

July 22, 2024

U.S. Election Assistance Commission
633 3rd Street NW, Suite 200
Washington, DC 20001

**Re: Request for Comment on Accessible Digital Form Filler Tool for the
National Mail Voter Registration Form**

Dear Election Assistance Commission,

The Brennan Center and the organizations listed below hereby submit these comments in response to the Comment Request by the Election Assistance Commission (EAC) regarding the Accessible Digital Form Filler Tool for the National Mail Voter Registration Form, published at 89 Fed. Reg. 53068 (June 25, 2024).

I. Interest of Commenter

The Brennan Center for Justice is an independent, nonpartisan law and policy organization that works to reform, revitalize, and when necessary, defend our country's systems of democracy and justice. It operates on a distinct model to advance legal and policy change: as a think tank, conducting rigorous research to identify problems and craft transformative solutions; as an advocacy group, fighting in court and working with elected officials to advance legislation; and as a cutting-edge communications hub, shaping opinion by taking messages directly to the press and public. Today, in a fight for the future of constitutional democracy, Brennan Center works to craft and advance a transformative reform agenda — solutions that aim to make American democracy work for all.

With this perspective and joined by the organizations listed below, we offer the following comments.

II. Background

For too many Americans, it's still too hard to vote. In 2021, on the anniversary of the historic civil rights demonstration in Alabama known as Bloody Sunday, President Biden targeted this serious problem with Executive Order 14019 ("the EO"), committing the federal government to expanding voter registration and voting information access. Building on the National Voter Registration Act of 1993 ("NVRA"), the EO directs federal agencies to implement creative approaches to making it easier to apply to register to vote, obtain information about voting, and participate in the electoral process.

Executive Order 14019 is one of the most substantial undertakings by any administration to overcome barriers to voting, many of which disproportionately affect people of color, low-income people, and those with disabilities or limited English proficiency. The EO outlines specific actions federal agencies can take to increase opportunities to engage in the democratic process.

Of particular importance to the EO are the efforts by the General Services Administration ("GSA") to modernize vote.gov, which provides access to voter registration application opportunities for every state. In doing so, GSA must coordinate with the EAC among other agencies. Section 5 of the EO envisions vote.gov as a website where any eligible citizen can access voter registration opportunities. In the upgraded version of vote.gov, the government should be providing user-friendly online services that are also accessible for people with disabilities or limited English proficiency.

State voter registration systems are not always accessible for people with disabilities or limited English proficiency. They can also be a challenge for low-income people who live in states without online voter registration, such as Mississippi or South Dakota. For example, eligible citizens may live far from or not have transportation to travel to physical offices to pick up a paper voter registration application and may lack access to technology that would allow downloading and printing that same form. The result is that some eligible citizens fall through the cracks.

Critically, if properly upgraded, the site will provide people who cannot access their own state's voter registration systems with the tools and information they need to register to vote, and it will also serve as a key to unlocking the potential of various federal agencies' ability to offer voter registration access. Vote.gov will do this, in large part, through improvements to the electronic version of the National Mail Voter Registration Form (NMVRF), a form over which the EAC has jurisdiction.¹ With the presidential

¹ These comments do not intend to encourage abandonment of the paper version of the NMVRF, which remains necessary because of the digital divide in Internet access in this country.

election in November 2024, EAC should make sure the form filler is available to the public by September, the month of National Voter Registration Day.

III. The Accessible Digital Form Filler Tool

The creation of the Accessible Digital Form Filler Tool for the NMVRF (“the form filler”) is an important step in reaching the EO’s goals for vote.gov, specifically improving usability and accessibility over what has been available previously. Pursuant to the National Voter Registration Act of 1993 (NVRA), all but six states plus the District of Columbia must use and accept the NMVRF. In addition, while not required by the NVRA, Idaho and Minnesota use and accept the NMVRF. To date, the only electronic version of the NMVRF has been a 27-page .pdf that includes 2 pages of general instructions and 20 pages of state-specific instructions. The length of the .pdf and the need to hunt for the appropriate instructions, combined with its lack of compatibility with screen readers used by Americans with visual impairments, has meant that the electronic NMVRF has been neither accessible nor usable. The form filler – which presents the NMVRF as a web form – is a significant improvement.

