



AAPD
American Association of People with Disabilities

COVID-19 and the Disability Vote

A Policy Report from the American Association of People with Disabilities (AAPD) on the impact of the COVID-19 pandemic on voting accessibility with key recommendations to ensure that voters with disabilities have full access to our democracy in 2020 and beyond.

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The American Association of People with Disabilities (AAPD) is a convener, connector, and catalyst for change, increasing the political and economic power of people with disabilities. REV UP is a national, nonpartisan campaign started in 2016 to get voters with disabilities registered, educated, and ready to vote! Learn more at aapd.com/revup.

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Summary

COVID-19 poses a threat to America's democracy. Millions of Americans have and will continue to turn to absentee and remote voting options in the 2020 general election to prevent being exposed to, catching, or spreading COVID-19. While many voters with disabilities regularly face accessibility barriers and other forms of voter suppression, COVID-19 has made voting even less accessible. People with disabilities are at a higher risk of contracting COVID-19 and may also experience additional health concerns during the pandemic.¹ At least 40% of deaths from COVID-19 in the United States, a number which has passed 200,000, occurred in nursing homes and other long-term care facilities, where many people with disabilities reside.² The pandemic is not only disproportionately harming and killing people with disabilities, but it is also impacting disabled people of color at an alarming rate, as systemic racism continues to create barriers in accessing health care in the United States.³

Because of the pandemic and accessibility barriers in voting by mail, many voters with disabilities face an impossible choice between protecting their health and casting their ballot this year. While the challenges to voting faced by people with disabilities are as diverse as the disability community itself, one of the key issues for voting during the COVID-19 pandemic is the inherent inaccessibility of paper ballots, used to vote by mail, that must be completed, printed, folded, signed, and mailed or delivered in-person. Voters with print disabilities such as blindness, low vision, learning disabilities, or dexterity disabilities are among the many voters for whom this process poses significant barriers. Voters that do cast a ballot in person face hours-long lines, even when trying to avoid lines by voting early.⁴

Additionally, barriers in accessing accurate elections information and receiving assistance when voting have heightened during the pandemic. For example, deaf and hard of hearing voters who rely at least partially on lipreading for communication will face communication barriers at the polls where poll workers are required to wear masks, and information available for voters in American Sign Language (ASL) is limited. And for voters with disabilities living in long-term care facilities and other congregate settings, restrictive visitor policies, established to prevent the spread of COVID-19, make it even harder to register and vote safely during the pandemic.

At the time of this report, five states, including Texas which has one of the largest populations of people with disabilities in the United States, are still restricting mail ballots to those with a valid excuse to vote absentee. While these states allow the presence of disability to be a valid excuse to vote absentee, people must still prove their disabilities in some states in order to be eligible to vote by mail. Meanwhile, states that have expanded absentee voting are struggling to handle the increased capacity of mail-in ballots, and recent reorganization at the United States Postal Service (USPS) has delayed mail delivery and created doubt in vote-by-mail nationwide.⁵

Eligible voters have the right to a private, independent, and accessible vote, and voters should not have to risk their own health and the health of loved ones to cast their ballot in 2020. Local Boards of Elections and Congress are running out of time to do what needs to be done to protect our democracy during the 2020 elections. These nine policy recommendations are critical actions that states, county elections offices, and the federal government must take to combat ableist discrimination, politicization, and false information that threaten our elections during this pandemic.

Policy Recommendations for States and Counties

1. Expand vote-by-mail, no-excuse absentee voting, and online voter registration.

Ensuring any voter can register to vote and cast their ballot remotely, without an excuse, keeps voters safe by enabling them to vote without risking catching COVID-19. More people voting remotely also keeps the people that do vote in-person safe by reducing crowds and lines at polling sites. Vote-by-mail is a historically secure and nonpartisan voting method used regularly by many states. In addition to allowing all voters to cast a ballot by mail, states must make vote-by-mail as accessible as possible by removing the requirement in some states for voters to have a witness sign their ballot or for their ballot signature to match a previous signature. Providing pre-stamped return envelopes with ballots will also help make vote-by-mail convenient and accessible for voters.

2. Allow electronic ballot delivery to enable voters with print disabilities to mark their ballot digitally.

Over half of the states already allow voters with disabilities to receive and complete their ballot electronically before printing and returning their ballot. Expanding this option will enable voters with print disabilities to complete a mail-in ballot independently and privately, when paper ballots are otherwise inaccessible.

3. Make in-person voting as safe as possible.

Given the inherent inaccessibility of paper ballots to voters with print disabilities, several states' restrictions on eligibility for mail-in ballots, fear of delays when mailing through USPS, and a lack of reliable postal service access, a significant number of voters will still have to—or choose to—vote in-person. Early voting and expanded voting hours are two ways to reduce the traffic at polling sites and minimize the risk of voters spreading or catching COVID-19 when voting in-person. While polling places are already legally required to be accessible, 83% of polling places are still inaccessible, so states must also provide curbside voting, which allows voters to request a ballot from their car if they cannot enter the polling site.⁶ Finally, making sure polling sites have enough

personal protective equipment (PPE), including masks, will help reduce risk of COVID-19 for everyone voting in-person.

4. Educate voters on their voting rights, options, and safety.

As states rapidly and frequently change their voting rules and options, and many face lawsuits addressing voter suppression, voters are faced with confusing and evolving information. States and local elections offices need to actively reach out to voters with clear, accessible, and current information in a variety of ways.

5. Ensure voters in congregate settings can register to vote and cast their ballot.

There are 2.2 million people living in nursing homes or assisted living facilities, many of which are restricting visitors due to COVID-19 and limiting residents' ability to access necessary assistance with registering to vote and casting a ballot.⁷ States must ensure that voters in long-term care facilities and other congregate settings, such as hospitals, can receive assistance with their ballot, if they so choose. States must also make sure that local election officials are allowed to enter congregate settings to assist residents with the voting process, while maintaining proper social distancing precautions.

