

disabilityrights | WISCONSIN

March 15, 2006

Kevin Kennedy, Director
Wisconsin State Elections Board
17 W. Main Street, Suite 310
Madison, WI 53703

Board Members
Wisconsin State Elections Board
17 W. Main Street, Suite 310
Madison, WI 53703

Hand-delivered

RE: Concerns about Approval of Vote-PAD

Dear Mr. Kennedy and Members of the State Elections Board:

Disability Rights Wisconsin (formerly Wisconsin Coalition for Advocacy) is Wisconsin's protection and advocacy agency designated under state and federal law to provide advocacy for and with people with disabilities (See 42 U.S.C. §10801, et seq.; 42 U.S.C. §15041, et seq.; Wis. Stat. §51.62; Governor Earl Executive Order #19 of 1983).

Recently, the State Elections Board approved the Vote-PAD for use in Wisconsin for municipalities who currently hand-count paper ballots. The Vote-PAD has not been formally tested or federally certified, and meets no minimum accessibility standards. **We believe the Vote-PAD does not comply with the Help America Vote Act of 2002 (HAVA) (42 U.S.C. §15101, et seq.), and that use of the Vote-PAD by municipalities would violate the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. §12101, et seq.) and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794, et seq.). We urge the State Elections Board to withdraw approval for use of the Vote-PAD in Wisconsin so that Wisconsin municipalities do not purchase or use the Vote-PAD.**

Vote-PAD Does Not Comply with HAVA

One of the fundamental purposes of HAVA is to provide people with disabilities an equal opportunity to vote. Title III of HAVA requires that all voting systems, whether paper or electronic, "shall be accessible for individuals with disabilities, including nonvisual accessibility..., in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters" (42 USC §15481(a)(3)(A)). The SEB, in considering approval of a voting product, must assure

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that the product is accessible for people with disabilities, allowing them to vote privately and independently. Although the Vote-PAD does not cost as much as an electronic system, product cost cannot be put above the rights of voters with disabilities to vote independently and privately.

In order to receive payment under HAVA, Wisconsin must certify that the proposed uses for the funds are “not inconsistent with the requirements of Title III” of HAVA (42 U.S.C. §15301(c)(2)). By approving Vote-PAD for use in Wisconsin, the SEB is not only opening the state and municipalities to potential lawsuits by the United States Department of Justice (DOJ) and voters with disabilities who cannot vote privately and independently using this voting system, but federal funding may be denied because purchase and use of the Vote-PAD violates Title III of HAVA and thus is an inconsistent use of the funds.

Expert opinion is that Vote-PAD is not accessible to people with a wide range of disabilities, and does not meet federal accessibility standards for voting equipment

Diane Cordry Golden, Ph.D. from the Association of Assistive Technology Act Programs assessed the Vote-PAD against the Federal Election Commission (FEC) Voting System Standards of 2002 and the newly created Election Assistance Commission (EAC) Voluntary Voting System Guidelines (VVSG) of 2005. Dr. Golden is an expert in assistive technology. Assistive technology is technology used by individuals with disabilities in order to perform functions that might otherwise be difficult or impossible. Assistive technology can include mobility devices such as walkers and wheelchairs, as well as hardware, software, and peripherals that assist people with disabilities in accessing computers or other information technologies. Dr. Golden has worked in the field of assistive technology and accessible information technology for over 15 years and has been providing services to individuals with disabilities for almost 30 years. She served on the U.S. Access Board Advisory Committee for development of the Section 508 technical standards for information technology accessibility and is currently providing technical assistance to a variety of public and privately funded projects related to accessible voting equipment. (See Attachment A, Dr. Golden’s Curriculum Vitae)

Dr. Golden found that the Vote-PAD does not meet multiple accessibility standards for people with vision, learning, mobility, and cognitive disabilities. Simply put, Vote-PAD does not provide adequate accessibility. (See Attachment B, Dr. Golden’s report on the Vote-PAD). To summarize, Dr. Golden found that the Vote-PAD may not be accessible to people with a wide range of disabilities including certain vision, mobility, hearing, learning and cognitive disabilities. She identified significant accessibility barriers related to marking the ballot, verifying a vote, navigating the audio tape with the physical ballot, the speech output of the audio tape, and writing in a candidate for office.

By approving Vote-PAD, the SEC moves beyond the safe harbor provided by the FEC standards, and exposes Wisconsin and municipalities using Vote-PAD to liability. Although DOJ has not expressed a formal opinion on whether Vote-PAD complies with

HAVA, the DOJ has advised other states to use the Federal Election Commission Standards of 2002 to determine if a voting machine is accessible.¹ As demonstrated by the expert report, the Vote-PAD clearly does not meet these standards.

The State Elections Board's decision to approve the Vote-PAD will impact the ability of a significant number of voters with disabilities in Wisconsin to vote privately and independently. Data from the 2000 Census reveals that there are approximately 136,000 people with disabilities who are of voting age in the counties that primarily hand count paper ballots. This number exceeds the estimated total number of people with disabilities in the City of Milwaukee (133,955) (See Attachment C, Map of Voting Systems by County).

Vote-PAD has not engaged in testing to demonstrate accessibility for voters with disabilities

Unlike the other voting equipment that Wisconsin has approved and is reviewing for approval, Vote-PAD does not meet minimum federal accessibility guidelines or any other established accessibility standards. While no voting system has been proven to accommodate all types and combinations of disabilities, other systems provide greater access and can point to a level of compliance with minimum accessibility standards. With the Vote-PAD, however, there is simply no proof that the system provides a minimum amount of access to the electoral process. Accordingly, with the VotePAD, this Board must gamble that it is providing the election accessibility that federal law requires.

Since Vote-PAD is not electronic, the product has avoided testing that would demonstrate it meets minimum national accessibility standards for voting systems, as well as the minimum standards used as benchmarks in Wisconsin. According to the Wisconsin Administrative Code, electronic voting equipment can only be approved in Wisconsin if vendors supply a report from an independent testing authority "demonstrating that the voting system conforms to all the standards recommended by the federal election commission" (EIBd 7.01 (1)(e) Wis. Adm. Code). Electronic voting systems in Wisconsin must meet a set of 2002 standards established by the Federal Election Commission (FEC) and adopted by the Election Assistance Commission (EAC). These standards were established to ensure the reliability, security and accessibility of these products so that voters could have assurance that the product recording their votes has credibility. The passage of HAVA and its guarantee of a private and independent vote for individuals with disabilities has made these standards even more important. The federal standards provide election officials like the SEB with a way to measure the accessibility of voting systems and demonstrate that they have made a good faith effort to comply with HAVA's accessibility mandates.

¹ Letter from von Spakovsky to Eads of 3/4/05 at <http://www.usdoj.gov/crt/voting/hava/msdisability.pdf> and May 20, 2003 Letter from Rich to McGeehan at http://www.usdoj.gov/crt/voting/hava/tx_ltr.pdf

Vote-PAD's written testimony and legal analysis of January 18, 2006, are not accurate or reliable

We are concerned about some written testimony Dianna Smith from Vote-PAD, Inc. submitted to the State Election Board at your last meeting held on January 18, 2006 in Brookfield, Wisconsin.

Ms. Smith claims to have tested the Vote-PAD with people with disabilities and cites a few people with disabilities who say positive things about the product. The handful of anecdotal stories relayed in Vote-PAD's testimonial do not reflect either the views of accessibility experts or the disability community as a whole. In fact, Dr. Golden's report clearly articulates how people with a variety of different disabilities may be unable to vote privately and independently using the Vote-PAD. Because people with the same disability may have different requirements in order to vote, one cannot assume that one person's endorsement means that everyone with that particular disability can vote using a specific system. For example, one voter with cerebral palsy may need different accommodations from another in order to vote privately and independently. That is why valid and reliable testing is necessary to demonstrate that a product is accessible.