A. The form filler is more usable than the .pdf of the NMVRF.

As referenced above, the .pdf of the NMVRF is 27-pages long with a lot of instructions, most of which are not relevant to each individual user. Moreover, to use the form, an individual must print out all 27 pages. In short, it is overwhelming and confusing to use.

By contrast, the form filler is much easier to read and navigate. It provides simple instructions from the applicant’s state only, walking the individual through each step of the process. There are only four different screens to fill (one by one) and, when the form is printed, it is only five pages long.

In addition to its brevity and state-specific instructions, the form filler alerts the individual to important information that is helpful to know prior to completing the form. For example, it states up top in bold, set off with a blue background and the word “important”, that the individual will ultimately need to access a printer but can save the filled-out form or email it somewhere to print later. (If it has not done so already, we recommend that the EAC or GSA’s Technology Transformation Services Office of Solutions, as appropriate, ensure that users with vision disabilities also can detect that this important information is highlighted as especially important.) In addition, the form filler gives notice about eligibility requirements, how long the form will take to fill out, and instructions on how to finalize and submit the form after completion. It also provides the relevant voter registration deadline. It does not allow the individual to proceed to the

digital form filler unless the individual checks a box confirming the person is a U.S. citizen and meets the state’s eligibility requirements. It does all this in clear, easy-to-understand language.

After an individual has filled in all needed information in the form filler, there are other important instructions that make the NMVRF more usable than the .pdf. The first page after filling in all information is a page that asks the applicant to confirm (or edit) the information provided. Subsequently, the applicant swears and affirms the information. Finally, the applicant has the option to download the completed NMVRF or print it out, and there are instructions on where to send it. Helpfully, the instructions and address *also* print on the completed NMVRF so the applicant will still have access to the needed instructions even if the applicant does not address an envelope while seated at a computer.

- B. The digital form filler is more accessible for people with disabilities than the .pdf but additional testing and improvements are still needed.

In addressing the modernization and improvement of vote.gov, Executive Order 14019 directs that vote.gov should “compl[y], at minimum, with sections 504 and 508 of the Rehabilitation Act of 1973.”² This requirement rightfully should apply to the voter registration application forms available on the website as well, including the NMVRF.

While Brennan Center and the undersigned organizations are not equipped to opine on the digital form filler’s compliance with the Rehabilitation Act, it is clear that –in the design of the form filler-- there is an intention to improve its accessibility for people with disabilities. As a prime example, in contrast to the .pdf, the digital form filler of the NMVRF allows eligible citizens who rely on screen readers or similar assistive technology the ability to read and fill out an electronic version of the form with their own choice of technology. That said, we are aware that there is an accessibility expert who is part of the team programming the form filler and we recommend additional testing, especially because we also understand from colleagues that the degree of accessibility differs depending on the particular browser and screen reader used. The additional testing we recommend should include robust testing with people with a variety of disabilities and assistance technologies, and some type of meaningful public assurance from the EAC that the digital form filler of the NMVRF is compliant with Sections 504 and 508 of the Rehabilitation Act.

² Executive Order 14019 of March 7, 2021, “Promoting Access to Voting,” 86 Fed. Reg. 13623 (March 10, 2021) at 13625, <https://www.federalregister.gov/documents/2021/03/10/2021-05087/promoting-access-to-voting>.

Notably, the most inaccessible part of the digital form filler occurs when the individual applicant must print out, physically sign, and mail the voter registration application. The EAC, in consultation with the Technology Transformation Services Office of Solutions (TTS) of GSA, should research mechanisms –like e-signatures, APIs, or other forms of signature capture-- to address the inaccessibility of needing to physically sign the form and also of electronic submission to the states. These improvements to the digital form filler of the NMVRF would alleviate these additional barriers.

- C. The form filler must be available in the same non-English languages as the .pdf, and both must be translated into all languages that are covered under Section 203 of the Voting Rights Act.