6. Explore, innovate, and test electronic, remote voting methods.

Many states already use completely electronic voting for military and overseas voters in compliance with the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). Several states use the same electronic system to deliver a digital and accessible ballot to voters with disabilities. Continuing to test and invest in innovating electronic voting technology can provide secure and fully accessible remote voting options so that no voter is denied the right to an independent and private vote.

Policy Recommendations for the Federal Government

7. Ensure states have funding to make voting safe during the pandemic.

Ensuring safe in-person voting, expanding remote voting, making voting more accessible, and educating voters takes capacity and funding that many states do not have. The federal government has only provided 10% of the \$4 billion of the funding states need to support voting access and safety during the pandemic, as estimated by the Brennan Center for Justice.⁸

8. Pass the John Lewis Voting Rights Advancement Act of 2020 in order to ensure equitable elections now and in the future.

The John Lewis Voting Rights Advancement Act would reinstate the requirement of the Voting Rights Act of 1965 (VRA) for states with a history of voting rights violations to get clearance from the U.S. Department of Justice when changing voting practices. This critical part of the VRA, struck down by the Supreme Court in *Shelby County v. Holder*, ensures that states do not create discriminatory voting practices that disenfranchise marginalized communities.⁹

9. Restore the full capacity of the United States Postal Service (USPS) to ensure that votes cast by mail will be delivered on time and counted.

Untimely reorganization at the USPS has worsened mail delivery delays nationwide, casting doubt on the efficacy of voting by mail and threatening to disenfranchise voters relying on remote voting by mail during the pandemic. Congress must hold the Post Office accountable to undo the changes that undermined mail delivery and restore the capacity of the Post Office to deliver critical election mail.

The pandemic has highlighted accessibility barriers that disenfranchise voters with disabilities, but our federal, state, and local governments have the tools and information needed to remove these barriers and can do so by adopting the recommendations outlined above. Our election officials and local leaders must act now to safeguard our democracy and make sure that voting is as accessible, safe, and secure as possible.

Introduction

2020 has been a year like no other. The U.S has passed 200,000 deaths from COVID-19, over 40% of which have occurred in nursing homes and other long-term care facilities. There has also been a disproportionately high death toll among Black and Brown Americans.¹⁰ This year, every state has a declared public health disaster. Furthermore, the police murders of George Floyd, Brianna Taylor, and many other Black Americans this year re-ignited protests and outrage focused on police violence and racial injustice in America.¹¹ And now, concurrent disasters along every coast show the very real consequences of delaying action on climate change.¹² While nearly every Presidential year seems as though it will fundamentally define the future of our country, the combination of disaster, injustice, and mass loss of life bring a particular weight to the 2020 elections.

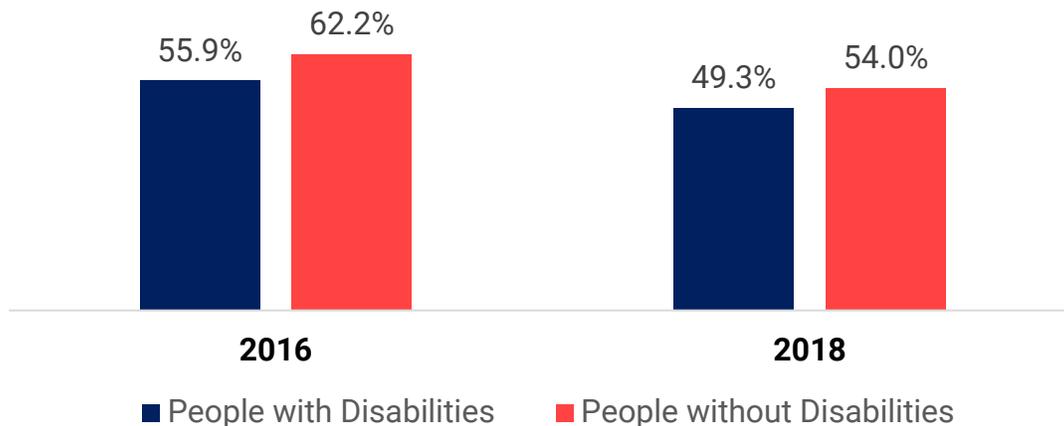
Voting has rarely been more important, but it has also rarely been under such threat. The risk of contracting COVID-19 has made in-person voting unsafe for many voters, particularly folks with disabilities and seniors. Voting rights and voter suppression have dominated the national dialogue this summer, from partisan divides over the legitimacy of vote-by-mail to the passing of civil rights activist, U.S. Representative John Lewis.¹³ Representative Lewis championed voting rights for Black Americans and other marginalized communities and fought against voter suppression. In an opinion piece written by Representative Lewis and published in the *New York Times* following his death, he wrote, “The vote is the most powerful nonviolent change agent you have in a democratic society. You must use it because it is not guaranteed. You can lose it.”

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The disability community knows what it means to fight continually for the right to vote. The disability vote, and the suppression of this vote, has a substantial impact on elections. People with disabilities make up one of the largest voting blocs with over 38 million eligible voters with disabilities, a number that grows to nearly 68 million when you include parents, siblings, and other household members of these individuals.¹⁴ While voter turnout among voters with disabilities has increased faster than turnout among those without disabilities, the turnout in the disability community still lags behind the rest of the population. Dr. Lisa Schur and Dr. Douglas Kruse, researchers at Rutgers University, discovered a nearly 5% gap in turnout at the polls between voters with and without disabilities in the 2018 midterm elections.¹⁵ That means that an additional 2.35 million votes would have been cast in 2018 if people with disabilities voted at the same rate as people without disabilities. In 2016, there would have been 2.2 million more votes.¹⁶

Turnout Gap Between Voters With and Without Disabilities

Data from Dr. Kruse and Dr. Schur of the Rutgers School of Management and Labor Relations



People with disabilities are a formidable voting bloc, and one that candidates would do well to pay attention to. Celinda Lake, a political strategist, found that voters with disabilities are evenly split between political parties and are motivated by issues important to the disability community, such as healthcare and Social Security.¹⁷ But the 5% voting turnout gap shows that barriers and obstacles keep this voting bloc partially untapped.

