

Plaintiffs' Exhibit 1

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

AMERICAN ASSOCIATION OF PEOPLE
WITH DISABILITIES;
FEDERATION OF AMERICAN WOMEN'S
CLUBS OVERSEAS, INC.;
NEW MEXICO PUBLIC INTEREST
RESEARCH GROUP EDUCATION FUND;
and SOUTHWEST ORGANIZING PROJECT,

Plaintiffs,

v.

MARY HERRERA, in her capacity as
Secretary of State,

Defendant.

No. CV 08-00702 (JOB)

DECLARATION OF JAMES DICKSON

I, James Dickson, having been duly sworn, do hereby declare and swear that the following is true and correct:

1. I have personal knowledge of the facts set forth below, and if called to testify could and would testify competently thereto.
2. I am the Vice President for Organizing and Civic Engagement at the American Association of People with Disabilities ("AAPD"). I have held this position since 2009. Previously, I served as the Vice President for Government Affairs, a position I held from 2001 until 2009. As AAPD's Vice President for Organizing and Civic Engagement, I oversee, coordinate, and supervise all of AAPD's voter registration and election-related work. I was elected Chair of the Board of Advisors to the U.S. Election Assistance Commission in 2010. I am a legally blind citizen of the United States residing in Washington, DC.

American Association of People with Disabilities ("AAPD")

3. Founded in 1995, AAPD is the largest national nonprofit cross-disability organization in the United States. AAPD is dedicated to ensuring economic self-sufficiency and political empowerment for the more than 56 million Americans with disabilities. We are a nonprofit, nonpartisan advocacy organization incorporated and based in Washington, DC as a 501(c)(3) tax-exempt charity pursuant to the Internal Revenue Code.

4. AAPD has approximately 86,500 individual members nationwide (including in New Mexico), some active and others inactive, all of whom have been sent AAPD's quarterly newsletter.
5. AAPD also generates email communications, such as email alerts about particular disability issues, to individuals on four different Internet mailing lists; the individuals who are signed up for AAPD's electronic mailing lists include both AAPD members and nonmembers.
6. AAPD is a recognized authority regarding the political participation of people with disabilities. AAPD has been consulted by local, state, and national election officials, as well as by state legislatures and the Congress of the United States, regarding how to increase participation in elections by people with disabilities. AAPD accomplishes its mission of increasing the political power of Americans with disabilities by encouraging voter registration, nonpartisan voter education, and nonpartisan voter participation among the disabled.

AAPD's Prior Voter Registration Activities

7. AAPD has been involved with registering Americans with disabilities to vote nationwide since 1995. I have personally helped with nonpartisan voter registration drives since 1982. I supervise and direct all of AAPD's voter registration work nationwide, including our work in New Mexico.
8. AAPD research indicates that people with disabilities represent a very large segment of those Americans who are not registered to vote. Although state agencies have a legal responsibility to offer voter registration to the public, AAPD's analysis shows that agencies are not properly implementing the law. Voter registration is therefore a crucial component of our organization's work.
9. AAPD registers voters in two ways:
 - a. First, we assist our own members in registration by communicating with them directly and providing them registration forms through the mail and at various disability events, meetings, and conferences.
 - b. Second, we run comprehensive, large-scale voter registration programs by establishing coalitions of state-specific disability organizations, many of whose members are also AAPD members, and training those organizations to register voters.
10. I personally travel to different states to run meetings and trainings and coordinate the coalition-based voter registration process. The process of establishing the coalition, training the members in voter registration, and undertaking voter registration activities constitutes an enormous commitment of time and resources.
11. The specific approach to each coalition-based voter registration program is localized based on the resources and needs of the organizations involved. I understand that some

coalition members use voter registration drives to increase their own membership or the membership of AAPD. This very much depends on the particular coalition.

