

October 27, 2021

**[REDACTED]**

Rebecca Bond, Chief  
U.S. Department of Justice  
Civil Rights Division  
Disability Rights Section  
950 Pennsylvania Avenue, NW  
4CON, 9th Floor  
Washington, DC 20530

cc: Elizabeth Johnson, [elizabeth.johnson@usdoj.gov](mailto:elizabeth.johnson@usdoj.gov)

**R**

**[REDACTED]**  
**[REDACTED]**  
**§ 504 FRA**

**[REDACTED]**

Dear Chief Bond:

We write on behalf of the National Federation of the Blind (“NFB”), the National Federation of the Blind of Alabama, and individual complainants who are Alabama voters who are blind or have print disabilities. As you know, it is vital to democracy that all citizens can mark their ballots privately and independently. Yet, as explained in detail below, Alabama’s absentee voting program is not accessible to voters who are blind or who have print disabilities and accessible ballot marking devices are not universally available and operable for in-person absentee voting in the state. The State and its election officials are therefore in violation of federal law, which requires that voters with disabilities have access to voting equal to that afforded to others.

During the 2020 election season—during a global pandemic—Alabamians who are blind and those with print disabilities were unable to cast ballots safely, privately, and independently in person or by mail, denying them the rights guaranteed by Title II of Americans with Disabilities Act of 1990 (“ADA”) and Section 504 of the Rehabilitation Act of 1973 (“Section 504”). The undersigned complainants and their counsel respectfully urge the Disability Rights Section to investigate

Brown

Goldstein  
& Lew  
SPLC  
Law Center

I ■

Federal law guarantees that access to a private and independent ballot for voters with disabilities

per capita.<sup>3</sup> Even now, months into a nationwide vaccination campaign, case counts, hospitalizations, and deaths remain high. The state is still recovering from a third wave that began in July 2021 and peaked in September 2021 with a record 5,206 new cases reported in a single day.<sup>4</sup> This wave dwarfed the third wave triggered by holiday travel in December 2020 and January 2021, which occurred before vaccines were widely available. Alabama's low vaccination rate and loose public health regulations helped fuel this massive increase in new cases and deaths. As of October 2021, only 44% of Alabamians over the age of twelve are fully vaccinated, significantly lower than the U.S. average of 57%.<sup>5</sup>

Despite these risks, the state has refused—and continues to refuse—to remove barriers to safe, accessible voting for voters who are blind or have print disabilities in violation of Title II of the ADA<sup>6</sup> and Section 504.<sup>7</sup> In September 2019, the NFB of Alabama urged Secretary of State John Merrill to make the state's absentee ballot program accessible to voters who are blind or have print disabilities.<sup>8</sup> The NFB of Alabama shared their concerns with the Secretary's office and proposed as a solution working with Voting Works, an electronic ballot delivery system which, in 2020, provided accessible electronic ballot delivery to five states.<sup>9</sup> Rather than work toward a resolution to provide accessible absentee ballots, the Secretary's office deemed Voting Works unrepeatable and refused to seek another solution.<sup>10</sup>

As described below, Alabama requires voters who are blind or have

loved ones by traveling to a polling place to cast their vote in person. And many voters cannot be guaranteed that their right to a private and independent vote will be found at their polling location because the state fails to ensure that accessible ballot marking devices are available to them.

**I**

**A M**

Alabamians who are blind or have print disabilities have no way to vote accessibly, privately, and independently by absentee ballot. Alabama's absentee voting program is thus inaccessible in violation of Title II of the ADA and Section 504. Alabamians who are blind or have print disabilities cannot independently fill out an absentee ballot application. Though the applications are available electronically at <https://www.sos.alabama.gov/alabama-votes/voter/absentee-voting>, they are not electronically fillable and must be printed out, filled in by hand or typewriter, and delivered in person or by mail, thus requiring a blind voter or voter with a print disability to be assisted by a third-party at multiple steps. In Alabama, voters must select a party affiliation when completing an absentee ballot application during a primary election. For many voters, choosing a political party is a private matter. Yet, for Alabama's voters who are blind or have print disabilities, privacy is not an option because of the state's failure to ensure accessibility.

Absentee ballots are only available in paper and are not readable or fillable by voters who are blind or have print disabilities, thus requiring these voters to be assisted by a third-party.

Accordingly, voters are unable to access the absentee voting process. The Alabama Secretary of State's website, <https://www.sos.alabama.gov/alabama-votes/voter/absentee-voting>, is not accessible to voters who are blind or have print disabilities. The Alabama Secretary of State's website is not accessible to voters who are blind or have print disabilities because it is not accessible to voters who are blind or have print disabilities. The Alabama Secretary of State's website is not accessible to voters who are blind or have print disabilities because it is not accessible to voters who are blind or have print disabilities.

**B** ~~h~~ ~~-h~~

In Alabama, there is no early voting. Unless a voter qualifies for a specific excuse to vote by absentee ballot, they must vote in-person on election day.<sup>12</sup>

the ballot marking device needed to be set up. After more than thirty minutes, the machine had not yet been successfully set up, and Ms. Manuel was offered assistance with voting her paper absentee ballot. Because Ms. Manuel wanted to vote privately and independently, and because her driver could not continue to wait, Ms. Manuel decided to leave her polling place and vote at another time.

**V** 

The undersigned complainants and counsel respectfully request that the Department of Justice Civil Rights Division investigate the State of Alabama's and Secretary of State Merrill's blatant and willful violations of the ADA and Section 504 by denying voters who are blind or have print disabilities

Mark Riccobono, President  
Valerie Yingling, Legal Program Coordinator  
  
[vyingling@nfb.org](mailto:vyingling@nfb.org)

Scott LaBarre, Esq.  
  
[slabarre@nfb.org](mailto:slabarre@nfb.org)

Caren E. Short  
Senior Supervising Attorney, Voting Rights  
  
[caren.short@splcenter.org](mailto:caren.short@splcenter.org)

William Van Der Pol, Senior Trial Counsel  
Madison Ard, Voting Rights Fellow  
  
[wvanderpoljr@adap.ua.edu](mailto:wvanderpoljr@adap.ua.edu)  
[mard@adap.ua.edu](mailto:mard@adap.ua.edu)