Since the VotePAD does not meet any accessibility standards, Ms. Smith dismisses many of the benchmarks used to assess the accessibility of voting systems. For instance, in her testimony Ms. Smith argues that the difficulty a person may have scanning through the audio component of the ballot is "an issue of convenience, not a question about the accessibility of the device". This statement is simply untrue. The difficulty a person has in scanning through the audio component of the ballot is an issue of accessibility for those individuals who are not able to perform this function because of their disability. And, as Dr. Golden's report states, people with a variety of disabilities are not able to navigate the audio tape with the physical ballot, thus impeding the ability of these individuals to use the voting system privately and independently.

Ms. Smith also states that "people who are blind and severely dexterity impaired would find it difficult and perhaps impossible to vote on the Vote-PAD," but she excuses this by making the vague claim that the same would be true for other products. This is untrue. Voting products that meet the 2002 FEC standards provide a greater degree of accessibility and are far less likely to disenfranchise people with disabilities than the Vote-PAD.

Also, and quite troublesome, the quotations in the testimony of individuals with disabilities regarding their experiences with the VotePAD may not be accurate. For example, on page three of the Ms. Smith's testimonial, Steve, who is "dexterity impaired," was quoted as saying, at the EAC meeting on January 10, 2006, "that he would prefer to vote using the Vote-PAD than to use a touch screen voting system, and he would far prefer to have his mother vote on the Vote-PAD." Because he was the only person with a dexterity-related disability named Steve present on January 10, we assume Ms. Smith is referring to Steve Verriden. In fact, Mr. Verriden's was surprised to see his comments were taken out of context and used as an endorsement of the product. (See Attachment D, Letter from Steve Verriden).

Finally, it is important to note that in feedback forms that SEB collected from the January 9, 2006, Vendor Fair two of the three people who identified themselves from the disability community had strong negative opinions of the Vote-PAD.

Use of the Vote-PAD would violate the ADA and Section 504 of the Rehabilitation Act

Although we strongly believe SEB's focus should be on violations of HAVA, we will also address the ADA, since Ms. Smith discusses it in her written testimony. Ms. Smith argues in her testimony that "HAVA compliance cannot supersede the application of the ADA by requiring 'unreasonable' accommodations or imposing 'undue hardship,'" which appears to be a misstatement of §906 of HAVA. Ms. Smith clearly does not understand the interaction of these two laws. First, it is common in statutes to insert a section like §906, which generally states that HAVA does not require conduct prohibited under several other laws, including the ADA, and does not supersede, restrict or limit other laws, including the ADA. As public entities, Wisconsin, the SEB and municipalities are subject to Title II of the ADA. The ADA prohibits discrimination against people with disabilities by public entities. HAVA does not conflict with the obligations of Wisconsin and municipalities under Title II of the ADA. Integration of people with disabilities is a basic goal of the ADA. HAVA promotes integration of voters with disabilities by assuring that they can vote privately and independently the same as other voters. Because the ADA did not define voting access, HAVA was passed in part to expand and define discrimination in the context of voting as the inability to vote privately and independently.

Ms. Smith does not understand how the ADA applies to governmental entities. This is evident in her testimony, which includes for example, the term "undue hardship," which refers to employment discrimination (Title I of the ADA) and her exhibits, which related to private businesses (Title III of the ADA). Wisconsin, the SEB and municipalities, as state and local governments, are subject to Title II of the ADA. These glaring mistakes cast doubt on all her legal analysis.

Finally, we note that Wisconsin and municipalities, by receiving federal HAVA funds, are subject to the Rehabilitation Act of 1973, which prohibits discrimination against people with disabilities. Section 504 may be another basis for liability.

States and people with disabilities around the country have rejected the Vote-PAD as an inaccessible and inadequate system for voters with disabilities

People from the disability community in Wisconsin who have tested the Vote-PAD and found it is inaccessible are not alone. People with disabilities across the country have concerns. We are aware that the Vote-PAD has been tested in Oregon, Minnesota, and Texas. The disability community in these states had strong negative reaction to the Vote-PAD and the system was not approved in those states. (See Attachment E, Letter from Advocacy, Inc., in Texas and Attachment F, Letter from Oregon Advocacy Center.)

Moreover, national organizations such as the Consortium of People with Disabilities and the National Disability Rights Network have voiced concerns about voting systems that meet no minimum accessibility standards, such as the Vote-PAD product.²

DRW requests that the SEB withdraw approval of the Vote-PAD voting system

If SEB approval leads to purchase and use of the Vote-PAD in Wisconsin, voters with disabilities may have no recourse but to sue Wisconsin, the SEB and municipalities for violations of HAVA, the ADA and Section 504. As you may know, legal action could take the form of an injunction to prevent use of the system and/or claims for declaratory judgment, damages and attorney's fees for voters prevented from voting privately and independently. In addition, voters with disabilities may make a complaint to the DOJ, DOJ may sue Wisconsin and voters with disabilities may ask the federal government to block funding for purchase of an inaccessible system in violation of HAVA. This would result in a huge waste of financial resources that could be better spent to improve voting systems in Wisconsin.

We appreciate the opportunity to express our opinions and we look forward to the March 22, 2006, SEB meeting to present our concerns in person.

Sincerely,

Jodi Hanna
Supervising Attorney

Alicia Sidman
Advocacy Specialist

Cc: Governor Jim Doyle
Senator Herb Kohl
Senator Russ Feingold
Senator Reynolds, Chairperson of the Committee on Labor and Election Process Reform
Representative Freese, Chairperson of the Committee on Campaigns and Elections
Representative Gundrum, Vice-Chairperson of the Committee on Campaigns and Elections

² The Consortium for Citizens with Disabilities is a coalition of approximately 100 national disability organizations working together to advocate for national public policy that ensures the self determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society. The National Disability Rights Network is the membership organization for the federally mandated Protection and Advocacy (P&A) Systems and Client Assistance Programs (CAP) for individuals with disabilities. Collectively, the P&A/CAP network is the largest provider of legally based advocacy services to people with disabilities in the United States.

Senator Schultz, Senate Majority Leader
Senator Robson, Senate Minority Leader
Representative Huebsch, Assembly Majority Leader
Representative Kreuser, Assembly Minority Leader
Tammy Liddicoat, Coordinator, ADA Wisconsin Partnership
Tom Frazier, Executive Director, Coalition for Wisconsin Aging Groups (CWAG)
D'Anna Bowman, Executive Director, AARP-WI
Andrea Kaminski, Executive Director, League of Women Voters of Wisconsin (LWV)
Mike McCabe, Executive Director, Wisconsin Democracy Campaign
Jay Heck, Executive Director, Common Cause –Wisconsin
Bob Hudek, Executive Director, Wisconsin Citizen Action
WisPolitics.com
The Wheeler Report
National Disability Rights Network
Consortium for Citizens with Disabilities

Attachment A

VITAE

Diane Cordry Golden
700 South Minter Road
Grain Valley, Missouri 64029

EDUCATION

- < Doctor of Philosophy: Special Education Administration
University of Missouri-Columbia, December, 1991
- < Master of Science: Audiology, Central Missouri State University, May, 1978
- < Bachelor of Science in Education: Speech Pathology and Audiology
University of Missouri-Columbia, May, 1977

PROFESSIONAL QUALIFICATIONS

- < Missouri Special Education Administrators Certificate
- < Missouri Audiology Licensure
- < Certificate of Clinical Competence in Audiology (ASHA)
- < Missouri Teacher Certification, Speech/Language Specialist K-12

EMPLOYMENT HISTORY

December, 1991 to Present: Director, Missouri Assistive Technology Council, State of Missouri, Independence, Missouri.

