



NATIONAL ASSOCIATION of STATE ELECTION DIRECTORS

Thank you for the opportunity to provide comment on Draft NIST Special Publication 1273, “Promoting Access to Voting: Recommendations for Addressing Barriers to Private and Independent Voting for People with Disabilities.”

The National Association of State Election Directors (NASED) represents state election officials in all 50 states, the District of Columbia, and the five U.S. territories: American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico, and the U.S. Virgin Islands. NASED members take their commitment to serving voters with disabilities seriously.

Unfortunately, given that the 30-day comment period on this document overlapped with Election Day and the increasingly busy lead up to 2022, we will not be able to comment in as much detail as may be helpful. We feel it is important, however, to raise a few areas of concern.

Elections are administered by the dedicated, state, territorial, and local election officials across the United States, not by the federal government. Federal guidance on topics impacting election administration, including accessibility, can be important resources, but only if election officials are involved in the development of such resources. Election officials must be equal participants in the development of any federal guidance or outputs that result from this publication. This specifically pertains to the working groups proposed in sections 2.2 and 3.2 but should also be considered throughout.

While it is election officials who administer elections, we operate within a legal and financial framework set by state legislatures. Many of the recommendations in the Draft Publication are written as though election officials can arbitrarily make vast changes, but this is not the case. Further, election offices, particularly at the local level, already struggle to do more work with fewer resources. Adoption of recommendations, even those as seemingly benign as expanding election worker training or creating check lists for election workers, will be difficult without funding to support those efforts.

At a more granular level, we are concerned that the recommendation on page 34 to “[E]xpand electronic options for requesting, marking, and returning ballots when facilitating voting by mail” is inconsistent with guidance issued jointly by NIST, the Cybersecurity and Infrastructure Security Agency (CISA), the Federal Bureau of Investigation (FBI), and the Election Assistance Commission (EAC). This guidance, issued at the For Official Use Only level jointly by all four agencies on May 8, 2020, clearly states that electronic ballot return is a significant security risk. Our reading of this section of the draft publication is that this sentence may have been included in error since line 1154 states that “[R]esearch is needed to explore how to expand options to support electronic ballot return.” Election officials must evaluate their own risk tolerance and make decisions accordingly, but it is critical that guidance issued by one team at NIST be consistent with guidance issued by another team.