The form filler available to review is in English only and the federal register notice includes no information related to any plans to translate the form filler into other languages. Executive Order 14019 requires the modernization and improvement of vote.gov to include, among other things, “ensuring that Vote.gov is translated into languages spoken by any of the language groups covered under section 203 of the Voting Rights Act anywhere in the United States”.³ This requirement rightfully applies to forms available on the website as well.

The .pdf of the NMVRF is available in 20 non-English languages and the digital form filler should be made available in all of those languages. In addition, at a minimum, we expect that both the .pdf and the form filler will ultimately be translated into all additional languages that are currently covered or become covered in future determinations under Section 203 of the Voting Rights Act. Providing the form filler in all Section 203 languages will be a good start to allowing eligible citizens for whom English is not the primary language to reap the benefit of the more usable and accessible NMVRF. Further consideration of additional languages that expand beyond the four Section 203-specified language groups (as has been done with several European languages for the .pdf) is needed to maximize the ability of all eligible limited English proficient citizens to effectively vote.

- D. The improvement to the NMVRF from the form filler will help federal agencies connect voter-eligible Americans to usable accessible voter registration application opportunities.

Under Executive Order 14019, President Biden has directed federal agencies to promote voter registration to their constituencies and, as part of that effort, to consider

³ Executive Order 14019 of March 7, 2021, “Promoting Access to Voting,” 86 Fed. Reg. 13623 (March 10, 2021) at 13625, <https://www.federalregister.gov/documents/2021/03/10/2021-05087/promoting-access-to-voting>.

ways to send such constituents to vote.gov.⁴ The EAC’s form filler will be available on vote.gov as part of the menu of voter registration application opportunities for each state for which it is accepted. Thus, the vast improvement of an electronic version of the NMVRF will assist federal agencies as they seek to implement the EO and promote voter registration to their constituents.

By creating vote.gov as a single location where any eligible voter can easily access and use a voter registration application — no matter their background, language spoken, physical capabilities, or geography — the federal government can provide a fail-safe that has never before existed in this country. With vote.gov modernized in this manner, the simplest and easiest way for other federal agencies to provide voter registration access to the people with whom they engage is to direct them to vote.gov rather than reinventing the wheel by developing and coding their own independent voter registration resources. The form filler is an important part of this endeavor.

CONCLUSION

The digital accessible form filler tool, especially with additional improvements, can be a robust failsafe for voter eligible citizens who have difficulty accessing voter registration applications through their own states. Available for use in Idaho, Minnesota, the 44 states subject to the NVRA, and D.C., it is easily usable, accessible for people with disabilities, and we hope will eventually be offered in the 20 non-English languages of the current .pdf plus any additional languages required by section 203 of the Voting Rights Act. With the upcoming presidential election, the EAC (in consultation with the Technology Transformation Services Office of Solutions of GSA) should ensure that the form filler is broadly available for use by September, to allow greater access to voter registration for the American public to participate in the November 2024 election.

Brennan Center for Justice
Advancement Project
All Voting Is Local
Arab American Institute (AAI)
Asian and Pacific Islander American Vote (APIAVote)
Autistic Self Advocacy Network
Campaign Legal Center
Common Cause
Democracy 21

⁴ Executive Order 14019 of March 7, 2021, “Promoting Access to Voting,” 86 Fed. Reg. 13623 (March 10, 2021) at 13624, <https://www.federalregister.gov/documents/2021/03/10/2021-05087/promoting-access-to-voting>.

Dēmos
Fair Elections Center
Faithful Democracy coalition
Healthy Democracy Healthy People
Institute for Responsive Government
Interfaith Alliance
LatinoJustice PRLDEF
Leadership Conference on Civil and Human Rights
League of Women Voters of the United States
Movement Advancement Project
NAACP Legal Defense Fund
National Community Action Partnership
National Disability Rights Network (NDRN)
National Urban League
NETWORK Lobby for Catholic Social Justice
Reproductive Freedom for All
Southern Poverty Law Center
The Workers Circle
Union of Concerned Scientists
United Church of Christ
Voices for Progress
Vot-ER