Job Description: Direct the establishment and operation of a statewide office on assistive and accessible information technology with core services of policy advocacy, training, and information dissemination plus specialized programs that deliver a broad range of adaptive devices to Missourians with disabilities. Hire and supervise staff, develop appropriation requests, budget and track expenditures, and manage annual budget of over three million dollars. Develop strategic plan, deploy resources, and assist staff in implementing core services and specialized programs.

August, 1990 to December, 1991: Special Education Coordinator, Raytown School District, Raytown, Missouri.

Job Description: Coordinate diagnosis and placement of students with disabilities, facilitate special education program development, support personnel development activities, assist in the allocation of funds to support special education programs, and develop and implement appropriate special education policies and procedures which comply with state and federal special education legal requirements.

August, 1984 to August, 1990: Assistant Director, Section of Special Education, Department of Elementary and Secondary Education, Jefferson City, Missouri.

Job Description: Supervise and evaluate special education staff in the administration of special education monies, ensuring compliance with state and federal regulations, and provision of technical assistance to schools. Plan, develop, and manage special projects, conferences, committees and publications.

February, 1984 to August, 1984: Technical Consultant, International Hearing Aids Dahlberg Electronics, Minneapolis, Minnesota.

Job Description: Provide technical assistance to hearing aid dispensers regarding specifications and fitting recommendations for new products. Review evaluation information and paperwork for quality and compliance with regulations.

October, 1980 to February, 1984: Special Education Consultant, Missouri Department of Elementary and Secondary Education, Jefferson City, Missouri.

Job Description: Administer and supervise special education programs and funds. Interpret and monitor compliance with state and federal regulations. Initiate and implement special projects for hearing impaired students state-wide. Mediate and resolve child complaints.

May, 1978 to October, 1980: Clinical Instructor in Audiology, University of Missouri Hospital and Clinics, Columbia, Missouri.

Job Description: Provide diagnostic, habilitative, rehabilitative, and educational support services to hearing impaired children and adults. Teach basic Audiology block to medical students, residents, and nursing staff. Supervise graduate students in Speech Pathology and Audiology in clinical practice.

PROFESSIONAL AFFILIATIONS

- < Association of Tech Act Projects, Board Member (1997-2006), Chairperson (2000-02)
- < Council for Exceptional Children
- < Council of Administrators of Special Education
- < Missouri Council of Administrators of Special Education
 - Fall Conference Program Committee Chairperson (1988-90)
 - Secretary-Treasurer (1989-93)
- < American Speech-Language-Hearing Association
 - Council of Consultants in State Education Agencies (1981-90)
 - Joint Committee, ASHA and Council on Education of the Deaf (1990-93)
- < Missouri Speech-Language-Hearing Association
 - Vice-President for Legislative Affairs (2005-2007)
 - State Convention Program Planning Committee (1992)
 - Nominations Committee (1988-89)
 - Vice-President for Professional and Public Relations (1986-1988)
 - Strategic Planning Committee (1987-88)
- < Missouri Association of Professionals Serving the Hearing Impaired
 - Chairperson (1988-89, 1989-90)

TEACHING/CONSULTATIONS (selected)

American Association of People with Disabilities, review of accessibility of voting system standards, July 2005.

State of Oklahoma, information technology accessibility law and policy training and consultation, August 2003.

Special Education Due Process Hearing Officer: Hearings Served, Maryville (1991), Warsaw (1991), Kansas City (1997), Kansas City (2000), Springfield/DESE (2001), Blue Springs (2004).

Commonwealth of the Northern Mariana Islands, assistive technology training for parents and providers of school age children, September, 1997.

Guest Lectures, *Audiology*, Introduction to Speech Pathology, Rockhurst College, 1997.

Parents as Teachers National Center Trainer, *Preschool Hearing Screening Procedures*, 1985-1994, six to eight Institutes each year, national convention annually (1995-1997).

Guest Lectures, *Assistive Technology*, Aural Rehabilitation and Disability Policy Doctoral Seminar, Kansas University, summer 1993 and 1994.

Guest Lecture, *Communication and Hearing Disorders*, Education of the Exceptional Child Course, University of Missouri-Kansas City, Summer 1992.

Leadership Academy, Missouri Department of Education, presentation of training program for *Principalship and Special Education*, Spring 1992.

Kansas City Public Schools, development and presentation of materials to implement eligibility criteria for special education, Spring 1992.

Excelsior Springs School District, reorganization and revision of operating procedures for district speech/language services, summer 1991.

Guest Lecture, *Special Education Law*, School Law Course, University of Missouri-Columbia, Fall, 1990.

Adjunct Faculty, University of Missouri-Columbia, taught graduate course *Foundations of Administration of Special Education*, summer 1990.

Adjunct Faculty, Lincoln University, taught graduate course *Foundations and Administration of Special Education*, Summer 1988.

Guest Lecture, *Special Education Funding*, Foundations and Administration of Special Education, University of Missouri-Kansas City, June 21, 1988.

PROFESSIONAL PRESENTATIONS (selected)

Voting Machines: Did Your State Do the Right Thing? invited presenter, National Disability Rights Network, San Diego, California, January 11, 2006

Help American Vote Act Voting Equipment Accessibility Standards, invited testimony, Election Assistance Commission, Gaithersburg, Maryland, September 22, 2004 and Denver, Colorado, August 23, 2005.

Voting Machine Accessibility and Information Technology Access in Procurement, invited presenter, Association of Assistive Technology Act Programs Conference, St. Louis, Missouri, November 9-10, 2004

Implementing Section 508 at the State Level: They Why's and How To's, Technology and Persons with Disabilities Conference (CSUN), Los Angeles, CA, March 15, 2004.

Missouri Information Technology Access Requirements, Higher Education Learning and Information Exchange, Lake Ozark, MO, March 20, 2003 and University of Missouri, September 18, 2003.

State Telecommunication Equipment Distribution Programs, invited presenter, RESNAConference, Washington, DC, July 28, 2003.

Aquiring Technology for all Students: Accessibility in the K-12 Classroom, invited presenter, Mid-Atlantic Regional Technology in Education Consortium Conference, Philadelphia, PA, May 22, 2003.

State Assistive Technology Programs: A Decade in Review, Assistive Technology Industry Association (ATIA), Orlando, FL, January 17, 2003.

State IT Accessibility Initiatives, invited presenter, Information Technology Technical Assistance and Training Center, national webcast, October 22, 2002.

IT Access in State and Local Government, invited presenter, National Institute of Standards and Technology, Gaithersburg, MD, May 23, 2001.

What's New in Missouri Legislation, Policies & Programs, Missouri Speech Language Hearing Association, Lake Ozark, MO, March 31, 2001.

Making a Strong AAC Funding Case: Early Intervention and School Aged Children, invited presenter, American Speech, Language and Hearing Association, Washington DC, November 18, 2000.

Missouri Telecommunications Access Program for Internet, invited presenter, Missouri Council of the Blind, Branson, MO, October 14, 2000.

State Information Technology Law and Policies: An Overview of Current Status,

Association of Tech Act Projects, Austin, TX, April 27, 2000.

Special Education Policy in Assistive Technology, invited presenter, St. Louis Special School District, December 1, 1999 and January 25, 2001.

IDEA '97 and Assistive Technology: What you need to know, invited presenter, American Speech, Language and Hearing Association, San Francisco, CA, November 21, 1999.

State Information Technology Access Coalition Report, invited presenter, Association of Access Engineering Specialists National Briefing, Washington DC, October 7, 1999.

The Assistive Technology Funding Maze, invited presenter, North Dakota Leadership Training Initiative, September 29, 1999.

Section 508: What it means for CIO's, invited presenter, National Association of Chief Information Officers Annual Convention, San Diego, CA. October 20, 1998.