This report examines the history of voting rights and accessibility for people with disabilities, the impact of COVID-19 on voting accessibility, and the concrete actions that are needed to ensure that people with disabilities can vote privately and independently, a right that every eligible voter is guaranteed by law.

A Background of the Disability Vote

People with disabilities and other marginalized communities in the United States have fought for access and the right to vote for hundreds of years. During the first century of the country's existence as a democracy, only white men had the right to vote. The process for expanding the right to vote to include people of color, women, Native Americans, and people with disabilities has taken centuries of advocacy and action. In the last 70 years, several policy changes have helped expand access to voting for people with disabilities, though many people with disabilities remain disenfranchised.¹⁸

The Voting Rights Act, passed in 1965, began a new era of outlawing various voter suppression tactics and allowing citizens to have assistance when voting.¹⁹ Later in 1973, the passage of Section 504 of the Rehabilitation Act made voting more accessible by prohibiting discrimination against voters with disabilities and requiring reasonable accommodations in the voting process.²⁰ Then in 1984, the Voting Accessibility for the Elderly and Handicapped Act took voting accessibility further by requiring polling sites to be physically accessible for the first time and also requiring voting aids to be available for registration or voting.²¹

In addition to these pieces of legislation, the Americans with Disabilities Act (ADA) and the Help America Vote Act (HAVA) have each made monumental progress towards more accessible voting, although having these laws has not necessarily guaranteed accessible voting to all.

Americans with Disabilities Act (1990)

Despite having the right to vote, people with disabilities' vote can be suppressed by an inaccessible polling place or ballot. The passage of the Americans with Disabilities Act (ADA) in 1990 created the first national requirement for accessibility for buildings and public spaces, transportation, websites, telecommunications, government services, and more. This landmark legislation also banned discrimination in higher education and employment.²² The ADA specifically addressed voting accessibility by requiring that all stages of the voting process, including registration and early voting, are accessible. It also provided extensive guidelines for ensuring polling sites are accessible to people with disabilities.²³ The ADA helped both define and implement accessibility in the voting process.

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Help America Vote Act (2002)

Even after physical and communication barriers and other forms of discrimination were prohibited by the ADA, many people with disabilities still faced critical obstacles when going to the polls. For example, voters with a print disability, meaning difficulty or an inability to read printed material—this could include voters with blindness or low vision, dyslexia, a learning disability, or a dexterity disability—may not be able to complete traditional ballots on their own and would rely on someone else's assistance. Involving another person in casting your ballot means trusting them completely to mark the ballot as you requested, perhaps without the ability to verify that the ballot reflects one's true

choices, and undermines the fundamental meaning of the right to vote.²⁴ What is the right to vote without the ability to make sure that your vote reflects your choice and not someone else's?



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Signed into law in 2002, the Help America Vote Act (HAVA), established for the first time the right of all voters to “verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted.”²⁵ This means that every individual should have access to a way to verify their ballot independently and privately. HAVA also established the Election Assistance Commission (EAC) and provided funding for states and counties to implement and test accessible voting systems.²⁶ HAVA also provides funding and assistance to eligible Protection and Advocacy Systems and Centers for Independent Living in order to support voters with disabilities.

Voting Barriers Past and Present

The laws that ensure voting is accessible, private, and independent exist, but, in reality, voters still face substantial barriers at the polls, as evidenced by the persistent gap between voter turnout among voters with and without disabilities.²⁷ In order to understand why this gap still exists 18 years after HAVA and 30 years after the ADA, Rachita Singh, REV UP and Communications Coordinator at the American Association of People with Disabilities (AAPD), completed qualitative research this year, documenting the obstacles that keep folks with disabilities from voting. Through interviews with disability advocates, Singh identified four major barriers: 1) discrimination, 2) voter suppression, 3) lack of information, and 4) voter apathy.²⁸ The reality is that our voting systems and polling sites today are plagued with accessibility barriers which have only become worse during the current health crisis.

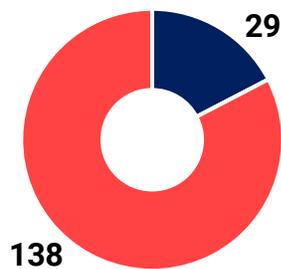
Discrimination, Suppression, Lack of Information, and Apathy

Discrimination, stigma, and apathy manifest in physically inaccessible polling sites, forcing someone with a mobility disability to find another polling site, perhaps farther away. Discrimination can also look like counties lacking functional accessible ballot marking machines or not training poll workers in how to operate these devices.²⁹ In 2016, the Government Accountability Office (GAO) audited 178 polling sites in 12 states and the District of Columbia. In this 2016 audit, the GAO found that 83% of the sites had

at least one accessibility barrier during early voting or on Election Day.³⁰ The results of this audit, which took place after the *Shelby County v. Holder* decision gutted the Voting Rights Act, are worse than the last audit in 2008, when at least one accessibility barrier was found in 73% of the polling sites.³¹ Despite federal law mandating accessible polling places and voting machines, too many states are not investing in voting accessibility and are failing to update voting machines and inspect polling locations.³²

Accessibility Barriers at Polling Sites Audited in 2016

Data from the U.S. Government Accountability Office (GAO)
2017 Audit Report "Observations on Polling Place Accessibility
and Related Federal Guidance"



- Accessible Polling Sites (no potential impediments)
- Inaccessible Polling Sites (at least one potential impediment)

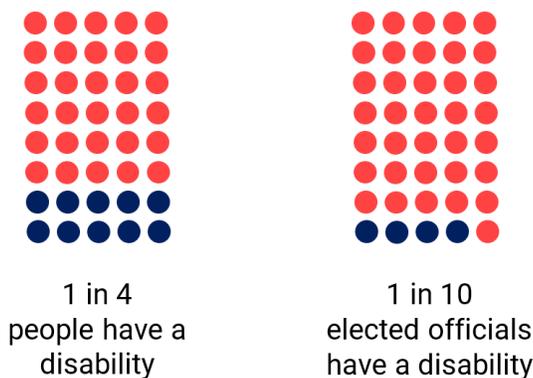
Inaccessible transportation is another substantial barrier to many voters with disabilities trying to vote in-person. In fact, people with disabilities are four times more likely than people without disabilities to indicate that transportation problems were a reason they did not vote.³³ Even if a polling site is accessible, voters need to be able to reasonably and affordably get to and from the polling location to cast their ballot.

