



Connected for Life

August 7, 2020

Dear Election Official:

The American Diabetes Association is writing in its capacity as the global authority on diabetes and its treatment. We are writing to supply information that we hope will inform your efforts to modify elections in your jurisdiction and protect the public's health during the coronavirus pandemic. All available data indicates that states and localities must take extensive measures to limit polling place congestion as much as possible to ensure that Americans, especially those with chronic health conditions, can vote safely in November.

We ask that you consider this information and the enclosed suggestions to modify polling places during the pandemic to protect those most vulnerable members of our electorate, such as the patients for whom we advocate.

Scientific and Medical Evidence

In general, individuals with underlying health conditions face grave risks if they contract the coronavirus. The CDC recently published [new findings](#) that those with underlying health conditions are six times more likely to be hospitalized and twelve times likelier to die from COVID-19 than those without. The CDC's findings underscore the continued need for mitigation strategies in community activities such as voting, especially for vulnerable populations.

Citizens with diabetes face especially serious risks if they contract coronavirus. Diabetes is overrepresented in COVID-19 patients. Recent data shows [thirty percent](#) of COVID-19 patients as having diabetes, and [forty percent](#) of COVID-19 patients who died as having diabetes, while just [10% of the total U.S. population](#) lives with diabetes. COVID-19 patients with diabetes experience significantly worse outcomes. [One study](#) found that the presence of diabetes quintuples the risk of death from COVID-19.

The Americans with Disabilities Act: Federal Legal Obligations

The Americans with Disabilities Act (ADA) is a comprehensive federal civil rights law enacted to provide "a clear and comprehensive national mandate for the elimination of discrimination" against individuals with disabilities. 42 U.S.C. § 12101(b)(1). Title II of the ADA applies to any "public entity" which includes state and local governments and any of their departments, agencies, or instrumentalities. 42 U.S.C. §§ 12131(1); 12132. Title II prohibits public entities from discriminating against people with disabilities and from denying them the benefits of services, programs, and activities. 42 U.S.C. § 12132. As a

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program or activity of a state or local entity, voting is covered by Title II of the ADA. Additionally, as part of the nondiscrimination mandate, public entities must make reasonable modifications to policies, practices, and procedures for people with disabilities. 28 C.F.R. § 35.130(b)(7).

Under the ADA, a person has a disability if they have a physical impairment that substantially limits a major life activity. The law states that certain conditions in “virtually all cases” will be found to substantially limit a major life activity, including diabetes, which substantially limits endocrine function. 28 C.F.R. § 35.108(d)(2)(iii)(H). Therefore, voters with diabetes will “in virtually all cases” qualify for protections under the ADA, and when they do, they are entitled to reasonable modifications that enable them to vote safely. 28 C.F.R. § 35.108.

The ADA right to reasonable modifications that enables a voter with a disability to vote without endangering their life is separate from any executive order relating to voting during the pandemic, or other changes being considered by state and local government officials for all voters. As a result, election administrators should be sure to include special consideration of voters with disabilities and their federal legal rights when establishing voting procedures for the pandemic.

Suggested Modifications to Voting Environments

In light of the serious risks people with diabetes face during the coronavirus pandemic and the rights they have to reasonable modifications under federal law, special modifications¹ should be carried out to protect these vulnerable groups. Suggested modifications stem from the common need among high risk groups to avoid exposure to the coronavirus.

It is critical to approach voting accessibility during the pandemic from multiple angles, including by expanding absentee ballot access and by spreading out in-person voting opportunities. While many states have expanded absentee balloting during the pandemic, some voters will still need to vote in person. For example, some voters may miss the absentee ballot request deadline, others may have absentee ballots lost en route to them in

¹ Other groups have prepared comprehensive recommended best practices for modifying elections during a global pandemic, such as the CDC: <https://www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html>, the Brennan Center: <https://www.brennancenter.org/our-work/policy-solutions/how-protect-2020-vote-coronavirus>, and the UCLA Voting Rights Project: https://d3267f1c-3110-4540-a458-82b406b9ec8a.usrfiles.com/ugd/d3267f_c48de74519824f689962ac44957e3f48.pdf.



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the mail, still others historically rely on in-person voting at much higher rates.² Some of the modifications we suggest to ensure safe, in-person voting include:

- 1) Establish a program of curbside voting.
- 2) Ensure that curbside voting is robust and reliable by designating specific poll workers to staff curbside voting and stationing those workers outside.
- 3) Erect some voting booths outdoors, if weather permits.
- 4) Open doors to the polling site to promote additional ventilation.
- 5) Use a ticket or scheduling system that allows voters to avoid congregating at the polling site.
- 6) Install plexiglass barriers between poll workers and voters and between voting booths.
- 7) Require the use of masks while indoors at a polling site, while also offering alternatives to those who cannot wear masks for medical reasons (such as curbside voting).
- 8) Limit the number of voters in the facility by moving lines outdoors, if weather permits.
- 9) Install ballot drop boxes for those who receive an absentee ballot too late to return it via regular U.S. mail. These drop boxes can be located at government buildings and monitored by local election officials.

Most importantly, regardless of which tactics are employed, we strongly recommend that localities widely publicize *all* of the procedures that polling sites will be using to protect the public and prevent the spread of coronavirus. Polling sites will undoubtedly vary in the practices and procedures they use, and voters should have all the information in order to accurately judge the risks associated with voting in person at their polling site. This information should, ideally, be published online, including through social media, as well as distributed directly to all registered voters with an overview of the availability of alternative voting options.

² Center for American Progress/NAACP, In Expanding Vote by Mail, States Must Maintain In-Person Voting Options During the Coronavirus Pandemic (April 20, 2020)
<https://www.americanprogress.org/issues/democracy/news/2020/04/20/483438/expanding-vote-mail-states-must-maintain-person-voting-options-coronavirus-pandemic/>



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We respectfully request a response to indicate that you are in receipt of this letter. In addition, if you decide to employ any of these suggestions to improve safety at polling places, please include that information in your response. Should you have any questions, please contact Sarah Fech-Baughman at sfech@diabetes.org.

Sincerely,

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