



April 9, 2020

The Honorable Nancy Pelosi  
Speaker  
U.S. House of Representatives  
H-232, The Capitol  
Washington, DC 20515

The Honorable Kevin McCarthy  
House Minority Leader  
U.S. House of Representatives  
H-204, The Capitol  
Washington, DC 20515

The Honorable Mitch McConnell  
Senate Majority Leader  
U.S. Senate  
S-230, The Capitol  
Washington, DC 20510

The Honorable Chuck Schumer  
Senate Minority Leader  
U.S. Senate  
S-221, The Capitol  
Washington, DC 20510

Dear Speaker Pelosi, Minority Leader McCarthy, Majority Leader McConnell, and Minority Leader Schumer:

The Leadership Conference on Civil and Human Rights, and our Voting Rights Task Force co-chairs, write to urge Congress to pass additional measures that would fully fund and direct states and counties to administer the 2020 elections in a safe, fair, and accessible manner, through the implementation of vote-by-mail and the expansion of early voting and in-person voting options. This is a massive undertaking that requires adequate funding that only the federal government can provide. Congress must provide states with at least \$4 billion to prepare for the 2020 November and primary elections, and time is of the essence. In the last coronavirus response package, Congress provided only \$400 million to states for election assistance. While a step in the right direction, that sum will defray only a fraction of the costs associated with implementing the necessary adjustments to safeguard the electoral process. In its next package, Congress must provide at least an additional \$3.6 billion to help states prepare for 2020 elections amidst the COVID-19 crisis.

In addition, there must be no requirement that states -- which are facing exorbitant costs to contain the pandemic and severe damage to their economies -- provide a matching fund in order to obtain federal funding for election assistance. And to help ensure that these funds are appropriately utilized by states, we encourage Congress to institute accountability measures that provide latitude to states while ensuring that the funds are being directly used to ameliorate the impact of the pandemic on voting access. This is particularly important in light of [recent reports](#) that states are redirecting these funds to coronavirus response efforts outside the elections context.

Our organizations had previously sought at least \$2 billion in federal funding for 2020 election assistance based on an [estimate by voting rights experts](#). But that estimate was pegged to costs associated with preparing for the general election. In light of the number of states that have recently postponed their primary elections in response to the scope and magnitude of the COVID-19 crisis, it is now apparent that states will need additional funding in order to safeguard primary elections as well. The election fiasco in Wisconsin -- where voters were forced to risk their health and safety in order to exercise their fundamental right

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to vote -- underscored the tremendous need to provide additional assistance to states during this dangerous and challenging time. Additional funding is needed to ensure that each state can provide a comprehensive approach that includes both vote-by-mail and in-person options safely and effectively. Unless states offer voters a range of options through which to submit completed ballots, many voters – particularly people of color, Native Americans, people with disabilities, limited-English proficient citizens, students, and other historically marginalized citizens – simply will not have equal access to the ballot box, and the promise of our democracy will not be fulfilled.

### **Congress must pass additional funding measures for elections**

In a March 17, 2020 [letter](#), our organizations along with over 200 additional public interest organizations outlined several election administration [policies](#) that must be implemented to address the current crisis, including the following:

- an extended early in-person voting period (allowing for voters to come in over a spread-out period rather than in a cluster on Election Day),
- no-excuse absentee voting-by-mail (including a number of options through which to request and return ballots),
- expanded voter registration options (including online voter registration and same-day voter registration),
- prohibition of polling place adjustments that disproportionately impact vulnerable populations (such as people of color, Native Americans, limited-English proficient citizens, people with disabilities, and students), and
- voter education (informing the public of new practices and immediately quashing disinformation as it arises).

This package of recommendations was created by nationally recognized voting rights experts in consultation with state elections officials who have overseen elections for decades. These experts and administrators agree that, if states and counties are to run safe and effective elections in 2020, they must have adequate resources to provide **both** vote-by-mail and in-person options.

The Brennan Center for Justice has estimated that enhancements to vote-by-mail alone will require [up to \\$1.4 billion](#) to meet the costs in the general election of ballot printing, postage, drop boxes, electronic absentee ballot requests, ballot tracking, additional staffing for processing a much larger volume of mailed-in ballots, enhanced technology for signature verification, high-volume mail processing, and high-speed ballot scanners. The 2020 elections will result in an unprecedented number of mailed-in ballots, and states and counties must be equipped to handle this responsibility while ensuring accurate ballot processing and counts. In addition, Congress must provide emergency funding to the U.S. Postal Service, which is facing [dire financial straits](#) in the wake of the coronavirus pandemic.

The Brennan Center for Justice has also estimated that \$271.4 million is needed for in-person voting measures in the general election so that states and counties can provide safe polling places per [guidance](#) from the Centers for Disease Control and Prevention (including resources for regularly cleaning and sanitizing facilities and machinery), adequate polling-place staffing, and voting wait-time tools (to ensure

social distancing and avoid clustering during an early-voting period); \$252.1 million is needed in the general election to ensure that the public is sufficiently educated about voting rules changes and options; and \$85.9 million is needed to develop and bolster online voter registration for the general election. These estimates should be doubled to ensure adequate resources for primary elections.