The law itself can also suppress the vote of people with disabilities. In some states, a Court of Law may prohibit a person with an intellectual, developmental, or psychiatric disability from exercising their right to vote.³⁴ Another form of voter suppression is requiring voters to bring specific forms of identification to the polls, when many people with disabilities, and a disproportionately higher number of people of color, do not have a current driver's license or government-issued ID.³⁵ Additionally, many states have laws restricting the voting rights of people with guardians, which also discriminates particularly against people with intellectual, developmental, or psychiatric disabilities who are more likely to have a guardian.³⁶ Many states also disenfranchise incarcerated or formerly-incarcerated Americans, who are much more likely to have a disability.³⁷

Social isolation, which is disproportionately experienced by people with disabilities, also makes it harder for folks with disabilities to access information on voting and increases voter apathy.³⁸ For example, isolation reduces the possibility for conversations about voting or politics with friends, colleagues, and community organizations. Representation of people with disabilities in politics is a sign that our political system is open to all; conversely, lack of representation may actively discourage people with disabilities from voting.³⁹ While 1 in 4 Americans has a disability, only 1 in 10 elected officials has a disability, with representation of disability at the federal and state level even lower.⁴⁰

Disability Representation in the U.S.

Data from the Centers for Disease Control and Prevention and Rutgers University's Report "Reducing Obstacles to Voting for People with Disabilities"



Not all Barriers are Equal

It is absolutely critical to remember that voters with different disabilities and identities face different barriers. For blind, low vision, deafblind voters, and voters with dexterity disabilities, having access to accessible voting machines, like ballot marking devices, at polling places is essential. For deaf and hard of hearing voters whose primary language is ASL, finding accessible information in ASL on where, when, and how to vote is a challenge. Resources, candidate platforms, and ballots themselves are typically only available in written form, and therefore inaccessible to many.⁴¹ Within disability groups, accessibility needs also vary, and the accessibility challenges facing, for example, deaf and deafblind voters are going to inherently be different.⁴² It is unrealistic to attempt a "one size fits all" approach to voting accessibility.

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And voters with multiple marginalized identities face a complex network of barriers in getting to the polls. Restrictive voter ID laws, voter list purges, registration limitations, and felony disenfranchisement disproportionately impact voters of color.⁴³ Additionally, polling closures have particularly targeted communities of color.⁴⁴ Rural voters face additional barriers of internet, information, and polling site access. “Layers of barriers, issues, and intersectionality add complexity to getting the community politically engaged,” says Kriston Lee Pumphrey, Community Engagement Manager at Communication Services for the Deaf, a member organization of the SignVote coalition.

COVID-19 Adds More Barriers to Voting

COVID-19 has introduced many new barriers to voting accessibility. The COVID-19 pandemic began shortly after Iowa’s February caucuses, which experienced app technology issues that delayed and cast doubt on election results and served as a bad omen for the primaries that followed.⁴⁵ As COVID-19 cases spiked in Washington, New York, and California at the start of the year, many states postponed primaries, increased use of vote-by-mail and absentee ballots, and reduced polling sites in response to the lack of poll workers caused by concerns of contracting COVID-19.⁴⁶

Many jurisdictions were unprepared for these changes, resulting in long-lines, polling sites closing with hundreds of people still waiting outside, and numerous absentee ballots not being counted because of delays in states’ distributing ballots, signature matching issues, or other mistakes in the process.⁴⁷ Voters were left confused going into the general election about what options they have, if it is safe to vote in person, and whether or not their vote will get counted if they vote by mail. With in-person interactions carrying the risk of getting COVID-19, registering new voters is also extremely challenging. As of early June, new voter registrations in 2020 dropped nearly 50% to 79,777 registrations, compared to 155,215 new registrations by June in 2016.⁴⁸

All voters face a health risk when going to the polls to vote, but voters with disabilities face a more serious risk from COVID-19 due to higher rates of comorbid conditions.⁴⁹ In New York, data on COVID-19 deaths shows that people with intellectual and developmental disabilities are 2.5 times more likely to die from COVID.⁵⁰ Additionally, there is a substantial overlap between people with disabilities and people who are over 65 years of age, another vulnerable population during this pandemic—2 out of every 5 adults over 65 have disability, and 1 in 2 adults over 75.⁵¹

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As the UCLA Voting Rights Project aptly put it, “No one should have to risk their life to exercise their fundamental right to vote.”⁵² Claire Stanley, Advocacy and Outreach Specialist at the American Council of the Blind, explains the dilemma as “a choice between risks.”⁵³ People with disabilities have fought hard to achieve accessible, private, and independent voting options at polling locations, and now the challenge is to ensure that remote voting options are accessible as well.

Accessible and Safe Voting in a Pandemic

States, local elections offices, and the federal government must work together to overcome the threats that COVID-19 poses to the 2020 elections. States and local election offices must not only provide accessible, safe, and secure voting options, but also do so with limited resources and limited time to make any changes. This requires taking critical actions to make remote voting accessible to all voters and to ensure that in-person voting is also safe.

