



**LOS ANGELES REGIONAL OFFICE**  
3580 Wilshire Boulevard, Suite 902  
Los Angeles, CA 90010  
Tel: (213) 427-8747  
TTY: (800) 719-5798  
Toll Free: (800) 776-5746  
Fax: (213) 427-8767  
[www.disabilityrightscalifornia.org](http://www.disabilityrightscalifornia.org)

*California's protection and advocacy system*

---

September 28, 2009

Voluntary Voting System Guidelines Comments  
U.S. Election Assistance Commission  
1225 New York Avenue, NW, Suite 1100  
Washington, DC 20005

**Via E-mail to: [votingsystemguidelines@eac.gov](mailto:votingsystemguidelines@eac.gov)**

Re: Disability Rights California's Recommendations for the next  
Iteration of 2005 Voluntary Voting System Guidelines 1.1

Dear Commissioners:

Disability Rights California is a private non-profit agency established under federal law to advance the human, legal and service rights of Californians with disabilities. Disability Rights California is the designated protection and advocacy agency for the state of California. Among a number of other statutes, we provide services to individuals with disabilities throughout California pursuant to the Help America Vote Act of 2002 (HAVA).<sup>1</sup> Disability Rights California works in partnership with people with disabilities, striving towards a society which values all people and supports their rights to, among other things, equal access, dignity, independence, privacy, choice and quality of life.

Thank you for the opportunity to comment on the Commission's next iteration of the 2005 Voluntary Voting System Guidelines (VVSG) 1.1.

---

<sup>1</sup> 42 U.S.C. §15461-62, PL 107-252. Disability Rights California also provides services pursuant to the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. §15001, PL 106-402; the Protection and Advocacy for Mentally Ill Individuals Act, 42 U.S.C. §10801, PL 106-310; the Rehabilitation Act, 29 U.S.C. §794e, PL 106-402; and the Assistive Technology Act, 29 U.S.C. §3011,3012, PL 105-394.

Disability Rights California commends the Commission's efforts to develop guidelines to ensure accessibility to individuals with disabilities. We encourage the Commission to adopt the draft guidelines with the following recommendations:

### **Testing by Individuals with Disabilities Throughout the Development Process**

Although the guidelines encourage testing for generally usability "using individuals who are representative of the general population" and in a few sections related to specific types of disability also call for testing by individuals with the disability, this suggestion is not universal. For instance, section 3.2.1, "Mobility," currently does not call for testing by individuals with mobility disabilities. Section 301(a) of HAVA provides voters with disabilities the same opportunity for access and participation in the voting process (including rights to privacy and independence). Disability Rights California believes that the best way to ensure that this is achieved is to have people with a broad range of disabilities involved throughout the process of development of a voting system. Through such a collaborative process developers and manufacturers, as well as cities and counties purchasing the voting systems, can identify problems early instead of waiting for testing at the end of the process and attempting to make changes after a system has already been designed or purchased. As such late-stage changes can often be costly, we believe that the inclusion of a broad spectrum of individuals in the development process is a best practice which can lead to lower costs for all involved.

### **Identification of Different Types of Disability Assisted by Guidelines**

We are encouraged to read the sections of the guidelines setting out standards that should help to broaden the accessibility of voting systems. To help make manufacturers aware of the wide range of challenges faced by voters, we encourage you to spell out which portions of the voting population will be helped by each guideline. For example, the requirements under section 3.2.5 for the flicker rate of the display screen mention briefly that these help protect against the machine inducing a seizure, but it would be good to have more detail about how flicker rate can cause seizure so that the manufacturers will understand the importance of these requirements. Likewise, under section 3.3.2 there is discussion of ways to aid people with cognitive disabilities. This could be revised to include the fact that individuals with traumatic brain injury or learning

disabilities can also be aided by such measures. Increasing the number of disabilities mentioned can help to educate manufacturers as to the issues facing the voters using these systems.

### **Applying Screen Guidelines to a Printout**

We are glad to see that guidelines for what is on a printout are carried over from the screen, but would like it made explicit that there can be no scrolling in a printout (as applied to screens in section 3.2.6), as this has made machines confusing in the past.

### **Equal Access to Write-in Vote Capabilities**

Often, manufacturers do a fine job of making sure that voters using a machine can vote easily for any of the choices given, but if the individual has a different preference and wants to exercise their right to place a write-in vote, the machine is confusing. Therefore, some mention of the importance of this function at the beginning of the guidelines, in section 3.1.1 or the preface of section 3.2, seems appropriate.

We look forward to working in collaboration - with you and disability rights advocates - to ensure that the voting needs of people with disabilities are fully understood and addressed. Please let us know if we can be of additional assistance to the Commission.

Sincerely,

A handwritten signature in black ink that reads "K Bayley". The signature is written in a cursive, flowing style.

Kevin Bayley  
Attorney

On behalf of my colleagues Margaret Jakobson, Director of Advocacy and Hillary Sklar, Attorney.

cc: National Disability Rights Network  
Hon. Debra Bowen, Secretary of State for California