### **Vote-by-mail is necessary but insufficient alone to safeguard our elections**

Although large numbers of Americans will vote by mail this year, in-person voting options remain essential for the 2020 elections to be truly fair and accessible. In-person voting is still necessary, notwithstanding the challenges posed by COVID-19, because many communities in America simply will not have full and fair access to the election without in-person voting options and for others it is their preferred option. Accordingly, we must provide safe and effective in-person voting options, in order to prevent disenfranchising any American. Unless we do so, marginalized communities will be locked out of this election.

For example, vote-by-mail presents hurdles for Native American voters living on tribal lands, given that many do not receive mail delivery or pick-up at their homes. In February 11, 2020 testimony before the U.S. House Committee on Administration Subcommittee on Elections, Arizona State University Law School Professor Patty Ferguson-Bohnee [explained](#): “Due to the lack of traditional addresses, ‘[m]ost reservation residents do not receive mail at their homes and either pay to maintain a post office box in a nearby town or receive their mail by general delivery at a trading post or other location. Some reservation residents have to travel up to seventy miles in one direction to receive mail.’ In Arizona, for example, only 18% of reservation voters outside of Maricopa and Pima Counties have physical addresses and receive mail at home. The Navajo Nation, the largest reservation in the United States—the size of West Virginia, does not have an addressing program, and most people live in remote communities.” [internal citations omitted]. These American citizens would be denied their fundamental right to vote if an all vote-by-mail system is adopted.

Language access and literacy issues can compound these problems since a ballot mailed to a voter in a language they cannot speak or read is effectively useless. Jurisdictions that are required to provide language assistance under Section 203 of the Voting Rights Act must ensure that any vote-by-mail system provides effective language assistance at every stage of the voting process. That does not always occur. Professor Ferguson-Bohnee [testified](#): “In 2014, San Juan County, Utah, moved to an all vote-by-mail system that did not account for translations for Navajo language speakers. Navajo voters who needed language assistance were required to travel several hours round trip to the sole in-person voting location to obtain assistance.”

A 2017 study by the Native American Rights Fund analyzed these and other voting barriers for Native Americans and [concluded](#): “Clearly, mail-in balloting presents significant difficulties for some Native American voters. This difficulty could be compounded by a trend toward all mail balloting in some jurisdictions.” It is crucial to have in-person voting options for voters living on tribal lands.

Voting by mail has been problematic for other communities of color as well. There have been instances in which absentee ballots have been rejected at far greater rates for voters of color than for white voters. The Lawyers’ Committee for Civil Rights Under Law [noted](#) such statistically significant disparities in Gwinnett County, Georgia during the 2018 mid-term election: only 2.5 percent of white voters had their absentee ballots rejected, compared to 14.8 percent of Asian-American voters, 8 percent of Black voters, and 4.3 percent of Latinx voters. In addition, a Florida ACLU [study](#) found that “younger

voters, as well as voters from racial and ethnic minorities, are much more likely to cast VBM [vote-by-mail] ballots that are rejected, and are less likely to cure their VBM ballots if SOE [supervisors of elections] staff flag them for having signature problems.”

Moreover, many voters of color lack faith in the U.S. Postal Service to safeguard voting by mail. An article summarizing the findings of a 2017 [study](#) by the California Civic Engagement Project stated: “The survey found that among respondents who don’t send in their ballots via the mail, nearly half of Asians said they didn’t trust the postal service to deliver their ballots safely and on time. African-Americans and Latinos also mistrusted the post office in larger numbers — at rates of 32 and 29 percent, respectively. Only 21 percent of white respondents felt the same way.” In addition, a voting rights expert [noted](#) that “studies show that voting by mail has not been a magnificent success among low-income communities of color (in inner cities and rural areas), because of higher mobility rates and poorer mail service among these populations, among other factors.”

Voting by mail can also present problems for people with disabilities. The paper ballots used in a vote-by-mail system are not accessible to some voters with disabilities, including those who are blind or low vision, those with limited or no manual dexterity, and those with limited literacy. Many voters with disabilities prefer to cast their ballot at a polling place on Election Day, and every polling place in the United States is required to have at least one accessible voting device (equipped with earphones and other types of accommodation). Voters with disabilities who are unable to mark paper ballots without assistance rely on an accessible voting station to privately and independently cast their ballots, as required by federal law. In 2012, 10% of people with disabilities who voted by mail [reported](#) that they had problems with completing their mail-in ballot and needed assistance in filling out or sending their ballot, violating the Help America Vote Act mandate of a private and independent ballot.

Despite its flaws, voting by mail remains an important option, especially in the wake of the ongoing coronavirus pandemic. But there must be guardrails in place, including offering prepaid postage by the government, the ability to postmark an absentee ballot on or before Election Day, reforms of signature matching laws to protect voters of color and allow people an opportunity to cure any discrepancies before their ballots are discarded, and increased availability of drop boxes. And to ensure full voting access for voters of color, the establishment of in-person polling places and vote centers remains essential. Congress must fund states and counties sufficiently so they can prepare now for these in-person voting options.

In recent weeks, Congress has demonstrated to the American public that it can come together for the good of the nation during these trying times. We urge you to take the additional necessary steps during your next legislative efforts to address the COVID-19 pandemic to ensure that no citizen is left out as we work together to protect the country and safeguard our democracy.

Sincerely,

The Leadership Conference on Civil and Human Rights  
Lawyers’ Committee for Civil Rights Under Law  
MALDEF  
NAACP Legal Defense and Educational Fund, Inc.