1. All states must allow all voters to register to vote and cast a ballot remotely.

Ensuring that all voters have access to online voter registration and mail-in voting is critical during the pandemic because it enables many older voters and voters with disabilities, who are most at risk of COVID-19, to register to vote from the safety of their home.⁵⁴ This summer, only 39 states and D.C. provided a fully online voter registration system to ensure that potential voters can register despite office closings and avoid the danger of contracting COVID-19 in public places.⁵⁵ Nine other states at least provide an online form that must be printed and mailed, but access to printing and the internet present additional challenges for many voters. To overcome this particular barrier, the website [Register2Vote.org](https://www.Register2Vote.org) helps get people without a printer a stamped and postmarked voter registration form.⁵⁶

Expanding remote voting by mail requires making sure that all voters concerned about COVID-19 can cast a ballot by mail. In New York, the demand for absentee ballots in the primary increased more than tenfold from 115,000 in 2016 to over 1.7 million this year.⁵⁷ But even before the pandemic spread around the United States, many states already embraced mail-in ballot options, including Colorado, Hawaii, Oregon, Washington, and Utah who conduct elections fully by mail. Many more states allowed people to vote absentee or by mail without an excuse long before COVID-19 or have added this option due to the pandemic.⁵⁸

While vote-by-mail and absentee voting methods are far from new, both methods have come under pressure in 2020 and partisan politicization has influenced the

conversation surrounding remote voting options. Most notably, key figures in the Republican party, including President Trump, have claimed that mail-in voting is vulnerable to fraud and favors the Democrats.⁵⁹ However, research shows that mail-in voting is secure and nonpartisan. The Brookings Institution produced an analysis showing just how unlikely fraud is through absentee ballots,⁶⁰ and research from Stanford this year shows that mail-in ballots also do not favor either party.⁶¹ The federal Elections Assistance Commission itself released a guide for states which acknowledges the importance of vote-by-mail and absentee voting to ensure that voters and polling site workers remain safe and healthy during the 2020 elections.⁶²

As of September, 2020, all but five states will allow any registered voter, including voters concerned about COVID-19, to vote by mail. These states include Indiana, Louisiana, Mississippi, Tennessee and Texas, a state which has one of the largest disabled and older adult populations in the country.⁶³ Some states are even making it harder to vote in general, including Alabama, where the Supreme Court shut down a court order that would have allowed curbside voting and made it easier to vote by mail.⁶⁴ Meanwhile, Missouri's state leaders have decided not to use drop-boxes.⁶⁵ Accessible and convenient drop-boxes are key to allowing voters to quickly deliver their ballot without having to put themselves at a heightened risk of contracting COVID-19 at a busy polling site or a local elections office.

Every state that requires an excuse to vote absentee or vote by mail includes disability as a qualifying reason. However, expanding vote by mail benefits the disability community by providing their household members a safe alternative to voting in person. States and county election offices should also pre-stamp return envelopes to ensure that not having any stamps, or not feeling safe going into a public space to purchase stamps, does not delay or prevent the delivery of vote-by-mail ballots. Expanding vote-by-mail will also benefit voters with or without a disability who vote in-person by lowering the traffic of in-person voters at the reduced number of polling sites during November's election.

In addition to allowing all voters to cast a ballot remotely with vote-by-mail or absentee ballots, reducing some of the strict requirements on these ballots will ensure that they are more accessible. For example, many states require ballots to be signed with a signature that matches one previously provided by the voter, but providing a consistent signature can create a significant barrier for voters with print disabilities, learning disabilities, physical and dexterity disabilities, blindness, or low vision. Some states allow voters to mark, rather than sign their ballot, or do not require a matching signature, but do require an affidavit or witness signature from another person, which adds extra hassle and risk of catching COVID-19 for people with disabilities who live alone.

2. States need to deliver mail-in ballots electronically to voters who cannot access their ballot on paper.

Paper mail-in ballots are inherently inaccessible to many voters with print disabilities, such as blindness, low vision, learning disabilities and physical disabilities. For folks with print disabilities, marking, printing, verifying, and mailing a paper ballot is impossible without assistance from someone else, putting people living alone at a disadvantage and denying people with print disabilities the right to vote privately and independently.⁶⁶

Particularly during the COVID-19 pandemic, people with disabilities need a safe and accessible alternative to voting in-person. As Michelle Bishop, Voter Access & Engagement Manager at the National Disability Rights Network, says, “If people without disabilities get to choose between remote and in-person voting, then so should people with disabilities.” Clark Rachfal, Director of Advocacy and Governmental Affairs at the American Council of the Blind, puts it this way: “I can’t read a standard ballot at the polling location. Why is there an expectation that I can read a standard ballot not at the polling location?”⁶⁷

Fortunately, a technology called electronic ballot delivery allows for election offices to send voters an electronic ballot that voters can complete on their computer using assistive technology. For example, a voter could use a screen reader that reads aloud text on the digital ballot and complete their ballot selections electronically. In nearly all states with electronic ballot delivery, the ballot must be printed, signed, and returned by mail or in-person delivery, just like other mail-in ballots, which means that people with print disabilities either still will not be able to mail their ballot independently and may not be able to verify what has been printed on the ballot before mailing it.

Currently, more than half of all states provide electronic ballot delivery to voters with disabilities. Many jurisdictions, including the Washington D.C. Board of Elections, will be providing these accessible remote ballots through Democracy Live’s OmniBallot, an accessible remote ballot marking system application, to ensure that people with print disabilities can mark their ballot privately and independently.⁶⁸ OmniBallot is an electronic method of delivering ballots via a secure online portal, and nearly all states and D.C. require voters to print and return a paper ballot.⁶⁹ For example, D.C. voters with disabilities who use the remote accessible ballot option to mark their ballot digitally will still need to print their ballot and return it by mail or drop it off at a vote center or mail-in ballot drop box.

Accessible vote by mail tools, such as electronic ballot delivery, are not only helpful, but they are required by the ADA, and advocacy groups have successfully used the law to require states to ensure voters with disabilities can exercise their right to vote in a way that is equal to the opportunity provided to voters without disabilities.⁷⁰ Litigation in

many states, including New York, West Virginia, Florida, North Carolina, and Virginia has forced many states to provide an electronically fillable ballot.⁷¹ Disability rights organizations, such as the National Federation of the Blind, the American Council of the Blind, and Disability Rights Advocates, are in the midst of similar cases in other states, including New Hampshire, Vermont, and Texas.⁷² States need to make remote voting options accessible, just as they are required to make in-person voting accessible.⁷³

3. States and county election offices must make in-person voting as safe and accessible as possible.

Mail-in and electronic voting options do not replace the need for accessible and safe in-person voting. Both voting by mail and electronic ballot delivery can be inherently inaccessible to many Americans because of their heavy reliance on the internet, printing, and reliable mail service. A recent education report revealed that 3.6 million households lack a computer while 8.4 million households—one in three Black, Latinx, and Native American households—lack internet access.⁷⁴ Furthermore, Native Americans have less access to postal service-recognized mailing addresses, and individuals experiencing homelessness likely have no reliable address.⁷⁵ On top of existing challenges to relying on casting a ballot by mail, the USPS's recent reorganization has added to mail delivery delays caused by COVID-19 this year.⁷⁶

Not only are remote voting options not necessarily accessible to all, but many people may be skeptical of vote-by-mail, particularly with the USPS delivery delays, or may place a high value on the civic experience of voting in-person.⁷⁷ For many Americans, such as voters with print disabilities in states with inaccessible mail-in ballots, ballot marking devices at polling locations remain the only truly accessible, private, and independent method of voting available to them.