12. Often, coalition organizations mail voter registration forms to nonregistered members or clients, calling before and after the mailing to explain the voter registration process and answer questions, provide assistance, and make sure the form is returned. Each coalition decides independently whether registration forms are sent back to the organization or directly to the state. Both for purposes of quality control and as a way to measure the impact of a registration drive, AAPD recommends to its coalition members that the forms be sent back to the coalition organization and that the organization then mails the forms to election officials. Whether coalition members follow this recommendation is generally determined by resources (i.e., whether the organization can afford to pay for postage).
13. Coalition members also engage in voter registration through disability conferences, meetings, events, and routine contact with their clients. AAPD trains coalition members to incorporate voter registration into all of their activities.
14. AAPD and coalition members provide a range of assistance with completion of forms. AAPD and coalition members often need to provide more assistance than would organizations registering nondisabled voters. For example, some blind and physically handicapped voters cannot physically fill out voter registration forms by themselves; in such cases, volunteers complete the forms for the registrants. Sometimes volunteers will travel to a member or client's home to assist with completion of the form. Other times, they provide assistance by answering questions over the phone.
15. AAPD also engages in nonpartisan voter-education programs. For example, AAPD operates a voter-project list-serve that provides voting-related information, including voter registration and election information, to approximately 470 members who have requested such information. AAPD currently provides voting information to its members in New Mexico via e-mail updates and in its quarterly newsletter.
16. AAPD's newsletter, which is distributed nationwide to AAPD members (including members in New Mexico), almost always discusses the importance of voter registration, voter turnout, and how to make voting accessible to disabled citizens. Past newsletters have contained, for example, information about polling-place access (and how to report polling-place inaccessibility to state election officials), updates regarding AAPD's Disability Vote Project (which aims to increase voter registration and participation among people with disabilities), and AAPD policy alerts for members. Each newsletter also contains an AAPD membership form.
17. AAPD also receives calls, including some from New Mexico, regarding state election legislation, voter registration, and how to make voting accessible to disabled citizens.
18. AAPD also works to educate organizations that serve the disabled community. In the past, AAPD has undertaken this initiative for organizations in New Mexico. For example, in 2003 and 2004, AAPD helped prepare voter registration and election information for The Arc of New Mexico, American Council of the Blind of New Mexico,

United Cerebral Palsy, Independent Living Centers in New Mexico, and other groups in New Mexico.

19. Finally, AAPD engages in training sessions regarding voter registration, turnout, and accessibility. In 2002 and 2003, I personally gave such national training sessions for the American Council of the Blind, United Cerebral Palsy, and National Learning Disability Association; New Mexico affiliates were present at each of these sessions. In 2003 or 2004, AAPD presented a national training for the National Institute for the Severely Handicapped ("NISH"), which I understand has facilities in New Mexico. In the summer of 2004, I was a presenter at the annual convention of the National Council for Independent Living ("NCIL"); the Executive Directors and other staff from the New Mexico Independent Living Centers were in attendance at the conference, which was mostly dedicated to voting issues.
20. AAPD engages in voter registration activities because it believes that it is important for people with disabilities, in particular, to talk about civic participation. AAPD knows from its experience that disabled persons are often difficult to reach because they are more likely to be isolated and are less likely to be employed and/or able to read. Additionally, AAPD regularly encounters disabled persons who believe, because of their disability, that they do not have the right to register to vote. Thus, AAPD views its voter registration activities as vital to its message that disabled persons should be encouraged to participate in civic life. It is much harder to spread our message when that message is not connected to voter registration efforts.
21. AAPD also advises coalition organizations to tie their voter registration and get-out-the-vote efforts to the issues that are specific to the disability contingency that they serve. For example, we encourage organizations whose constituencies include the physically disabled to so say, for example, "If you are concerned about accessible housing, you need to register and vote." Similarly, we encourage organizations whose constituencies include blind citizens to say things like "If you want more audible traffic lights, you need to register and vote." My training sessions frequently involve asking each organization to isolate the top three issues for the group, and then we brainstorm on how to link those issues to the act of registering to vote and to voting itself. Individual organizations develop their own approaches depending on the issues that are important to their constituents. In addition, it is my experience that voter registration inevitably sparks conversations regarding political and social issues important to registrants.
22. Volunteers are vital to AAPD and its coalition-organizations' voter registration efforts. As AAPD's constituents are often home-bound and are not generally located in one location or general area, it is time consuming to seek out prospective voters. For this reason, AAPD would never be able to reach many prospective voters without the help of volunteers. Voter registration drives also present important opportunities for AAPD to recruit volunteers and members.
23. A large number of individuals become volunteers through AAPD's voter registration activities because voter registration is a concrete task that gives volunteers a chance to speak to the public about political issues. Members and volunteers also build a sense of

community and identity around civic engagement when working together on voter registration drives.