Educational, Instructional or Assistive Technology: Legally Speaking, invited presenter, Wisconsin Technology Access Conference, March 4-6, 1998; and LRP Educational Technology Conference, Atlanta, GA, August 4-5, 1997; and Alabama Educational Technology Conference, Birmingham, AL, June 26, 1997.

Special Education Assistive Technology Policies: Myth or Reality?, invited presenter, Missouri Special Education Administrator Conference, October 12, 1998; and Kansas Assistive Technology Conference, Topeka, KS, September 19, 1996; and LRP Educational Technology Conference, San Francisco, CA, August 6-7, 1996; and Partnerships in Assistive Technology Conference, Charleston, WV, April 17, 1996; and Technology and Persons with Disabilities Conference, Los Angeles, CA, March 20, 1996.

Hearing Screening for Difficult to Test Students, invited presenter, School Nurses Conference, Columbia, MO, July 26, 1996.

Reauthorization of IDEA: What are the Assistive Technology Issues?, invited presenter, RESNA & UCPA Policy Summit, Washington, DC, February 26, 1996.

It's the Law: Now how do I do it?, invited presenter at the LRP Educational Technology Conference, Orlando, FL, August 6-9, 1995.

CARF and ADA: Providing Leadership in your Community, invited presenter, regional CARF conference, Kansas City, MO, June 27, 1995.

Systems Change Strategic Planning, invited presenter, RESNA and UCPA Leadership Training, Washington, D.C., February 1-3, 1995.

Americans with Disabilities Act: Impact on Public Schools, Leadership Academy, October 4, 1994.

IDEA Reauthorization and Assistive Technology, RESNA Annual Convention, Nashville, TN, June 19, 1994.

Current Issues in Audiology, Kansas City Society of Audiology, May 4, 1994.

Assistive Technology and Employers, Federal Board, Region VII, October 27, 1993, May 18, 1993, and October 25, 1994.

Assistive Technology Regulatory Requirements, Special Education Administrators Conference, September 27 and 28, 1993.

Assistive Technology and Traumatic Brain Injury, Missouri Head Injury Conference, May 26, 1993.

Special Education Funding of Assistive Technology, presented at the Region VII Rehabilitation Continuing Education Program workshop, January 26, 1993.

Americans with Disabilities Act and Assistive Technology, Federal Employee's Annual Conference, October 28, 1992.

Assistive Technology: Just Use It!, Missouri Learning Disabilities Association, October 17, 1992.

Assistive Technology Requirements, Special Education Administrators Conference, September 21, 1992.

Section 504, ADA, and Assistive Technology, Office of Civil Rights, June 11, 1992.

Assistive Technology: Freedom to Work, Heartland Conference, U.S. Department of Labor, April 8, 1992.

Understanding Eligibility Criteria, Missouri Speech Language and Hearing Association Convention, March 17, 1990.

Unlocking the Curriculum: Principles for Achieving Access in Deaf Education, panel discussion member, Show-Me Symposium for the Hearing Impaired, February 24, 1990.

A Comparison of Audiology Service Delivery Models in the Schools, American Speech Language Hearing Association Convention, St. Louis, November 17, 1989.

Kids in the Middle, Regional Conferences, October 1989.

Missouri Special Education Administrator Personnel Development System: A Collaborative Approach, Council for Exceptional Children Convention, San Francisco, April 6, 1989.

Missouri Eligibility Criteria Revision, Council of Speech Language Hearing Consultants in State Education Agencies, American Speech Language Hearing Association Convention, Boston, November 17, 1988.

Compliance Issues in School Speech-Language Programs, Missouri Speech Language Hearing Association, November 4, 1988.

Are Schools Ready for Kids?, Regional Conferences, Maryville, School of the Osage, and New Madrid, October, 1988.

Developing an IEP for Hearing Impaired Students, Auditory Trainer Workshop, Missouri School for the Deaf, September 16, 1988.

Paraprofessionals in Missouri: The Future, luncheon address Missouri PARAdise Special Education Paraprofessional Conference, April 22, 1988.

Auditory Assessment of Autistic Students, ACCESS Autism Institute, February 24, 1988.

Learning Disabilities Identification Criteria, Missouri Association for Children with Learning Disabilities Conference, November 20, 1987.

Trends and Issues for the School Speech-Language Pathologist, Central Missouri School Speech-Language Pathology Association, October 1987.

Audiology for the School Speech-Language Pathologist, Missouri Speech Language Hearing Association, October 1986 and 1987.

Hearing Evaluation of Low Functioning Students, eight workshops, 1986-1987.

Auditory Skills, Language and Reading - - - Are They Related? presented to Parkway School District Early Childhood, Primary Grade, and Reading Teachers, February 1987.

Training Special Education Paraprofessionals, Missouri Council for Exceptional Children, March 1987.

Compliance for the School Speech-Language Pathologist, presented at Missouri Speech-Language-Hearing Association, March 1986.

Early Childhood Development Act - S. B. 658 and Preschoolers with Disabilities, presented at Missouri Council for Exceptional Children and Missouri Speech-Language Hearing Association, March 1985.

Preschool Services for the Hearing Impaired in Missouri, presented at the Missouri Speech, Language and Hearing Association Meeting, March 19, 1983.

Classroom Amplification for the Minimally Hearing Impaired, presented at the Missouri Association of Elementary School Principals, March 15, 1983.

Special State-wide Projects for the Hearing Impaired, presented at the Missouri Speech, Language and Hearing Association Meeting and at the Missouri Council for Exceptional Children Meeting, March, 1982.

PUBLICATIONS

Golden, D.C. (2006). Accessible Voting System Comparison Table. Association of Assistive Technology Act Programs. www.ataporg.org/accesscomp.asp

Golden, D.C. (2004). Accessible Voting Equipment Challenges: Voter Verified Paper Ballots and More. Information Technology and Disabilities, Vol. X No.2, www.rit.edu/%7Eeasi/itd/itdv10n2/golden.htm.

Golden, D.C. & Buck, D.V. (2003). State Information Technology Accessibility Policy: The Landscape of Today. Information Technology and Disabilities, Vol. IX No.1 www.rit.edu/%7Eeasi/itd/itdv09n1/golden.html.

Golden, D.C. (2002). Instructional Software Accessibility: A Status Report. Journal of Special Education Technology, 17(1), 57-60.

Golden, D.C. (2000). Summary of Information Technology Access Laws and Policies. Journal of Telecommunications Professionals in Higher Education, 4(1), 24-25.

Golden, D.C. (1999). Assistive Technology Policy and Practice. Special Education Technology Practice, 1(1), 12-14.

Golden, D.C. (1998). Assistive Technology in Special Education: Policy and Practice. CASE/TAM Monograph, 62 pgs.

Golden, D.C. (1997). Finding a Credible Assistive Technology Expert. The Special Educator, 12(19), 10.

Golden, D.C. (1997). Looking for a credible AT expert? Ask these Questions. Counterpoint, 17(4), 7.

Golden, D.C. (1996). Invited book review of *Assistive Technology: A Resource for School, Work, and Community*. Assistive Technology, 8(1), 60-61.

Golden, D.C. (1995). Assistive Technology 101 for Special Education Administrators. Counterpoint, 15(4), T3 & T12.

Golden, D.C. (1995). Special Education Systems Change: Missouri Style. IMPACT: Feature Issue on Assistive Technology, 8(1), 10-11.

Golden, D.C. (1994). IDEA Reauthorization: Emerging Issues. A.T. Quarterly, 5(2), 12-

13.

Golden, D.C., & Capehart, F.D. (1993). Missouri passes assistive technology advisory council legislation. A.T. Quarterly, 4(2), 3 & 7.

Golden, D.C. (1993). Discipline of students with disabilities: A decision making model for principals. NASSP Bulletin, 77(550), 12-20.