Unfortunately, in-person voting brings many challenges during the pandemic. Polling site closures are compounding chaos at the polls. For example, in Kentucky's 2020 primary this summer, the number of polling stations reduced from about 3,700 to just 170 locations.⁷⁸ Even though many more voters will cast a ballot by mail this year, the shortage of polling site workers and subsequent consolidation of polling sites is increasing the number of people relying on a single polling site.⁷⁹ Many regular poll workers are middle-aged or seniors and are deciding not to be a poll worker this year due to the risk of COVID-19.⁸⁰ Polling site closures confuse voters, add to the transportation barriers already faced by voters with disabilities, and could even direct people with disabilities to inaccessible polling stations.

In order to ensure that voting in-person is safe, states and counties must make sure that each polling site is equipped with personal protective equipment (PPE) for polling site workers, and that enough polling sites are opened and staffed to handle the capacity of voters that will cast a ballot in-person in November. Additionally, states must

consolidate polling sites, if necessary, responsibly and equitably.⁸¹ Furthermore, states need to ensure that accessibility remains a priority when consolidating and adapting polling sites, by ensuring that accessible ballot marking devices are ready for use and that poll workers are trained to set up and facilitate voting on these machines.

Transportation to polling sites presents another challenge for voters trying to get to the polls or to a vote-by-mail drop-box during the pandemic. In order for people with disabilities to be able to get safely to polling sites, states, cities, and counties must invest in accessible and convenient transportation. Even in New York City, a metropolis with robust public transportation, general public transportation is largely inaccessible, and paratransit for people with disabilities is unreliable.⁸² While voters may face many barriers during the pandemic, transportation should not be one of them.

Increasing early voting and voting hours will help states minimize crowds, long-lines, and possible COVID-19 exposure on Election Day. In order to ensure that folks who are working, caregiving, or otherwise busy during Election Day can still vote, states should provide an early voting period leading up to November 3rd.⁸³ Additionally, ensuring that polling sites are open during weekend and evening hours after the work day will help make voting more accessible to voters both with and without disabilities. And all employers should provide employees with time off to vote. Over 1,000 companies have already made Election Day a work holiday as a part of the Time to Vote Initiative.⁸⁴

Curbside voting is another strategy to increase access to voting at polling sites. Curbside voting allows seniors and voters with disabilities to request and complete a ballot from their car when they are not able to enter the polling location due to inaccessibility issues.⁸⁵ Violations to the ADA's accessibility requirements have been used by some states to close election sites, but curbside voting provides a way for many voters with disabilities to cast a ballot, even if a polling site is inaccessible.

Finally, polling sites must ensure that mask rules make exceptions for people with disabilities who may not be able to wear a mask. Earlier this year, another misuse of the ADA spread online with people not wanting to wear masks disseminating fake ADA exemption cards. These cards claim that the ADA allows individuals exemption from any mask requirements and threaten hefty fines for ADA violations. While this mask exemption scam was identified and debunked by the U.S. Department of Justice, it overshadowed the fact that wearing a face mask can be difficult for individuals with some disabilities, such as developmental disabilities that impact sensory functions, which the U.S. Centers for Disease Control and Prevention (CDC) itself acknowledges.⁸⁶ People with disabilities who cannot wear a mask must not be denied their right to vote, and instead must be able to have a safe and socially distanced voting option.

4. States must educate voters on their rights and voting options in accessible ways.

With all the misinformation, heightened fear, and voting suppression faced by voters this election, particularly among communities of color and people with disabilities, it is extremely important that states and counties educate voters on their rights and their options. Matthew Dietz, Litigation Director of Disability Independence Group in Florida, explains that “people are not always aware of their rights of what they can sue for or even ask for!” And during an election season in which elections rules and procedures are changing all over the U.S., Zach Borodkin of Disability Rights New York points out that, “Many of us are voting in a different way that we’re used to. It really comes down to education.”⁸⁷

Sharing websites, such as [OneVoteNow.org](https://www.onevotenow.org) and [VotersWithDisabilities.org](https://www.voterswithdisabilities.org) which specifically address the disability community, can help encourage and educate voters with disabilities. States and counties must also take responsibility to provide accurate, clear, and accessible information on accessibility options and voters’ rights at the polls. For example, states need to provide accessible support and information for voters in multiple formats, including ASL, plain language, and other languages that will equip voters with disabilities in the language that works for them.⁸⁸

Zainab Alkebsi, Policy Counsel for the Law and Advocacy Center at the National Association of the Deaf (NAD) and a part of the SignVote coalition, explains that making elections more accessible requires a two-pronged approach. On the individual level, increasing the voting power of the disability vote requires advocacy organizations, such as the NAD, to reach out to voters to provide accessible information on the voting process. State elections offices also need to proactively educate voters, especially since each state has different elections deadlines and rules, and many states are changing their rules in the months leading up to the general election in November.⁸⁹

