



Hon. R. Kyle Ardoin
Louisiana Secretary of State
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Submitted via email

December 3, 2021

Dear Secretary Ardoin:

Thank you for working with lawmakers during this year's session to address potential constitutional issues in the initial versions of HB 138, HB 167, and HB 581, and for your public statements reaffirming your commitment to nonpartisan election administration and dispelling harmful, untrue narratives regarding election integrity. We write to highlight another problem that can undermine voter participation and confidence in the electoral process: disparities in how Louisiana law treats voters with disabilities. We respectfully ask your office to work with the Legislature to remove these disparities and improve access to the ballot.

According to the Centers for Disease Control and Prevention, 1 in 3 Louisiana adults lives with a disability.¹ Unfortunately, Louisiana's election code contains unnecessary barriers that make it more difficult for these residents to cast their ballots and send the message that their voices do not matter. They include, but are not limited to:

- **Proof of disability to receive assistance in voting.** Section 208 of the Voting Rights Act affirmatively grants voters who need assistance by reason of disability, blindness, or an inability to read or write the right to receive that help from almost anyone of their choice. In enacting this provision, Congress explained that it was the most effective means for preventing voter coercion or intimidation. However, Louisiana requires voters to provide proof of disability to exercise this right, which can include certification from a medical professional, a mobility impairment card, proof of eligibility for certain benefits, or a completed voter registration form or voter assistance form attesting to their need for assistance. Confusingly for voters looking to use the attestation option, the state's voter registration form appears to contradict the election code, stating: "The registrar of voters in your parish may contact you for proof of disability."
- **Proof of disability to vote by mail.** Likewise, while Louisiana law does not require most categories of absentee voters to submit proof of eligibility to vote by mail, voters with

¹ *Disability & Health U.S. State Profile Data for Louisiana (Adults 18+ years of age)*, CDC, <https://www.cdc.gov/ncbddd/disabilityandhealth/impacts/louisiana.html> (last updated Sep. 16, 2020).

disabilities must submit documentary proof of disability. Senior voters and those living in nursing homes can simply attest to their eligibility. Inexplicably, voters with disabilities—but not other categories of eligible absentee voters—who submit their documentation by mail must provide a copy of a signed photo ID, or the name of two individuals in their precinct who can attest to their *physical* disability. Notably, the latter documentation does not confirm a voter’s identity, but instead serves as a second proof of disability requirement for voters without acceptable ID.

- **First-time, in-person voting rule.** Voters with disabilities and student voters are the only categories of voters exempt from the state’s first-time, in-person voting rule who must provide documentary proof that they are exempt. But while student voters can simply submit a copy of a student ID, voters with disabilities must provide a certification from a medical professional explicitly stating that the voter cannot vote in person. And although other absentee voters can continue to vote by mail when they move to a new parish, under LSA-R.S. 18:106.1, voters with disabilities must submit the required certification to continue voting by mail in their new parish, if they did not previously submit it to their former parish registrar—that is, if they voted in person the first time they voted in their previous parish. Again, voters with disabilities who submit this documentation by mail must provide a copy of acceptable ID or the names of two people who can attest to their physical disability.

Obtaining documentary proof of disability can be burdensome. People with disabilities are more likely to have Medicaid, but fewer practitioners accept it.² Even if a voter does have reliable access to medical care, some disabilities are difficult to diagnose. Furthermore, only people with certain *physical* disabilities qualify to receive a mobility impairment card.³ Most importantly, however, there is no need for proof of disability requirements, where Louisiana has already demonstrated its ability to hold secure elections without imposing proof requirements on other voters, and where Louisiana law already criminalizes voter intimidation and coercion and knowingly submitting false information to election officials. Removing these requirements would also reduce the amount of paperwork to be processed by registrars, saving taxpayer resources.

Voters with disabilities already face substantial obstacles to voting. A Government Accountability Office survey of early voting and Election Day polling places in the 2016 General Election found that 83 percent of polling places “had one or more potential impediments anywhere from (1) parking, (2) the path to the building entrance, (3) the entrance, or (4) the path from the entrance to the voting area.”⁴ Of those polling places, 41 percent did not offer curbside voting.⁵ Although voters with disabilities who reported difficulties voting fell from 30 percent in 2012 to

² Kayla Holgash and Martha Heberlein, *Physician Acceptance of New Medicaid Patients*, MACPAC 6 (Jan. 24, 2019), available at <https://www.macpac.gov/wp-content/uploads/2019/01/Physician-Acceptance-of-New-Medicaid-Patients.pdf>; see also Elizabeth Renter, *You’ve Got Medicaid—Why Can’t You See the Doctor?* U.S. News & World Rep. (May 26, 2015), <https://health.usnews.com/health-news/health-insurance/articles/2015/05/26/youve-got-medicaid-why-cant-you-see-the-doctor> (“Largely low-income health care consumers, [Medicaid] patients have had a notoriously difficult time finding physicians to treat them, and in a reasonable amount of time.”).

³ LSA-R.S. 47:463.4(E)(1)(a–f).

⁴ *Voters with Disabilities: Observations on Polling Place Accessibility and Related Federal Guidance*, GAO 14–15 (Oct. 2017), available at <https://www.gao.gov/assets/690/687556.pdf>.

⁵ *Id.* at 16.

18 percent in 2020, turnout among voters with disabilities still lagged that of voters without disabilities by 7 percent.⁶

It is incumbent on election officials to implement the changes needed to close this participation gap, and ensure that no eligible voter is unable to cast a ballot because of unnecessary burdens built into the law, based on nothing more than a person's disability status. **We therefore respectfully urge your office to work with lawmakers to remove all documentary proof of disability requirements from the election code, including, but not limited to, proof of disability requirements to receive assistance, vote absentee, and receive exemption from the first-time in-person voting rule.**

Thank you very much for your consideration. If we can be of assistance to your office, please do not hesitate to contact Fair Election Center's Counsel, Cecilia Aguilera, at (202) 331-0114 or caguilera@fairelectionscenter.org.

Sincerely,

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⁶ Lisa Schur et al., *Disability and Voting Accessibility in the 2020 Elections: Final Report on Survey Results*, RUTGERS UNIV. 1 (Feb. 16, 2021), <https://www.courthousenews.com/wp-content/uploads/2021/02/voting-accessibility-in-2020-elections.pdf>.