Allard, J.B., & Golden, D.C. (1991). Educational audiology: A comparison of service delivery systems utilized by Missouri schools. Language Speech and Hearing Services in Schools, 22, 5-11.

Missouri Special Education Administrators Manual, coauthor, published March 1989, Missouri Department of Education, Jefferson City, MO.

Special Education Process Manual, primary author, published September 1986 and May 1990, Missouri Department of Education, Jefferson City, MO.

Preschool Training Manual: Hearing Screening, primary author, published April 1985 & 1991 by the Parents as Teachers National Center, St. Louis, MO.

Vacancy Issues in the Schools, ASHA Paper, Peer Reviewer, July 1988.

Special Education Administrator Training (Personnel Preparation Part D Grant), Primary Author and Project Director, funded September 1988.

Guidelines for Performance Based Evaluation of Assistant Superintendents, (Special Education section), primary author, published October 1987 by the Department of Education, Jefferson City, MO.

Foundations and Administration of Special Education, (Project F.A.S.E.) contributing author, published May 1987 by the Department of Education, Jefferson City, MO.

Resource Guide for Special Education, Volume II-B, Hearing Impaired" primary author, published September 1983, revised May 1989 and published by the Missouri Department of Education, Jefferson City, MO.

Cordry, D. (1980). Marshall's Syndrome: A Case Report. MSHA Journal, 13, 3-4.

Williamson, D., & Cordry, D. (1978). The Effect of Order in Frequency Presentation during Pure Tone Testing. Journal of Audiological Technique, November-January.

COMMITTEES/APPOINTMENTS

Missouri Automated Voting Equipment Qualification Committee
Secretary of State appointment, 2005.

Missouri Help America Vote Act State Plan Advisory Committee
Secretary of State appointment, 2003.

Electronic and Information Technology Access Advisory Committee
U.S. Access Board appointment, 1998-99.

Missouri Planning Council for Developmental Disabilities
Governor appointment, 1994-2001.

Jackson County Board of Services
County Administrator appointment, 1994-1999.

Special Education Teacher Competency Task Force
Department of Elementary and Secondary Education, 1996-97.

Inclusion Task Force and Early Intervention Personnel Preparation Planning Team
Department of Elementary and Secondary Education, 1997.

Governor's Alliance for Disability Prevention
Secondary Prevention Committee, 1992-1993.

Education of the Hearing Impaired Advisory Committee
Southwest Missouri State University, 1989-1999.

Missouri Commission for the Deaf
Governor appointment, 1989-90.

Educational Interpreter Task Force, 1989.

ASHA Committee Paper Peer Reviewer, 1988 and 1993.

Midwestern States Consortium for Paraprofessional Training
Missouri Representative, 1985-1988.

Attachment B

Vote-PAD Accessibility Summary

The Help America Vote Act (HAVA) requires one accessible voting machine per polling place. To make voting accessible for a reasonable range of individuals with disabilities (vision, motor, hearing, combination of vision and hearing, and learning/cognitive) augmented and alternative options must be available to enable voters with disabilities to ---

- receive ballot information
- mark the ballot
- review the marked ballot
- and cast the official ballot

The term “augmented” means that the media/form is enhanced to enable access, for example standard print is enlarged or regular volume is amplified. The term “alternative” means the media/form is converted from something inaccessible for individuals with certain types of disabilities to something accessible. Examples would be converting print to speech for individuals who are blind and converting manual markings (by pencil/pen) to markings generated using switch input, software, and electronic marking for individuals with motor disabilities.

The following specific standards ensure a reasonable range of augmented and alternative access is available to voters with disabilities. The Federal Election Commission (FEC) Guidelines of 2002 and the Election Assistance Commission (EAC) Voluntary Voting System Guidelines (VVSG) of 2005 requirements are referenced. Specific conformance of the Vote-PAD to these access standards is described in detail.

BALLOT OUTPUT All ballot information, initial interaction with the ballot and any ballot review of a marked ballot, must make available:

	Disabilities Addressed	Standards References	Vote-PAD Conformance
Standard print and large print with good contrast (figure/ground) and spacing	Vision Learning Cognitive	FEC 2.2.7.2 (e) VVSG 3.2.2.1 (b-d) VVSG 3.1.5 (d-i) VVSG 3.1.7 VVSG 3.1.5. (e)	No large print output available unless separate hard copy large print ballot is provided. Unless the hard copy can be counted by machine with all other ballots, it will be difficult to ensure a private and secret vote as the large print makes that ballot readily identifiable from all others.
Speech (audio output) that is synchronized with both the visual display (large print/regular) and the tactile input.	Vision Learning Cognitive	FEC 2.2.7.2 (b-d) VVSG 3.2.2.1 (f) VVSG 3.2.2.2 (b-c)	Speech output is not synchronized with the regular print ballot or the tactile input mechanism. Voters must align the speech output with their finger placement on the overlay for initial ballot marking. To review, voters must manually operate and listen to an audiotape, identify and process tactile hand cues for ballot orientation, and position/manipulate a vibrating wand in conjunction with hand cues all manually coordinated with no built-in synchrony. If the ballot review for non-disabled voters includes automatic notification of over/under vote (e.g. via precinct counter), Vote-PAD provides no comparable notification that is accessible.
Speech (audio output) that allows the voter to repeat, pause/resume, skip to next or return to previous contests, skip reading of referendum, and adjust rate of speech from 75% to	Vision Learning Cognitive	FEC 2.2.7.2 (b) VVSG 3.2.2.2 (b-c)	Speech output is not in a digital audio file. As a result, content markers are not readily available to provide direct access to the beginning of each contest to meet these standards and the audio output cannot be efficiently used to navigate through the ballot. Rate adjustment for tape recorder playback may diminish intelligibility without pitch adjustment available and the maximum

200% of nominal.			rate adjustment is not likely to meet the 75%-200% range requirement.
Speech (audio output) that has good intelligibility, with set initial and maximum volume, automatic volume reset to initial level, and prescribed frequency response to ensure speech intelligibility.	Vision Vision & hearing Learning Cognitive	FEC 2.2.7.2 (b) VVSG 3.2.2.2 (b-c) VVSG 3.1.5 (b-c)	Speech output is not in a digital audio file. As a result, ensuring output conforms to prescribed frequency response and volume requirement is difficult to verify unless done for each recording individually and difficult to ensure consistency. Automatic default of volume cannot be provided unless done through software controls.

BALLOT INPUT - All ballot manipulation, navigation/control, and marking must be available through:

	Disabilities Addressed	Standards References	Vote-PAD Conformance
Standard tactile controls and large buttons and controls identifiable by shape and color available for use with visual display output and audio output	Vision Mobility	FEC 2.2.7.2 (f) VVSG 3.2.2.1 (e) VVSG 3.2.2.2 (b-g) VVSG 3.2.3 b	Ballot manipulation, navigation of ballot contents, and ballot marking must all be done using voter dexterity skills, no tactile control mechanism is available. The ballot overlay provides limited “augmentation” for voters with somewhat reduced dexterity skills for ballot marking. It does not deliver alternative access in the form of tactilely discernable controls identifiable by shape and color.
Switch input used to control/navigate ballot information and mark ballot available for use with visual display output	Mobility	VVSG 3.2.3 (d)	No switch input is available to control and navigate through the ballot and to mark the ballot. Some switch adaptation might be able to be added to the tape player, but provides no access for individuals with motor limitations who use visual output (don’t need the tape recorder at all) who need switch input for ballot marking.
Controls are operable by an individual who is in a fixed seated position and one who has one hand (visual output)	Mobility	FEC 2.2.7.1 FEC 2.2.7.2 (f) VVSG 3.2.3 (b) VVSG 3.2.4	No controls are available for ballot navigation and marking. Without such controls, a voter with a closed fist, a hand in a fixed position, or a voter with other fine motor limitations will not be able to navigate and mark the ballot.
Mechanism for write in of text using tactile controls/buttons and review of write in available	Vision Mobility	FEC 2.2.7.2 (b) 3.2.2.2 (b)	No controls are available to write in text. Hand dexterity is needed to use the overlay and to tactilely recognize Braille or raised lettering (both are used by a limited portion of the visually impaired population). No review of write-in is available for visually impaired voters.