5. Every state must ensure voters in congregate settings can get the assistance they need to register and vote.

In 27 states, at least half of all COVID-19 deaths have occurred among those living and working in nursing homes and other long-term care facilities. The high risk of the population of elderly and people with disabilities who live in congregate care settings led the CDC to release guidance in March of this year to limit outside visitors to protect residents in these facilities.⁹⁰ Across the U.S., restrictive visitor policies due to the pandemic limit non-facility staff from entering. These policies prevent state and local election officials, and others engaged in voter registration and assistance efforts, from sending nonpartisan elections assistance teams to help voters in congregate settings to register and cast their ballots. Additionally, it is no longer safe for long-term care facilities to be used as polling sites, which is typically done to help facilitate access to voting for residents of these facilities who may find it difficult to leave the facility to vote at an outside polling site.⁹¹

In order to ensure that residents in long-term care facilities have the opportunity to vote in this election, states must preserve all voters' right, granted by the Voting Rights Act of 1965, to choose someone to assist them with their ballot. Additionally, relying on facility staff for ballot assistance puts residents in a position where they may feel that their vote is pressured by the power balance between themselves and the staff providing them regular care or assistance. This summer, the U.S. Department of Health and Human Services (HHS) Office for Civil Rights (OCR) issued guidance focused on ensuring that people with disabilities in hospital settings have the right to have a support person with them.⁹²

In a resolution reached with the State of Connecticut, the state issued an executive order that ensures that people with disabilities have reasonable access to support personnel, in hospital settings in a manner that is consistent with disability rights laws.⁹³ A subsequent resolution with the State of Tennessee applied these standards to all long-term care settings.⁹⁴ Finally the Centers for Medicaid and Medicare Services (CMS) issued guidance encouraging nursing homes to facilitate outdoor visits and allow indoor visitation if there has been no new COVID-19 cases for the past 14 days and the facility is not conducting outbreak testing.⁹⁵

While current guidance does not address voting specifically, long-term care facilities and other congregate care settings must allow voters to bring in someone to assist them with their ballot while maintaining proper safety and social distancing precautions. HHS and other relevant federal agencies need to issue guidance regarding voter registration in long-term care settings. Facility staff should help voters with the voting process by assisting with voter registration, accessing an ID, requesting an absentee ballot, and learning about the issues in an accessible and non-partisan way. By taking action to ensure voters in long-term care facilities can have access to the support they need, states will not only be upholding federal law, but also preventing the disenfranchisement of the 2.2 million people living in nursing homes or assisted living facilities.⁹⁶

6. States should continue to explore, innovate, and test fully electronic voting methods.

While electronic ballot delivery can make mail-in voting more accessible, the requirement that voters print and mail their ballot, regardless of how they received their ballot, means that the process is still inaccessible to many. For example, voters with visual disabilities may not be able to verify the printed ballot, making it impossible for them to verify their ballot printed correctly with their selected choices.

Many remote accessible ballot technologies, such as OmniBallot, have the capability to allow states and counties to both distribute and collect ballots through the secure electronic portal, resulting in a fully electronic ballot. Currently, 31 states and D.C. allow

military service members and citizens overseas to vote fully electronically and submit their ballot through a web portal, email, fax, or an app, depending on the state.⁹⁷ Originally passed in 1986 and amended in 2010, the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) enables “UOCAVA” voters that qualify to vote electronically to mitigate the risk of unreliable mail and delays that might prevent their vote from counting.⁹⁸

The long existence of UOCAVA voting systems in the U.S. means that not only does the technology for electronic voting systems exist, but it is already in use by overseas citizens and members of the military. Even before the pandemic in 2019, Utah County, Utah, made their UOCAVA electronic voting system available to voters with disabilities and conducted safety audits demonstrating the security of their electronic voting system.⁹⁹ In Utah, this was accomplished by requiring that any approved voting methods, including the UOCAVA system, would be available to voters with disabilities.

The largest reason why states have not expanded electronic voting beyond overseas Americans and military service members is election security concerns. Elections security has become a top and bipartisan priority over the past four years, after at least 21 states were targeted by hackers during the 2016 elections.¹⁰⁰ Although the federal government found no evidence of any votes being changed, the resulting fear and mistrust of non-paper voting systems remains, especially with new attempts to influence our elections online through misinformation during the 2020 elections.¹⁰¹

The reality is that both electronic and paper ballots (in-person or by mail) are vulnerable to elections fraud. When it comes to remote electronic voting, many in the election security community emphasize that paper voting systems are the only methods immune to cyber interference, and therefore any electronic voting is too risky.¹⁰² But, the concept that paper ballots are completely immune to fraud simply is not true. Cyber interference is not the only risk to election security. While actual voter fraud cases are extremely unlikely,¹⁰³ examples of voter fraud over the last 40 years show that paper ballots are not completely free of fraud, and that voter fraud in the past has ranged from malicious attempts to buy voter fraud to more ambiguous cases of voters attempting to cast a ballot while ineligible.¹⁰⁴

“Holding electronic voting to a much higher standard than paper ballots is a red herring,” says Clark Rachfal. “100% security all the time does not exist for paper ballots or electronic voting, and accessibility should not be excluded due to an impossible standard.”¹⁰⁵ Rachfal’s colleague Claire Stanley puts it this way, “No system is perfect, but some are accessible while others are not.” Right now, no voting method—in-person, absentee, or electronic voting—is completely free from the possibility of voter fraud, but we use them anyway because people need to vote. And we can protect our democracy from interference by continuing to test, innovate, and audit voting systems.

We must make and take space for accessibility in the dialogue of election security and innovation. While electronic voting technology exists and is already used by many states, investing in, securing, testing, and improving electronic systems is critical to making these accessible voting methods secure and ready to be used more widely. Cybersecurity threats to our elections are real, and our voting systems and voter databases need updating and securing. As the Brennan Center for Justice emphasizes, the U.S. needs to move forwards, not backward, in technology to secure our elections.¹⁰⁶

7. The federal government must ensure states have funding to make voting safe during the pandemic.

Beyond the actions that states must take, Congress must equip states with the resources and legislation needed to ensure that the 2020 elections are as safe, accessible, and secure as possible, and that misinformation, inaccessibility, and the risk of contracting COVID-19 do not keep Americans from voting this year and in the future.