24. If deprived of the opportunity to assist in voter registration, AAPD is hampered in its ability to get its message out to its target community. AAPD has attempted to pursue alternative methods, including adding taglines to emails encouraging others to vote and sending out newsletters about voting. However, these alternatives do not bring AAPD into contact with people directly and people are more likely to register when they are encouraged by people with whom they have a one-on-one relationship. It rings empty to AAPD's constituents if AAPD talks to its constituents about the importance of voting, but cannot assist them in registering to vote.

The Impact of New Mexico's Voter Registration Law on
AAPD's Voter Registration Activities in New Mexico

25. New Mexico's third party voter registration law severely burdens AAPD's ability to run a state-wide voter registration program through a coalition in New Mexico. As a result, AAPD suspended efforts to establish a coalition in New Mexico and decided not to establish a voter registration program in the state in 2008, despite its desire to do so.
26. My original understanding of the voter registration law from reading it and talking about it with other disability advocates was that it mandated training sessions for registration agents, limited the amount of registration forms that any organization or individual could get, required forms to be physically turned in to the County Clerk's Office within 48 hours of being signed, and subjected an individual or organization to jail time and/or fines if there were problems with any registration form. I understood that to "assist" in voter registration meant filling out a form with someone, sitting at a table at a rally and handing out registration forms, asking someone to register to vote, or mailing them a voter registration form.
27. In February or March of 2007, I asked Mary Herrera, the Defendant in this matter and then the Bernalillo County Clerk, and Denise Lamb, Chief Deputy Clerk for Santa Fe County, about the meaning of the 48 hour requirement. Both election officials responded that they, personally, understood that long weekends or the logistics of dealing with many volunteers could cause a delay in returning forms and, thus, told me that they would accept forms after 48 hours as long as they were returned reasonably quickly. Neither Herrera nor Lamb defined "reasonably quickly." Herrera and Lamb cautioned, however, that other County Clerks in the state might not be flexible with the deadline.
28. I also spoke to a director of an independent living center in New Mexico and Frank Sanchez, a grassroots organizer, about the 48 hour requirement. Both stated that they believed that the law would be enforced in various ways in different counties, with some counties interpreting the statute very strictly.
29. After speaking with election officials and local advocates, I felt that it would be nearly impossible to follow the guideline, as the law would be open to arbitrary enforcement by local county officials and, even if AAPD made every effort to comply, AAPD would run

the risk of violating the law and could be subject to the severe penalties.