BALLOT CASTING - Ballot casting must be available through:

	Disabilities Addressed	Standards References	Vote-PAD Conformance
Some form of automatic or “hands-free” mechanism	Vision Mobility	VVSG 3.2.3 (e) VVSG 3.2.2.2 (e)	No automatic paper handling is available. Voters must have vision, dexterity and motor skills to cast paper ballot independently.

Summary

To meet the HAVA requirement of one accessible voting machine per polling place, the Department of Justice opined several times (e.g. letter to Texas, 5/20/03, letter to Mississippi, 3/4/05) that the FEC and VVSG standards “can be used to determine the accessibility of voting machines”. As a result, purchasing and deploying voting systems that conform to FEC 2002 or VVSG 2005 access standards would be one defensible way to meet HAVA requirements. Conversely, using the Vote-PAD to meet HAVA requirements for an accessible voting machine raises serious questions since it has not been certified as meeting any set of accepted access standards.

In general, the accessibility limitations of the Vote-PAD can be summarized as follows:

For individuals who are visually impaired and need large print output, with an option of synchronized audio output, and navigation and marking via large print or tactile, the Vote-PAD offers no accessibility.

For individuals who have learning/cognitive disabilities and need large or regular print output, with an option of synchronized audio output, marking via large or regular print or tactile, the Vote-PAD offers no accessibility.

For individuals who are blind and need audio output with integrated tactile ballot navigation and ballot marking capacity, the Vote-PAD requires exceedingly complex skills to operate a stand-alone tape recorder than is not integrated with the manual tactile overlay. Add to that a third vibrating wand element that must be coordinated with both the audio tape and the tactile overlay to review a marked ballot and the required skill set becomes even more demanding. Most individuals who have lost vision later in life, especially older individuals, will not be able to use this complicated arrangement. The Vote-PAD offers no accessibility features to enable individuals who are blind to independently cast their ballot assuming that involves depositing the ballot in a box at the polling place.

For individuals who are blind and have a hearing loss, the Vote-PAD provides limited standardization of audio output (volume and frequency response) necessary to ensure speech intelligibility and to protect against voters “inheriting” the volume of previous voters, which can cause hearing damage and create a significant liability risk for local jurisdictions.

For individuals with motor disabilities who need alternatives to manual manipulation, navigation, and marking of ballots, the Vote-PAD offers only an augmented mechanism of ballot marking (and overlay to keep the marks in a contained space.) No alternative access option such as switch input or other tactile control of a scanned ballot is available with the Vote-PAD providing no accessibility for many individuals with motor disabilities. The Vote-PAD offers no accessibility features to enable individuals who have significant motor disabilities to independently cast their ballot assuming that involves depositing the ballot in a box at the polling place.

Summary compiled by:
Diane Cordry Golden, Ph.D., dcgolden@swbell.net
Association of Assistive Technology Act Programs

Under contract with:
National Disability Rights Network

Attachment C

Attachment C is a map of voting equipment currently used in Wisconsin by County. The Wisconsin State Election Board (SEB) does not have an accessible form of this information. The map and information is in PDF format and can be viewed at:

<http://elections.state.wi.us/docview.asp?docid=4856&locid=47>.

The map shows that the majority of municipalities in the following counties use paper ballots and do not use optical scan equipment.

Adams	Pepin
Ashland	Pierce
Barron	Polk
Bayfield	Price
Buffalo	Richland
Burnett	Rusk
Calumet	Sawyer
Crawford	Shawano
Dunn	Trempealeau
Florence	Vernon
Forest	Washburn
Grant	Waupaca
Green Lake	Waushara
Iowa	
Iron	
Jackson	
Juneau	
LaFayette	
Langlade	
Manitowoc	
Marinette	
Marquette	
Monroe	
Outagamie	

The map also shows that there are municipalities in the following counties that also use paper ballots and do not use optical scan equipment:

Dane
Oconto
Oneida
Portage
Rock
St. Croix

Attachment D

Kevin Kennedy, Director
Wisconsin State Elections Board
17 W. Main Street, Suite 310
Madison, WI 53703

Board Members
Wisconsin State Elections Board
17 W. Main Street, Suite 310
Madison, WI 53703

Dear Mr. Kennedy and State Election Board Members,

Ms. Dianna Smith from Vote-PAD, Inc. submitted written testimony to you on January 18, 2006. In the testimony she states "... Steve, the dexterity impaired man who attended the presentation of the Vote-PAD to the EAC. At the EAC examination, Steve told me that he would prefer to vote using the Vote-PAD than to use a touch screen voting system, and he would far prefer to have his mother vote on the Vote-PAD" (page 3).

I believe that Ms. Smith is referring to a conversation we had on January 10, 2006 at the Election Administrative Council meeting after a vote pad presentation.

I was a bit upset when I heard what was written in her testimony. I can honestly say I believe Ms. Smith took my comments out of context, or at least, misconstrued what I said. I am writing to clarify my thoughts on the Vote-PAD, and what I seem to remember saying. Especially, since I said I was a member of the disability rights group ADAPT, and do not want it implied that our group has endorsed any particular voting system.

I seem to remember saying that I (personally) would prefer using the Vote-PAD to the Automark touch screen voting system. I am not an expert on the voting systems that are out there, and do not feel qualified to make a general comparison. The Automark is, literally, the only other system I have had a chance to test. I have not tried, read about, nor even looked at photos of the accessibility features of the other voting products out there! Also, I do not recall saying that I would prefer for my mother to vote using the Vote-PAD. While I may have referred to my mother's use of a Votepad, it was once again in the context of an Automark comparison. I simply believe she would be confused by the Automark. My mother may or may not like the Vote-PAD better than another voting system. My preference would be that she vote using the voting system that worked best for her. Because she has not tested any of the voting

systems, I am unsure of what product she would like the best.

Although I was able to vote using the Vote-PAD, I meant in no way to imply that I was endorsing the Votepad for use by people with disabilities for use in Wisconsin! There are so many different types of dexterity impairments, and a missing piece of our conversation implied exactly the opposite of a general endorsement.. I also said many of my friends would find it difficult to use, as they have Cerebral Palsy and shake too much to accurately "score" the ballot. It would be impossible for me to guess the percent or number of people with dexterity impairments who would have problems voting using this product., but I believe the number to be substantial.

I also did not rate the product from the perspective of someone who has a different type of disability - such as someone who is blind or visually impaired. People with other types of disabilities may also find this product inaccessible. The survey was difficult for me to answer due to its wording. (I can truly say I did not like the evaluation form!) An "honest" answer may have been "yes, it works for me," but I didn't take the time to write the essay about why it may not work for other types of disabilities. I am somewhat familiar with other disabilities because I worked at an Independent Living Center (ILC) for many years.

Over the years I have seen many companies sell items that they claim will make something accessible for people with disabilities. That is the reason ILC's have loan closets for accessibility related products. Many people have wasted good money when they purchased a much touted device before they had the chance to adequately use it! I am very concerned that this will be true if the Vote-PAD is purchased by Wisconsin municipalities, who then feel their access obligations have been met. Then, when the inevitable problems arise, we will all be told, "tell it to the Election's Board, they okayed it!" Hence, I have some serious concerns that the State Elections Board has approved a product that will not afford people with many types of disabilities the opportunity to vote privately and independently. The Vote-PAD has not been properly tested within the disability community and it does not meet any standards for accessibility. It is not reasonable to allow this product to be purchased, nor "touted" as an "accessible" voting system!