While states and counties do not necessarily rely on the federal government for their elections funding, federal funding can make a huge difference in making it possible for states to update, secure, and improve voting systems. For example, when HAVA was passed in 2002, states and counties received funding to purchase and use accessible ballot marking devices to ensure voters with disabilities have access to private and independent voting.¹⁰⁷ Legislators and advocates are once more calling for federal assistance, with no required state matching funds, to states and counties that are struggling to conduct elections safely and accessibly during the pandemic.¹⁰⁸

In May, analysis from the Brennan Center estimated that it will take \$4 billion dollars for states to successfully implement safe in-person and remote voting options and ensure voters have the information they need to cast a ballot.¹⁰⁹ So far, the federal government has only given \$400 million of the additional funding needed through the CARES Act this year.¹¹⁰ The HEROES Act, which has passed the U.S. House of Representatives, would provide the remaining \$3.6 billion in election funding, recommended by the Brennan Center.¹¹¹ But a stalled Congress means an uncertain future for additional election funding and COVID-19 relief.¹¹²

8. Congress must pass the John Lewis Voting Rights Advancement Act to prevent discriminatory voting practices.

The John Lewis Voting Rights Advancement Act attempts to amend and reinstate the tenets of the 1965 Voting Rights Act, which was undermined in 2013 by *Shelby County v. Holder* in which the U.S. Supreme Court's ruling removed the requirement that states and counties with a record of racial injustice need approval from the U.S. Department of Justice (DOJ) when changing voting procedures.¹¹³ Without regulation on changes in

voting practices, states have been emboldened to purge voting rolls, close polling sites, gerrymander voting districts, and engage in other practices that have disproportionately impacted communities of color in particular.¹¹⁴

The John Lewis Voting Rights Advancement Act, which has already passed the U.S. House of Representatives, would re-establish the requirement that states with a history of voting rights violations get clearance from the DOJ.¹¹⁵ With COVID-19's disproportionately high impact on communities of color and people with disabilities, revitalizing the Voting Rights Act is critical to holding states accountable to hold fair and equitable elections for all.

9. The Post Office must be held accountable to maintain delivery standards for the elections.

On top of the other challenges and accessibility limitations to mail-in voting options, the USPS's ill-timed reorganizing has led to mail delivery delays and created doubt that they can handle the increase in mail-in ballots. The Post Office's actions undermine one of the safest voting options for Americans and lead to delays in the delivery of critical paperwork and medications. USPS warned states that ballots could be delivered late, a statement that Postmaster General Louis DeJoy rolled back in a hearing on August 24.¹¹⁶

In August, the AAPD and the National Council on Independent Living collected testimonies from people with disabilities facing real consequences from the USPS delays. Stories included Sarah who faces homelessness if the Post Office does not deliver paperwork on time as she works on her Section 8 housing recertification. Another testimonial spoke of an individual's small business receiving "past due calls, fees and threats" for the first time in 35 years of operating this business because of their postman picking up their mail half as often, delivering after business closure, and delivering mail late. Another person shared how their husband ran out of medications and had to do intense work to access even a few days of medicine (which itself was delayed) until the delayed shipment of medicine arrived. Several people mentioned worrying about their ballots and anticipating having to start the vote-by-mail process much earlier than usual.

In September, a federal judge issued an injunction to prevent further changes that would limit delivery capacity. The injunction requires the Post Office to reverse particular instructions that would delay delivery and to treat election mail as first-class mail.¹¹⁷ However the future of the USPS is still uncertain and a bill to provide \$25 billion to the USPS has stalled in the U.S. Senate.¹¹⁸ Delivery delays threaten the ability of Americans to make sure their mail-in or absentee ballots arrive on time. Congress must hold the USPS accountable to stop these changes and undo the damage already done to ensure that they can deliver the critical ballots that so many voters will cast in 2020.

Conclusion

The disability community has fought hard for accessible polling locations and voting machines to allow millions of eligible disabled voters to access their right to vote. The COVID-19 pandemic has revealed that many barriers remain to fully accessible and equitable elections. Maria Town, President and CEO of the American Association of People with Disabilities explains that, “We, as voters with disabilities, are forced to make an impossible decision this election—between protecting our health, and even our lives, and participating in democracy.”¹¹⁹ It will take immediate action and cooperation between counties, states, and the federal government to ensure remote and in-person voting options are as safe, accessible, and reliable as possible to all voters, despite how COVID-19 has threatened our elections.

In working to ensure free and fair elections during the COVID-19 pandemic, we must consider not only the 2020 elections, but future elections as well. As Scott Seeborg, Director of All Voting is Local in Pennsylvania, says, “the pandemic isn’t going anywhere.”¹²⁰ Director of Policy at Utah State University and President of the Association of University Centers on Disabilities, Sachin Pavithran warns that “the movement for fully accessible voting must not deflate after November.”¹²¹

Our country was founded as a democracy, but it has taken centuries for our leaders to make this democracy accessible to people of color, women, and people with disabilities. If the votes of the able-bodied, white, wealthy, cisgender, and heterosexual are the easiest to cast, most likely to be counted, and most empowered and privileged by our society, then they are the people that our country’s laws and elected officials will work for.¹²² But making voting accessible, safe, and trustworthy benefits everyone in society and strengthens our democracy.¹²³

Making voting accessible, safe, and trustworthy benefits everyone in society and strengthens our democracy.

Liz Weintraub, Senior Advocacy Specialist at the Association of University Centers on Disabilities, emphasizes that “All means all. Regardless of my disabilities, my rights should not be taken away. I am a citizen and I have opinions.” Accessibility barriers disenfranchise and silence voters with disabilities. “It takes more than having a seat at the table,” says Weintraub. The conversation at the table must also be accessible and inclusive.¹²⁴ During this pandemic, inclusive democracy means that no one should have to choose between their health and their right to vote, and we call on all levels of government to put accessibility and safety at the center of the 2020 elections. Our democracy only truly works for all when all can vote.

Acknowledgements

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Note that the individuals who contributed to this report and are mentioned below do not necessarily endorse the policy recommendations or statements in this report, nor do their organizations. They are listed in alphabetical order by last name.

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