

National Council on Disability Statement: Voluntary Voting System Guidelines

Consistent with its legislative mandate as an independent federal agency, the National Council on Disability (NCD) provides advice to the President and Congress by making recommendations on how to enhance the quality of life for all Americans with disabilities and their families. In *Inclusive Federal Election Reform*,¹ NCD made recommendations to Congress and the President on how to improve the accessibility of voting systems. This NCD statement shows alignment of those recommendations with the current efforts of the U.S. Election Assistance Commission (EAC), established through the Help America Vote Act (HAVA) of 2002, to establish guidelines for accessible voting systems. As more fully described below, NCD calls on the EAC to make voting systems more accessible to people with disabilities by requiring privacy protections for paper ballots, comprehensible audio for electronic voting machines, and paper ballots that are accessible to voters with poor vision.

Dual Roles of HAVA: Promote Access and Enhance Integrity

In 2002, Congress passed the Help America Vote Act (HAVA), which guarantees by law the opportunity for people with disabilities to privately and independently cast an accurate and secure ballot in every polling station throughout the country.² While HAVA implementation continues to be a “work in progress,” it has already had a positive impact on voters with disabilities. For example, accessible electronic voting equipment allowed a Montana voter, who is blind, to vote without assistance and in privacy for the first time in almost 30 years. That same voter told a reporter, “[Accessible voting equipment] is like manna from heaven... But it's going to come to a point where that's what we just learn to expect. When that day comes, being blind will be a whole lot easier.”³

To help fulfill HAVA’s mandate to provide accessible voting with enhanced voting system integrity, Congress created the Election Assistance Commission (EAC), the Election Assistance Standards Board, the Election Assistance Commission Board of Advisors, and the Technical Guidelines Development Committee. Congress authorized the EAC to disburse \$3.9 billion to the states to replace old voting equipment and to adopt other election reform measures.⁴ To help states that receive these funds comply with HAVA, one of the EAC’s functions is to establish voluntary guidelines for voting equipment and to provide technical guidance to the states on implementing election technologies. With the help of the National Institute of Standards and Technology (NIST), the EAC produced Voluntary Voting System Guidelines (VVSG) to help states comply with HAVA. The VVSG provides technical specifications for HAVA-compliant voting systems.

History of the Voluntary Voting System Guidelines

The EAC submitted the first draft of the VVSG⁵ for public comment in early 2005 and promised that the EAC would improve the guidelines based on the feedback about accessibility issues. The EAC received considerable feedback to its first draft version. In addition to concerned individual voters who responded to the EAC’s call for suggestions, organizations such as the American Council of the Blind (ACB), the Consortium for Citizens with Disabilities (CCD), Paralyzed Veterans of America (PVA), and others offered numerous suggestions for

modification. Many of the changes adopted in the final version of the VVSG are aligned with NCD's 2001 *Inclusive Federal Election Reform* report, and are the result of dialogue with the disability community. The EAC often adopted word-for-word the language suggested by various advocacy groups.⁶

Perhaps the most critical category of changes to the VVSG was the adoption of "shall" language rather than "should" language for many of the voting system features. The VVSG states that a "should" statement is equivalent to a suggested feature, whereas a "shall" statement indicates a mandatory feature. CCD observed in its letter to the EAC: "HAVA funds are provided for a one-time purchase... ["should"] requirements will have little impact on what is available to consumers for years to come... a guideline or standard with a "should" is not part of what is required to meet the legal requirement and will have little impact on the market buying decisions."⁷ At the suggestion of many disability advocates, the EAC changed much of the "should" language that made a feature only a "suggestion" or "recommendation" for a state to the stronger "shall" language, which denotes a requirement.⁸ NCD concurs with the changes.

In December of 2005, the EAC officially adopted the VVSG and effective December 2007, voting systems will be tested against the VVSG.⁹ The EAC anticipates further modifications to the VVSG prior to the 2008 election. The EAC should continue to recognize voters with disabilities as key stakeholders when making further modifications to the VVSG.

In November of 2005, NCD issued a paper entitled *Enjoyment of the Right to Participation in Political and Public Life by Persons with Disabilities - Illustrations of Implementation from the United States*¹⁰ which praised the EAC for providing informational resources to states that highlighted accessibility for people with disabilities. NCD commends the EAC for its work on the VVSG since 2005 and for responding to feedback from NCD and advocacy groups for disenfranchised citizens, including people with disabilities.