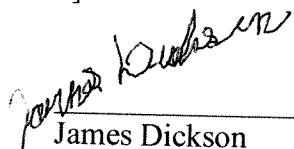
30. In addition to its uncertainty, the requirement that registration applications be filed with the Board of Elections no later than 48 hours after completion would have a severe impact on an AAPD-driven voter registration drive in New Mexico. As discussed above, for any forms that coalition groups send out by mail, AAPD recommends that coalition groups ask that those forms be returned to them by the prospective voters, both to ensure quality control and to allow the organizations to measure the effectiveness of their efforts. The coalition groups would then return the forms to the County Clerk's Office. However, AAPD-coalition groups would be unable to mail voter registration forms to clients because there would be no assurance that the client would return the form to the Board of Elections within 48 hours of completing it. Further, coalition groups would be unable to request that forms be returned to them (to return to the Board of Elections) because this two-step process could not be completed within 48 hours.
31. In-person training presents a major obstacle for AAPD and would make it difficult to run our typical voter registration program in New Mexico. Because disabled people often lack adequate transportation—and it is my understanding that New Mexico in particular lacks good public transportation—it would be very difficult for AAPD-coalition groups to send all of their volunteers to centralized training sessions.
32. The certification requirement also presents a barrier for AAPD and AAPD-coalition groups. Many of our volunteers do not wish to be identified as disabled or publicly associated with a disability-rights organization. This is particularly true for individuals with psychiatric disorders or progressive diseases, who wish to keep their disability confidential because they fear discrimination. I understand that many potential volunteers would be unwilling to register their affiliation with a disability-rights organization with the State of New Mexico and would therefore be unable to act as third-party voter registration agents. I also believe that many potential voters would be unwilling to register to vote with a member of a disability-rights organization where they believe that that organizational affiliation could be traced to them via the registration process.
33. AAPD's assistance is especially important for the populations it serves. Without assistance in registering to vote, some disabled persons run a unique risk of submitting incomplete, illegible, or incorrect forms. That is one of the most important reasons why we work with coalition partners in other states to help disabled persons to register. By threatening AAPD and its coalition partners with uncertain, yet serious, civil and criminal penalties, New Mexico's voter registration law creates a particular risk for AAPD.
34. AAPD decided that it could not establish a coalition to run voter registration in New Mexico because of the current law. In the summer of 2007, Ramon Garcia, the organizer at the head of the state-wide coalition in Arizona that AAPD had helped to start (which consists of over 20 disability organizations in Arizona), contacted me to let me know that there were people in New Mexico that had approached him because they wanted AAPD to form a similar coalition to do comprehensive voter registration of disabled New Mexicans. The individuals that approached Ramon Garcia worked for various Centers

for Independent Living in New Mexico and the Statewide Independent Living Council in New Mexico.

35. Ramon Garcia and I had a conference call with three Directors of Independent Living Centers in New Mexico and the a representative from the Statewide Independent Living Council about the possibility of beginning a New Mexico coalition with them and other disability organizations in the state. The potential penalties under the law were of particular concern to the representatives. On that call, we also discussed the requirements of New Mexico's voter registration law and the huge commitment of staff and resources that would be required to register disabled voters in New Mexico because of the law's requirements. For example, we discussed that:
- a. the law's 48-hour turn-around requirement presented a particular barrier to two of the three interested Independent Living Centers because both centers (one serves a Native American reservation; the other is in a rural location in the mountains) were a considerable driving distance from the nearest county clerk's office; and
 - b. the requirement that people attend training and register with the state before they may assist in the registration of voters was going to prove especially burdensome because the person delivering services to each disabled client is often the only person from the organization with whom the client interacts, and therefore everyone in the organization (staff, volunteers, leadership) would have to register with the state as a registration agent.
36. Having discussed New Mexico's third-party registration law as it related to the proposed plan to begin a New Mexico coalition, the Independent Living representatives indicated that they were frustrated to learn the constraints of the law and how it would impact efforts to coordinate registration of disabled voters in New Mexico. They were going to consider what to do (i.e., whether they were still interested in forming a coalition and registering disabled voters) and call us back. They never called back.
37. Given its size and population, New Mexico would be an ideal state for AAPD to set up a coalition. There is also a need in the state for increased voter participation by people with disabilities. According to United States Census data, there are over 300,000 voting-age people with disabilities residing in New Mexico, but only 37.9% of those individuals voted in 2000.
38. We believe, however, that New Mexico's current voter registration law makes it impossible for disability-rights organizations to register disabled voters in New Mexico. Consistent with this view and with our belief that AAPD must be judicious regarding where we put our limited time and resources, I did not follow up with the New Mexico Independent Living representatives after our telephone conference. I believe that, if not for this law, we would have successfully forged ahead and organized a coalition to run a statewide voter registration drive in New Mexico in 2008. But because of the law, we do not plan to form a New Mexico coalition.

39. In sum, for the reasons discussed herein, I believe that New Mexico's voter registration law has impaired the ability of AAPD and AAPD-coalition groups to register voters in the State of New Mexico.

I declare under penalty of perjury under the laws of the United States of America (and pursuant to 28 U.S.C. § 1746) that the foregoing is true and correct and that this declaration is executed this 29th day of June 2010 in Washington, DC
[CITY] [STATE]



James Dickson