Eligible voters who happen to have a disability deserve to have the same access to voting as those voters who do not have a disability. There is no proof that this product meets any sort of accessibility standards. Please reconsider your decision to allow the Vote-PAD to be used in Wisconsin.

Best regards,

Steve Verriden
ADAPT of Wisconsin

1817 Spohn Ave.
Madison, WI. 53704

Attachment E



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March 15, 2006

To Whom It May Concern;

Advocacy, Inc. is the recognized protection and advocacy organization in Texas. We are a federally mandated, non-profit organization that advocates, protects and advances the legal, human and service rights of individuals with disabilities. The Help America Vote Act charges the protection and advocacy agency in each state to ensure full participation in the electoral process for individuals with disabilities, including registering to vote, casting a vote and accessing polling places.

I am writing to share with you the reaction Texans with disabilities had to the VotePad when it was tested in our office in December 2005. A representative from Verified Voting met with Advocacy, Inc. in December and demonstrated the VotePad. One of our attorneys, Sean Pevsner, has Cerebral Palsy and was unable to use any part of the voting system privately and independently. Mr. Pevsner's question to the group demonstrating the device was, "Were individuals with disabilities even considered when this device was created?". The clips that are attached to the side of the pages to assist individuals with dexterity impairments were completely unusable for Mr. Pevsner and he does not believe they would even provide aid to an individual with minor mobility impairments.

An attorney with visual impairments also tested the device and found the tactile overlay very difficult to align and found himself voting the wrong races on the wrong lines. He also found the audio ballot difficult to use and synchronize with the ballot he was marking. This attorney specializes in assistive technology and finds the device "very antiquated". "When there are voting systems available that allow for a wide range of individuals with disabilities to use the system, why would anyone choose to use a device that is accessible to only a few people."

Various Advocacy, Inc. staff members and individuals with disabilities tested the VotePad and we were not able to find anyone who believes the VotePad is accessible. Advocacy, Inc. created a similar voting system in the 1980's when there were no accessible voting systems. The ballot overlay and a tape recorder has been required as a voting method in Texas if requested by an individual with a

disability since 1989. Texas Election Code Sec. 64.031 - 64.037, Authorized Alternative Methods of Providing a Secret Ballot to Persons with Disabilities, will be repealed March 19, 2006 because every county in Texas is required to have an accessible DRE or accessible optical scan system. Voting systems have been modernized and more individuals with disabilities will be able to vote privately and independently due to the new technology; therefore the alternative voting methods similar to the VotePad are no longer required, or even an option for counties in Texas. .

Thank you for allowing us to share our comments with you. We urge you to ensure accessibility for as many voters with disabilities as possible and the VotePad is not usable by a wide-range of voters.

Sincerely,

Laurie Vanhoose
Policy Specialist
Advocacy, Inc.

Texas Administrative Code

TITLE 1 ADMINISTRATION

PART 4 OFFICE OF THE SECRETARY OF STATE

CHAPTER 81 ELECTIONS

SUBCHAPTER C VOTING SYSTEMS

RULE §81.56 Authorized Alternative Methods of Providing a Secret Ballot to Persons with Physical Disabilities

The following methods of providing a secret ballot to persons with physical disabilities are approved by the Office of the Secretary of State. Minor variations on these methods may be made without submitting the method to this office for approval. These methods supplement the regular voter-assistance procedures in Texas Election Code §§64.031 - 64.037.

(1) Paper or Optical Scan Ballot with Template/Overlay and Telephone or Audiotape System

(A) The political subdivision creates a precinct-specific tactile ballot cover or overlay ("template") that is used to allow visually or reading-impaired voters to vote independently through the use of touch. The ballot template is in the form of a folder or other overlay into which the voter's ballot is inserted, and a binder clip or similar fastener should be attached to keep the ballot in place. The ballot template has raised lines to guide a voter to the appropriate voting locations on the ballot, and has holes punched to allow the voter to mark the actual ballot. The lines may be created with velcro strips, fabric glue, caulk, or some other substance that will provide tactile guidance to the ballot layout. The lines should be designed to divide the races or issues on the ballot; each race or issue may be numbered by writing a number with the template-marking substance. The numbers may also be printed in Braille. If a vendor provides a ballot template with holes punched to correspond to every oval on an optical scan ballot, the authority conducting the election must make that template precinct-specific by dividing the ballot into the appropriate precinct races by using raised lines and covering the holes so that the voter may not make a mark. The material used to cover the holes must be self-adhesive and thick enough to alert the voter that a mark should not be made in that hole.

(B) When a voter with a visual or reading disability arrives at the polling site and requests to vote using this method, the election official must verify the voter's eligibility to vote; and the voter

selects a ballot from the official precinct ballot stock. The election official then inserts the ballot into the template and hands it to the voter. One corner of the ballot template must be cut at an angle that corresponds to a similar cut on the ballot. This will allow the official and the voter to be sure that the ballot is correctly aligned and facing the right way in the ballot cover. The voter may choose to insert the ballot into the ballot cover rather than having the election official perform this task.

(C) If using the telephone system, the election official then makes a telephone call to a designated telephone number. A person assigned to read the ballot in English or Spanish (the "reader") to the voter answers the telephone. The election official tells the reader the precinct number only; the official does not tell the reader the name of the voter. The election official hands the voter the telephone. The reader instructs the voter how to read the ballot template to understand how it will allow him or her to mark his or her own ballot. Once the reader is sure the voter understands the procedures and the layout of the ballot template, the reader reads the first race and candidate names or propositions. The voter then marks the ballot through the hole in the ballot template corresponding to the candidate for which the voter wishes to vote (or for or against the proposition). The reader then instructs the voter to move to the next section on the ballot template to vote on the next race or issue. The reader must have a copy of the template that the voter is using so that the reader is sure to instruct the voter accurately on the proper races and candidates on which the voter is eligible to vote. The reader does not need an actual template; a carbon copy is sufficient. Once the voter has completed the ballot, the ballot is deposited in the ballot box, and the ballot cover is returned to the election official.

(D) If an audiotape system is used, the precinct election official hands the voter the appropriate audiotape, audiotape player, and a set of headphones. The voter listens to the tape to receive instructions on how to read the ballot template to understand how to mark the ballot. If the voter does not understand the instructions, the voter may call the election official over to explain the template procedures. Once the voter understands the procedures and the layout of the ballot template, the voter continues playing the audiotape. The voter may stop the audiotape as necessary while marking the ballot through the hole in the ballot template corresponding to the candidate for which the voter wishes to vote (or for or against the proposition). The voter then restarts the tape and moves down or across the ballot, as instructed on the tape, to vote on the next race or issue. When the voter has completed the ballot, the ballot is deposited in the ballot box, and the ballot cover, audiotape, audiotape player, and headphones are returned to the election official.

(E) Telephones used with this alternative method should be equipped with headsets rather than handsets. This will allow the voters to have their hands free to hold their ballot and template steady, and accurately mark the ballot through the template.

(F) This alternative method does not enable the voter with a physical disability to vote for a write-in candidate without assistance.

(G) Election officials must situate the voting booths in a manner that will ensure as much privacy and as little noise for voters as possible.

(2) Punch Card or Lever Machine with Audiotape or Telephone System

(A) Punch card and lever machine systems work similarly to the ballot template/overlay system, as the machines used allow visually or reading-impaired voters to vote using their sense of touch

to guide them through the ballot. These systems may use either a telephone or audiotape to inform the voters of the procedures and the ballot contents.