Recommendations for Improving the VVSG and HAVA Implementation

Despite recognizable improvements in the latest version of the VVSG, the EAC failed to address some of the concerns previously expressed by the disability community. NCD reiterates the suggested improvements as follows:

- **Privacy:** When a voter uses an alternate ballot with accessible features to cast an electronic vote, the VVSG requires voting systems to protect the privacy of that voter by not displaying information that would indicate the voter used an alternate voting format.¹¹ However, the VVSG does not require privacy protections for accessible paper ballots. Yet the VVSG requires the privacy of both paper and electronic ballots when the voter uses alternate language features.¹² The VVSG needs a parallel privacy requirement for paper ballots cast in an alternate accessible format.
- **Audio:** The VVSG does not require that audio be "readily comprehensible" or that candidate names be correctly pronounced.¹³ Voters with visual impairments often are accustomed to only hearing candidate names and these voters need voting machines with intelligible speech. Voting systems that provide digitized human speech are preferable to systems with synthesized speech because digitized speech is "more readily

comprehensible” and more likely to contain the correct pronunciation of candidate names. “Shall” language would convey the necessity for “readily comprehensible speech” and for normal pronunciation of candidate names.

- **Accessible Paper Ballots:** The VVSG fails to ensure accessibility for voters with the full range of visual impairments.¹⁴ Voting systems that use paper ballots need to make provisions for voters with poor reading vision.

Finally, we encourage the EAC to use NCD's work as a reference point and as a basis for further examination of voting issues that impact the lives of citizens, including people with disabilities. NCD stands ready to work with the EAC, Administration, Congress and the public to ensure that public policy is shaped so it will provide the greatest possible opportunities for all Americans to have an equal opportunity as they strive to be fully productive, contributing citizens.

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¹ See <http://www.ncd.gov/newsroom/publications/2001/electionreform.htm>.

² See 42 U.S.C.A. 15481(a)(3)(A) and 42 U.S.C.A. 15481(a)(3) (West Supp. 2004).

³ Kim Briggeman, *New computer terminal allows the blind to make their choices in privacy*, The Missoulian, June 7, 2006 at A-1.

⁴ *U.S. Election Assistance Commission Reports To Congress On Election Reform Progress In 2004* (February 9, 2005) http://www.eac.gov/news_020905.asp.

⁵ *Voluntary Voting System Guideline Version 1 – Draft*, http://vote.nist.gov/vvsg1_drafts.htm.

⁶ For example, the EAC adopted word-for-word the language suggested by the ACB suggested for Section 2.2.7.1.2.1.9 of the first version (Section 3.2.2.1(f) in the final version) regarding the synchronization of audio output with visual display.

⁷ *CCD Letter on Voluntary Voting System Guidelines Access Standards*, CCD (September 27, 2005), <http://www.afb.org/Section.asp?SectionID=3&TopicID=141&DocumentID=3042>.

⁸ For example, the original Section 2.2.7.1.3.5 said that the “voting process should provide features that enable voters who lack fine motor control.” The new Section 3.2.3 contains the more appropriate “shall.”

⁹ *Voluntary Voting System Guidelines*, Election Assistance Commission, http://www.eac.gov/vvsg_intro.htm.

¹⁰ NCD, <http://www.ncd.gov/newsroom/publications/2005/enjoyment.htm>.

¹¹ Section 3.2.7.2(b) “No information shall be kept within an electronic cast vote record that identifies any accessibility feature(s) used by the voter” (emphasis added).

¹² Section 7.9.5(e) “The privacy of voters whose paper records contain an alternative language shall be maintained” and Section 3.1.7.2(a) “No information shall be kept within an electronic cast vote record that identifies any alternative language feature(s) used by the voter.”

¹³ Section 3.2.2.2(c) (viii) “The audio presentation of verbal information should be readily comprehensible by voters... This includes such characteristics as proper enunciation, normal intonation, appropriate rate of speech, and low background noise. Candidate names should be pronounced as the candidate intends.”

¹⁴ Section 3.1.5(e) “All voting machines using paper ballots should make provisions for voters with poor reading vision.”