voting machines, when poll workers are unaware of how to operate or troubleshoot issues occurring with accessible voting machines, this may also cause a delay in voting or actively disenfranchise a disabled voter.

Conclusion

Our comments on NIST's draft on *Recommendations for Addressing Barriers to Private and Independent Voting for People with Disabilities* address some of our key concerns within the draft. We strongly encourage NIST to consider the comments of other



disabled advocates and organizations that are led by and center people with disabilities who should be the priority of these recommendations. Thank you for the opportunity to provide input on this report, and we look forward to edits that will ensure that this draft accurately communicates the status quo of voting access barriers and the solutions needed to address these barriers.