(B) If using the telephone system, the election official makes a telephone call to a designated telephone number. A person assigned to read the ballot in English or Spanish (the "reader") to the voter answers the telephone. The election official tells the reader the precinct number only; the official does not tell the reader the name of the voter. The election official hands the voter the telephone. The reader instructs the voter on the procedures for voting with a punch card or lever machine, as applicable. Once the reader is sure the voter understands the procedures, the reader reads the first race and candidate names or proposition. The voter votes, and the reader then instructs the voter to move to the next section on the ballot to vote on the next race or issue. When the voter has cast the ballot, the voter returns the telephone to the election official.

(C) If an audiotape system is used, the precinct election official hands the voter the appropriate audiotape, audiotape player, and a set of headphones. The voter listens to the audiotape to receive instructions on how to vote with the punch card or lever machine. If the voter does not understand the instructions, the voter may call the election official over to explain the procedure. Once the voter understands the procedures, the voter continues playing the audiotape. The voter may stop the audiotape as necessary while marking the ballot. The voter then restarts the tape to vote on the next race or issue. When the voter has cast the ballot, the audiotape, audiotape player, and headphones are returned to the election official.

(D) Telephones used with this alternative method should be equipped with headsets rather than handsets. This will allow the voters to have their hands free to mark their ballots.

(E) Election officials must situate the voting booths in a manner that will ensure as much privacy and as little noise for voters as possible.

Attachment F



March 13, 2006

To Whom It May Concern,

Recently, a group of voters with disabilities in Oregon were given the opportunity to experience and evaluate the Vote-PAD system. Overall, voters did not like this option for the following reasons: it was cumbersome to use and took too long; it required remembering the placement on the list of each candidate; voters with sensory impairments in their fingers could not feel the cut-outs; and voters with manual dexterity impairments could not use this system independently (i.e., could not fill in the bubbles).

Subsequently, the state HAVA disability sub-committee, which advises the state HAVA Steering Committee, decided that the Vote-PAD was not a favorable solution in complying with HAVA (see attached *HAVA Disability Subcommittee Minutes*, 2/16/06).

Sincerely,

Julie Anderson, Attorney
Member, Oregon HAVA Steering Committee
Member, Oregon HAVA Disability Sub-Committee

Voice: 541-664-3024 / 1-800-880-1931 Fax: 541-664-3384
75 N. 1st St. Central Point, OR 97502

MINUTES

HAVA

Disability Subcommittee

02/16/06

Subcommittee Meeting: 1-3 PM

Place: Willamette ESD, Polk Room

Attendees:	P (Present)	A (Absent)	G (Guest)	VC (Videoconference)	TC (Teleconference)
Gene Newton, Chair	P	Judy Cunio	A	Jeanne Marie Moore	P Micki Kawai A
Frank Garcia, Staff	P	Bill Burgess	P	Jan Coleman	P Hannah Bowen A
Georgann Dustan	P	Tina Hansen	A	Mary Shultz	P Angie Muller G
Kirt Toombs	A	Dawn Helwig	A	Kevin Walther	A Mary Otten G
Jim Barrow	A	Tina Treasure	P	Lynn Rosik	A John Montoya G
Paddy McGuire	P	Frank Synoground	P	Julie Anderson	P Art Stevenson G
Carla McQuillan	G				

Agenda topics: Note: incorporate all changes to the agenda – below

Action Items:

Item: Review the Committee Makeup

Responsible: Subcommittee

Goal: Determine if the representation is representative

Status: Ongoing

Item: Seek legal opinion for privacy of voters from the disability community

Responsible: Gene Newton

Goal: Determine if this is a legal option regarding privacy issues

Status: Push out to March 2006

Item: Develop Resource List of Organizations that service the Disability Community

Responsible: Gene Newton & Frank Garcia

Goal: Create a list that can assist clerks with service to voters with disabilities
Status: Ongoing

Item: Summarize AVS Deployment Recommendations
Responsible: Gene Newton
Goal: To present to HAVA Steering Committee at October meeting
Status: Ongoing

Item: Develop an AVS Public Information Campaign
Responsible: Frank Garcia & Gene Newton
Goal: To present to the HAVA Committees
Status: On Hold

Agenda Items/Minutes

Start meeting – 1:00 pm

1. Minutes/Action Items -

Review, Discussion and Approval of the December and January Minutes were completed with no changes.

Gene N. reviewed all action items and indicated that all items continue to be worked on and that the AVS Public Information Campaign had been put on hold until further notice.

2. Monthly Reports/Updates -

- Financial
- Budget
- HHS Grants

Paddy M.: Indicated that there was no national funding news at this time other than that we had received our FY '04 funding and that we were beginning to pay out to counties as requests came in. (See Frank's Comments Below).

Frank G.: Financial/Budget – No additional news to report on our budget. The majority of HAVA spending continues to be related to OCVR and spending is in-line with budget. We were successful in getting our spending limitation increased and additional 4 Million for the '05-'07 biennium by the E-Board.

Frank G.: HHS Grants – Frank provided examples of the requests for reimbursements provided by counties.

3. AVS Update – (Next Steps Discussion)

- ES&S Contract
- Vote-PAD - Demonstration

- HTML Ballots – Demonstration
- Phone Voting - Discussion

Paddy M.: Provided an updated regarding our contract negotiations and indicated that are now at an impasse with ES&S. Currently, we are sending a letter to ES&S that they are in breach and we now need to explore alternative solutions. These alternatives don't necessarily have to be long-term, in fact, it may be best to address the primary first and couch this as pilot strategies as we get a better understanding of how US DOJ will treat our non-compliance status. Also, it has been discovered that ES&S has had some recent quality control issues with the AutoMark in multiple states as they began rolling out the system. We are not sure how to interpret this just yet, however, we feel this could be a situation to Oregon's benefit, especially, if the equipment is proving to be faulty. We will be discussing our situation with the USDOJ and the EAC as we seek their advice and guidance on how to best handle the situation. Although the current contract situation continues to disappoint all, the committee continued to be pragmatic about the situation and again focused on alternatives. Some of the main ideas continue to be:

- Expansion of the Computer Disk Ballot Pilot
- Tactile Ballot
- Tactile Envelope
- Developing assistive technology marking ballots, i.e., laptop workstation w/jaws reader connected to printer
- Audio Voter Pamphlet
- Audio Voter Guide & Easy to Read Audio Voter Guide
- Public Information Campaign when a new solution is identified

As part of the alternative discussion, Paddy M. introduced the idea of implementing a phone voting pilot for the primary. The company that we are considering has signed contracts with both the State of Vermont and New Hampshire. We have invited them for a demonstration to take place later in the month. The intent of the pilot is to have the phone be located at the county office only, people will not be voting from their homes. The committee discussed pros & cons related to a pilot, but felt overall that we had no other better solution at the time and that we should continue to research the possibility of a pilot for the primary. More information to come to the committee, as we know more.

Vote-PAD – Gene N. handed out samples of the vote pad and had committee members who went to the recent demonstrations discuss their impressions. Overall, the committee did not see the vote-pad as a favorable solution in complying with HAVA.

HTML Ballots – Gene N. and Mary Otten walked us through the functionality of HTML Ballots and the committee thought that this was a solution that should continue to be explored as a potential future pilot.

4. Discussion of Guidelines – Tabled until next Meeting.

5. AVG Update -

Gene N. mentioned that a newsletter by TBABS featuring the upcoming AVG for the primary had recently been sent to its membership and that the feedback at both TBABS and the OSCI Call Center was very positive. Both locations were surprised with the level of interest and response to the newsletter. The committee felt this was a good indicator that many people are looking forward to the AVG and that it will be a helpful resource for the Disability Community when voting in future elections.

6. Next Steps/Future Agenda Items and Meetings

Next Meeting: March 9, 2006, Willamette ESD

Meeting adjourned 3:00 pm